

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT NEW YORK

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RALPH VARGAS and  
BLAND-RICKY ROBERTS,

Plaintiffs,

- against -

PFIZER INC., PUBLICIS, INC., FLUID  
MUSIC, EAST WEST COMMUNICATIONS,  
INC. and BRIAN TRANSEAU p/k/a "BT",

Defendants.  
----- X

Case No. 04 CV 9772 (WHP)

**AFFIDAVIT OF ERIC M. STAHL  
PURSUANT TO LOCAL RULE 1.4**

**STATE OF WASHINGTON )**

**: ss.:**

**COUNTY OF KING )**

ERIC M. STAHL, being duly sworn, deposes and says:

1. I am a partner of the firm of Davis Wright Tremaine LLP, and have appeared in this action *pro hac vice* on behalf of defendants Brian Transeau and East West Communications, Inc. I submit this affidavit pursuant to Rule 1.4 of the Local Rules for the United States District Court, Southern and Eastern Districts of New York, in support of the accompanying Stipulation and Order permitting defendant to substitute as his own counsel in this action.

2. Mr. Transeau informed me, on the afternoon of March 16, 2006, that he no longer will be represented by Davis Wright Tremaine in this matter. He specifically demanded that all files and material relevant to this action be transferred to him. He also indicated that I was no longer responsible for representing him in this matter, and that I no longer had any authority to act on his behalf.

3. My withdrawal, and Mr. Transeau's substitution as attorney pro se, are necessary and appropriate for the following reasons:

(a) Mr. Transeau has terminated the attorney-client relationship between himself and Davis Wright Tremaine.

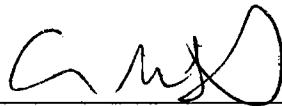
(b) Mr. Transeau has indicated that he lacks the funds to pay for counsel in this matter. He has been unable to pay in full for legal services rendered to date by my firm, and cannot secure payment for anticipated pretrial and trial expenses.

(c) Despite a lack of funds, Mr. Transeau has expressed a strong desire to take this case to trial, and currently is seeking pro bono or public interest counsel to assist in that regard. Plaintiffs' claims involves allegations that simple drum sounds, commonly used as rhythms in a variety of popular musical genres, can be subject to copyright protection, and that such copyrights may be infringed by even minute degrees of similarity. Mr. Transeau specifically denies copying plaintiffs' work. More significantly, he believes strongly that plaintiffs' theory – that a musician may be subjected to liability based on allegation that minute similarities in two works might have resulted from digital resequencing, when there is no evidence of actual copying in the first place – poses a severe precedential danger to composers and musicians. Mr. Transeau has expressed to me that he is prepared to act as his own attorney if necessary to defend that belief.

(d) I appeared in this matter on behalf of both defendants Transeau and East West Communications, Inc. pursuant to a joint engagement agreement, and the defendants no longer mutually agree to abide by the terms of that joint engagement agreement.

4. I am not aware of any substantial delay or prejudice that will result from this withdrawal and substitution. This matter is not yet scheduled for trial. Under the existing scheduling order, a final pretrial conference is not scheduled until July 21, 2006. The current discovery cutoff is set for March 31, 2006. Written discovery has been completed. The parties

have exchanged documents, and I expect that document production will be complete shortly. At the time Mr. Transeau terminated my services, I was in the process of negotiating with plaintiffs' counsel over deposition dates for certain witnesses. Part of those negotiations have included discussions about extending the discovery period into April to accommodate a variety of scheduling issues. Plaintiff's counsel has indicated to me that he is agreeable to such an extension. In any event, the need for that extension would not be affected one way or the other by the withdrawal and substitution of counsel.



Eric M. Stahl

SWORN to before me this 21<sup>ST</sup> day of March, 2006.



NOTARY PUBLIC in and for the State of  
Washington, residing at Mountlake Terrace, WA  
My appointment expires 2-17-10  
Print Name Christine E Blanchard