

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT NEW YORK

----- X
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)
:

: **DECLARATION OF ERIC M.**
: **STAHL IN SUPPORT OF EAST**
: **WEST COMMUNICATIONS, INC.'S**
: **JOINDER OF MOTION FOR**
: **SUMMARY JUDGMENT**

ERIC M. STAHL declares as follows:

1. I am a partner of the firm of Davis Wright Tremaine LLP, counsel of record for defendant East West Communications, Inc. ("East West"). I submit this declaration in support of the accompanying East West's Joinder in Motion for Summary Judgment.

2. Attached hereto as Exhibit A are true and correct copies of pages 48 through 50 from the F.R.C.P. 30(b)(6) deposition of East West, taken on May 3, 2006. Although captioned as the "Deposition of Doug Rogers," Mr. Rogers (East West's President) was in fact deposed as a corporate designee pursuant to a Rule 30(b)(6) deposition notice.



Eric M. Stahl

TO: Paul A. Chin, Esq.
LAW OFFICES OF PAUL A. CHIN
233 Broadway, 5th Floor
New York, New York 10007
(212) 964-8030

*Attorneys for Plaintiffs Ralph Vargas
and Bland-Ricky Roberts*

David S. Olson
Stanford Law School
559 Nathan Abbott Way
Stanford, California 94305
(650) 724-0517

Julie Ahrens
Kirkland & Ellis LLP
555 California Street
San Francisco, CA 94104
(415) 439-1453

Attorneys for Defendant Brian Transeau

EXHIBIT A

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

RALPH VARGAS AND BLAND-RICKY)
ROBERTS,)

PLAINTIFFS,)

V.)

NO. 04CV9772 (WHP)

PFIZER INC., PUBLICIS, INC., FLUID)
MUSIC EAST WEST)
COMMUNICATIONS, INC., AND)
BRIAN TRANSEAU P/K/A "BT",)

DEFENDANTS.)

C O N F I D E N T I A L
(PURSUANT TO STIPULATION, THIS TRANSCRIPT HAS BEEN
DESIGNATED CONFIDENTIAL)

DEPOSITION OF DOUGLAS ROGERS

MAY 3, 2006

REPORTED BY:
PAMELA S. HARRIS
CSR NO. 3909
JOB NO. 06AE179-PH



COURT REPORTERS
700 S. Flower Street
Suite 1100

Los Angeles, California 90017

Office: (213) 955-0070

Fax: (213) 955-0077

1 POSITION WITH RESPECT TO THAT KIND OF CONDUCT?

2 A. WELL, WE OBVIOUSLY HAVE THE RIGHT TO --
3 TO SUE THEM FOR BREACH OF THE LICENSE.

4 Q. NOW, WITH RESPECT TO THE CREATION OF
5 THE BREAKZ FROM THE NU SKOOL CD, WERE YOU AT ALL
6 INVOLVED IN THE CREATIVE PROCESS OF THE CD?

7 A. NO.

8 Q. DID THE RECORDING OF THE BREAKZ FROM
9 THE NU SKOOL CD OCCUR IN ANY FACILITY OWNED,
10 OPERATED OR RENTED BY EAST WEST COMMUNICATIONS?

11 A. NO.

12 Q. OKAY. SO IS IT YOUR POSITION THAT MR.
13 TRANSEAU CREATED THE BREAKZ FROM THE NU SKOOL CD IN
14 RECORDING FACILITIES THAT HE GOT HIMSELF?

15 MR. STAHL: OBJECT TO THE FORM OF THE QUESTION.

16 MR. CHIN: STRIKE THAT.

17 Q. IS IT YOUR POSITION THAT YOU HAVE NO
18 IDEA WHERE MR. TRANSEAU RECORDED THE SOUNDS THAT
19 WERE CONTAINED ON THE BREAKZ FROM THE NU SKOOL CD?

20 MR. STAHL: OBJECT TO THE FORM OF THE QUESTION.

21 THE DEPONENT: THE FIRST CONTACT I HAD WITH HIM
22 WAS HE PRESENTED ME WITH FINISHED MASTERS; SO I
23 DON'T KNOW ANYTHING ABOUT HOW THEY WERE CREATED.
24 BY MR. CHIN:

25 Q. OKAY. AND THE FINISHED MASTERS, IS

1 IT -- ARE THE MASTERS IN SOUNDWARE RECORDING THE
2 SAME AS MASTERS IN REGULAR MUSICAL RECORDINGS THAT
3 CONTAIN WORDS AND LYRICS?

4 A. YES.

5 Q. OKAY. AND SO THE -- ARE YOU FAMILIAR
6 WITH HOW A MASTER IS MADE?

7 A. YES.

8 Q. OKAY. AND SO THE MASTER THAT YOU
9 RECEIVED FROM THE BREAKZ FROM THE NU SKOOL ALBUM, IT
10 CONTAINED SOUNDS -- DID IT CONTAIN SOUNDS THAT WERE
11 ON DIFFERENT -- STRIKE THAT. STRIKE THAT. SORRY.

12 THE MASTER FOR THE BREAKZ FROM THE NU
13 SKOOL CD, AFTER YOU RECEIVED IT, WHAT, IF ANYTHING,
14 DID YOU DO WITH THE MASTER IN ORDER TO GET IT READY
15 FOR COMMERCIAL RELEASE?

16 A. WE REPLICATED IT.

17 Q. AND DID YOU REPLICATED IT -- STRIKE
18 THAT.

19 DID YOU REPLICATE IT BY CHANGING THE
20 FORMAT OF THE MASTER TO A TWO-TRACK CD?

21 A. NO. IT WAS -- WE WERE GIVEN A CD WHICH
22 WE USED AS A MASTER.

23 Q. OKAY. SO THE CD THAT YOU USED, YOU
24 JUST SIMPLY DUPLICATED IT?

25 A. RIGHT.

1 Q. OKAY. SO WAS IT -- YOU DIDN'T HAVE TO
2 MIX IT OR PUT IT ONTO A TWO TRACK?

3 A. NO.

4 Q. OKAY. AND THE ORIGINAL CD THAT YOU
5 RECEIVED FROM BRIAN TRANSEAU FOR BREAKZ FROM THE NU
6 SKOOL CONTAINS THE SAME CONTENT THAT THE BREAKZ FROM
7 THE NU SKOOL CD THAT WAS SOLD TO CONSUMERS
8 CONTAINED?

9 A. YES.

10 Q. OKAY. NOW, I MAY HAVE ASKED YOU THIS
11 ALREADY, BUT WE'LL GO BACK OVER IT. WHY IS IT --
12 STRIKE THAT.

13 DID YOU REGISTER THE MASTER WITH THE
14 COPYRIGHT OFFICE FOR THE BREAKZ FROM THE NU SKOOL
15 CD?

16 A. ASKED AND ANSWERED.

17 Q. RIGHT.

18 MR. STAHL: OBJECTION; ASKED AND ANSWERED.

19 GO AHEAD. I MEAN, YOU PROBABLY DID
20 PREFACE THE QUESTION BY SAYING YOU HAD ALREADY ASKED
21 IT.

22 MR. CHIN: YEAH.

23 Q. SO JUST FOR MY -- JUST TO REMIND ME.

24 A. NO.

25 Q. NO. OKAY. AND YOU DIDN'T REGISTER IT

1 STATE OF CALIFORNIA)
) SS.
2 COUNTY OF LOS ANGELES)
3

4 I, PAMELA S. HARRIS, CERTIFIED SHORTHAND
5 REPORTER, CERTIFICATE NO. 3909, FOR THE STATE OF
6 CALIFORNIA, HEREBY CERTIFY:

7 THE FOREGOING PROCEEDINGS WERE TAKEN
8 BEFORE ME AT THE TIME AND PLACE THEREIN SET FORTH,
9 AT WHICH TIME THE DEPONENT WAS PLACED UNDER OATH BY
10 ME;

11 THE TESTIMONY OF THE DEPONENT AND ALL
12 OBJECTIONS MADE AT THE TIME OF THE EXAMINATION WERE
13 RECORDED STENOGRAPHICALLY BY ME AND WERE THEREAFTER
14 TRANSCRIBED;

15 THE FOREGOING TRANSCRIPT IS A TRUE AND
16 CORRECT TRANSCRIPT OF MY SHORTHAND NOTES SO TAKEN;

17 I FURTHER CERTIFY THAT I AM NEITHER
18 COUNSEL FOR NOR RELATED TO ANY PARTY TO SAID ACTION
19 NOR IN ANY WAY INTERESTED IN THE OUTCOME
20 THEREOF.

21 IN WITNESS WHEREOF, I HAVE HEREUNTO
22 SUBSCRIBED MY NAME THIS 8TH DAY OF
23 MAY , 2006.
24
25

