UNITED STATES DISTRICT COURT	
SOUTHERN DISTRICT NEW YORK	

RALPH VARGAS and BLAND-RICKY ROBERTS,

Case No. 04 CV 9772 (WHP)

Plaintiffs,

- against -

**RULE 56.1 STATEMENT OF UNDISPUTED FACTS** 

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

Defendants.

Pursuant to Civil Rule 56.1 of the United States District Courts for the Southern and Eastern Districts of New York, Defendant East West Communications, Inc. ("East West") submits this Statement of Undisputed Facts in support of its Joinder in Motion for Summary Judgment.

This Statement of Undisputed Facts is based on the F.R.C.P. 30(b)(6) Deposition of East West, taken May 3, 2006 and attached as Exhibit A to the concurrently filed Declaration of Eric M. Stahl. The following materials facts, as to which there is no genuine issue to be tried, are supported by pp. 48:4-50:8 of this deposition:

- 1. East West is the distributor of the soundware CD "Breakz from the Nu Skool," on which the "Aparthenonia" drum loop appears.
- 2. East West had no role in creating "Aparthenonia," and has no knowledge of how Mr. Transeau created it.
- Mr. Transeau provided East West with the master soundware recording for "Breakz from the New Skool" (including "Aparthenonia").

- 4. East West simply duplicated the master, without editing, mixing or other alternation.
- 5. East West sold the soundware with the same content contained on the master it received from Mr. Transeau, in the same form.

Dated: Seattle, Washington September 22, 2006

DAVIS WRIGHT TREMAINE LLP

By:

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