

EXHIBIT Q

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

RALPH VARGAS and
BLAND-RICKY ROBERTS

Plaintiffs

vs.

PFIZER INC., PUBLICIS, INC., FLUID MUSIC,
EAST WEST COMMUNICATIONS, INC. and
BRIAN TRANSEAU p/k/a "B1"

Defendants

CASE NO.: 04 CV 9772 (WHP)

ECF CASE

PLAINTIFFS' SUPPLEMENTAL
RESPONSES AND OBJECTIONS
TO INTERROGATORIES

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Ralph Vargas and Bland-Ricky Roberts (collectively "Plaintiffs"), by and through their attorneys, Paul A. Chin, Esq., hereby provide their supplemental responses and objections to DEFENDANTS PFIZER, INC., ALANDA MUSIC, LTD. d/b/a FLUID MUSIC, EAST WEST COMMUNICATIONS and BRIAN TRANSEAU (collectively "Defendants") First Set of Interrogatories¹ ("Interrogatories") as follows:

GENERAL OBJECTIONS

1. Plaintiffs object to the Interrogatories to the extent they seek information that is not reasonably calculated to lead to the discovery of admissible evidence.
2. Plaintiffs object to the Interrogatories to the extent they are vague, unduly burdensome, duplicative, cumulative, redundant, ambiguous, overly broad and seek information related to a period of time which is not relevant to the matters alleged in

¹ Plaintiffs responded to Defendant Fluid Music's first set of interrogatories and document requests on or about July 24, 2005 ("previous responses"). Plaintiffs incorporate herein, the responses and objections contained in Plaintiffs' previous responses.

Plaintiffs' Amended Complaint or Second Amended Complaint (the "Second Amended Complaint") or in Defendants' Answer to the Amended Complaint or the Second Amended Complaint.

3. Plaintiffs object to the Interrogatories to the extent they seek information protected from disclosure by the attorney-client privilege, work-product doctrine or other applicable privileges.

4. The responses given herein are based upon the best current knowledge and recollection of Plaintiffs and are given subject to the later refreshing of Plaintiffs' recollections.

5. Plaintiffs reserve the right to supplement or amend, in any way, any of their specific or general objections or responses to any or all of the Interrogatories.

6. These responses are made without waiving: (a) all objections to competency, relevancy, materiality, privilege and admissibility as evidence for any purpose in the trial of this or any other action or subsequent proceeding; (b) the right to object to the use of any information that may be produced in the trial of this or any other action or any subsequent proceeding on any grounds; or (c) the right to object on any ground at anytime to any demand for further information or other discovery involving or relating to the subject matter of these Interrogatories.

DEFINITIONS

7. The term the "Composition" shall refer to the original musical work created by Ralph Vargas and the sound recording owned by Bland-Ricky Roberts entitled "Bust Dat Groove w/out Ride", embodied on the album *Funky Drummer Volume II* identified in, and which is the subject matter of, Plaintiffs' Amended Complaint and

Second Amended Complaint.

8. The term “Infringing Works” shall refer to the musical composition entitled “*Aparthenonia*” and/or the “*Celebrex Commercial*.”

SUPPLEMENTAL OBJECTIONS AND RESPONSES

INTERROGATORY NO. 1: Identify all persons with knowledge or information concerning plaintiffs’ allegation that defendants infringed their copyright in Bust Dat Groove, as alleged in the Complaint.

RESPONSE: (a) Ralph Vargas; (b) Bland-Ricky Roberts; (c) Matthew Ritter; (d) Ivan A. Rodriguez; and (e) Dr. Steven Smith. Plaintiffs will identify additional persons with knowledge, if any, as discovery progresses.

INTERROGATORY NO. 2: Identify all persons with knowledge or information concerning the damages that each plaintiff allegedly sustained as a result of defendants’ alleged infringement of their copyright in Bust Dat Groove.

RESPONSE: Plaintiffs state that Defendants, their agents, employees, and/or representatives, have information concerning the respective gross income and/or profits earned by each Defendant that are attributable to each Defendant’s infringement of the Composition; therefore, Defendants have information and/or knowledge concerning Plaintiffs’ damages in this action. In addition, Plaintiffs may elect to be awarded statutory damages in this action, pursuant to 17 U.S.C. §504(c). Notwithstanding the foregoing, Plaintiffs Ralph Vargas and Bland Ricky Roberts have personal information regarding the total number of copies of the Composition and the album *Funky Drummer Volume II* that were distributed and sold in the United States. Plaintiffs are presently unaware of any other persons with knowledge or information concerning the damages

that each Plaintiff sustained as a result of Defendants' infringement of their copyright in Bust Dat Groove.

INTERROGATORY NO. 3: Identify all persons with knowledge or information concerning plaintiff Vargas' creation of Bust Dat Groove.

RESPONSE: (a) Ralph Vargas; (b) Bland-Ricky Roberts; (c) Matthew Ritter; (d) Ivan A. Rodriguez. Plaintiffs are presently unaware of any other persons with knowledge or information concerning plaintiff Vargas' creation of Bust Dat Groove.

INTERROGATORY NO. 4: State the name of all compositions, recordings, tapes, CDs, Albums and other media that contain Bust Dat Groove or any portion thereof.

RESPONSE: Plaintiffs object to Interrogatory number 4 on the grounds that it is vague and ambiguous. Without waiving this objection, Plaintiffs state that: (a) Funky Drummer Vol. II; (b) Breakz From the Nu Skool; and (c) the Infringing Works, all contain the Composition or some portion thereof. Plaintiffs are presently unaware of any other compositions, recordings, tapes, CDs, Albums and other media that contain the Composition.

INTERROGATORY NO. 5: For each recording, tape, CD and Album identified in response to Interrogatory No. 4, state how many copies of each have been: (i) reproduced, (ii) sold, (iii) distributed and/or disseminated, broken down by year.

RESPONSE: Plaintiffs object to this interrogatory number 5 on the grounds that Defendants East West Communications and Brian Transeau possess information regarding the number of copies of Breakz From the Nu Skool and/or the Infringing Works that have been sold, reproduced, distributed and/or disseminated by Defendants. Plaintiff Bland Ricky Roberts states that approximately 4,000 copies of the *Funky*

Drummer Vol. II album, which contained the Composition, was distributed and sold in the United States.

INTERROGATORY NO. 6: *State the sales of any sheet music containing Bust Dat Groove, or any portion thereof.*

RESPONSE: Plaintiffs object to Interrogatory number 6 on the grounds that it seeks confidential and/or proprietary information the disclosure of which is beyond the scope permitted by Local Civil Rule 33.3. Without waiving this objection, Plaintiffs state that they have not sold any sheet music containing the Composition, or any portion thereof.

INTERROGATORY NO. 7: *Identify all persons with knowledge or information concerning the distribution, dissemination and/or sale of Bust Dat Groove.*

RESPONSE: Plaintiff Bland Ricky Roberts. Plaintiffs further state that the record companies identified in Plaintiffs' document bates stamped number 000003 should have information concerning the distribution, dissemination and/or sale of Bust Dat Groove. Plaintiffs are presently unaware of any other persons with knowledge or information concerning the distribution, dissemination and/or sale of Bust Dat Groove.

INTERROGATORY NO. 8: *Identify all persons with knowledge or information concerning the distribution, dissemination and/or sale of "Funky Drummer, Volume II."*

RESPONSE: Plaintiff Bland Ricky Roberts. Plaintiffs further state that the record companies identified in Plaintiffs' document bates stamped number 000003 should have information concerning the distribution, dissemination and/or sale of "Funky Drummer, Volume II." Plaintiffs are presently unaware of any other persons with knowledge or information concerning the distribution, dissemination and/or sale of "Funky Drummer, Volume II."

INTERROGATORY NO. 9: Identify all persons with knowledge or information concerning the distribution, dissemination and/or sale of any recording, tape, CD or Album containing Bust Dat Groove.

RESPONSE: See Plaintiffs' response to interrogatory number 8.

INTERROGATORY NO. 10: Identify all persons with knowledge or information concerning the revenue, licensing fees, assignment fees, royalty payments or any other form of payment received by each plaintiff in connection with Bust Dat Groove.

RESPONSE: Plaintiff Bland Ricky Roberts. Plaintiffs never received any licensing fees or assignment fees in connection with *Bust Dat Groove*. Plaintiffs are presently unaware of any other persons with knowledge or information concerning the revenue, licensing fees, assignment fees, royalty payments or any other form of payment received by each plaintiff in connection with *Bust Dat Groove*.

INTERROGATORY NO. 11: Identify all persons to whom each plaintiff has licensed and/or assigned any right or interest in Bust Dat Groove, on an exclusive or non-exclusive basis.

RESPONSE: Plaintiffs object to Interrogatory number 11 on the grounds that it seeks information that is neither relevant nor material to the subject matter of this action and/or it seeks information that is not reasonably calculated to lead to the discovery of admissible evidence. Without waiving these objections, Plaintiffs state that the only assignment of any right or interest in *Bust Dat Groove* is contained in Plaintiffs' documents bates stamped numbers 000008-000012.

INTERROGATORY NO. 12: State the amount of revenue, licensing fees, assignment fees, royalty payments or any other form of payment received by each plaintiff or its

assignees or licensees in connection with Bust Dat Groove.

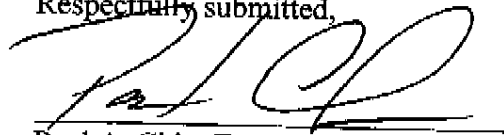
RESPONSE: Plaintiffs object to Interrogatory number 12 on the grounds that it seeks information which is neither material or relevant to the subject matter of this action. Without waiving this objection, Plaintiff Bland Ricky Roberts states that he received approximately \$32,000 from the sale of the *Funky Drummer Vol. II* album, which contained the Composition, and that these proceeds were split between Plaintiff Bland Ricky Roberts and Plaintiff Vargas.

INTERROGATORY NO. 13: *Identify all persons with knowledge or information concerning plaintiffs' claim that any defendant(s) had access to Bust Dat Groove before the musical track in the Celebrex Commercial was created.*

RESPONSE: Plaintiffs object to Interrogatory number 13 on the grounds that it seeks information primarily in the possession of Defendants. Without waiving this objection, Plaintiffs state that (a) Ralph Vargas; (b) Bland-Ricky Roberts; (c) Matthew Ritter; (d) Ivan A. Rodriguez; and (e) Dr. Steven Smith may have information or knowledge concerning Defendant(s) access to the Composition. Plaintiffs further state that, based on the reports of Plaintiffs' experts, the musical composition known as *Aparthenonia*, which was used in the *Celebrex* commercial, was created by digitally sampling Plaintiffs' Composition and is an electronic copy of the Composition. Plaintiffs further state that access may be presumed where the infringing musical work is almost an identical copy of the original composition.

Dated: New York, New York
July 27, 2006

Respectfully submitted,



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CERTIFICATE OF SERVICE

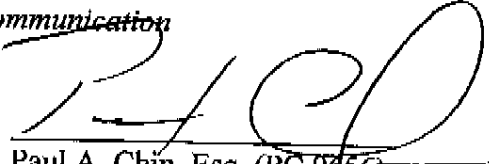
On the 27th day of July, 2006, a true and correct copy of PLAINTIFFS' SUPPLEMENTAL RESPONSES AND OBJECTIONS TO DEFENDANTS' INTERROGATORIES was served via first-class mail, postage pre-paid, and placed in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York, to the following the attorneys representing the Defendants:

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**Distribution List
Funky Drummer I & II**

Beat Street Records (NY/local)	219 East Fordham Road Bronx NY 10458
Carmine's Records (NY/local)	
City Hall (west coast/national)	
Concourse Music (NY/local)	
Downstairs Records (NY/local)	43 rd Street Between 5 th and 6 th Avenues
Downtown Records (NY/local)	164 West 25 th Street New York NY
Eight Ball Records (NY/local)	105 East 9 th Street New York NY 10003-5401 212-473-6343
Indi Distribution (national)	Secaucus, NJ
Metropolitan Recording Corp (NY/local)	900 Passaic Avenue East Newark NJ 07029-2833 973-488-8080
Pearl One Stop (national)	Brooklyn, NY
Rock and Soul (NY/local)	462 Seventh Avenue Between 35 th & 26 th Streets New York NY
Tiger Distribution (int'l)	
Vinyl-mania (NY/local)	60 Carmine Street New York NY 212-924-7223

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