

# EXHIBIT H

**DECLARATION OF BRIAN TRANSEAU**

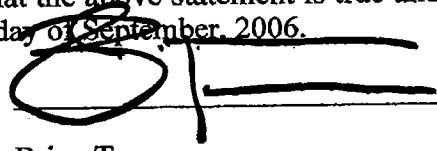
My name is Brian Transeau and I am the defendant in the *Vargas v. Pfizer* litigation. In support of my Motion for Summary Judgment I provide the following declaration. All of these statements are based on my own personal knowledge.

1. I created my Breakz from the Nu Skool album during 2000 and 2001. At that time, I did not own any turntables and did not use turntables. I did not have any turntables in my studio or on the tour bus where I created many of the beats for Breakz from the Nu Skool. The only vinyl records I owned at that time were a handful of records from my childhood. I have never owned and never even seen the Funky Drummer Vol. 1 album or the Funky Drummer Vol. 2 album.
2. During the time period I made Breakz from the Nu Skool, I did not use turntables or vinyl to create music, my music and drum beats were created electronically.
3. Once I resumed DJ'ing live shows in 2002, I started to use turntables in those performances. Also at that time, I started to collect vinyl records for those performances. Even at that point, I never owned and never saw Funky Drummer Vol. 1 or Funky Drummer Vol. 2 albums.
4. I was deposed in this case on August 16, 2006. At that deposition, I offered repeatedly to show Plaintiff's counsel how I created Aparthenonia on my computer, using the Reason software. Plaintiff's counsel refused several times to see how I created Aparthenonia.
5. Also at my deposition, the actual computer from my tour bus I used to create Aparthenonia on, an Apple G3, was available for inspection. Since that time my counsel have offered to permit Plaintiff to inspect that Apple G3, but he has never done so. If Plaintiffs

reviewed the Apple G3, they would find that there are no copies of Bust Dat Groove on that computer.

6. Prior to this litigation, I never had a copy in any form of Bust Dat Groove and had never heard Bust Dat Groove.

I declare under penalty of perjury that the above statement is true and correct to the best of my recollection as signed by me on 21st day of September, 2006.



Brian Transeau