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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ENTRAL GROUP INTERNATIONAL, LLC,))
))
Plaintiff,))
))
vs.) CV-05-1912
))
YHCL VISION CORP., and JEFF))
CHEN,))
))
Defendants.))
-----)

(CONTAINS ATTORNEY'S EYES ONLY PORTIONS)

VIDEOTAPED DEPOSITION OF SAM CHAN
New York, New York
Thursday, May 25, 2006

Reported by:
Philip Rizzuti
JOB NO. 7393

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May 25, 2006
9:53 a.m.

Videotaped deposition of SAM
CHAN, held at the offices of Alston &
Bird, LLP, 90 Park Avenue, New York,
New York, pursuant to Notice, before
Philip Rizzuti, a Notary Public of the
State of New York

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A P P E A R A N C E S:

ALSTON & BIRD, LLP
Attorneys for Plaintiff
90 Park Avenue
New York, New York 10016
BY: ROBERT E. HANLON, ESQ.
BROOK A. CLARK, ESQ.

DAVID J. HOFFMAN, ESQ.
Attorney for Witness
29 Broadway, 27th floor
New York, New York 10006

ALSO PRESENT:

JOSH LIPSON, Videographer
STEHANIE LIU, Interpreter
NICHOLAS CHAI,

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IT IS HEREBY STIPULATED AND AGREED,
by and between counsel for the respective
parties hereto, that the filing, sealing and
certification of the within deposition shall
be and the same are hereby waived;

IT IS FURTHER STIPULATED AND AGREED
that all objections, except as to the form
of the question, shall be reserved to the
time of the trial;

IT IS FURTHER STIPULATED AND AGREED
that the within deposition may be signed
before any Notary Public with the same force
and effect as if signed and sworn to before
the Court.

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Chan

THE VIDEOGRAPHER: This is the
start of tape number 1 of the videotape
deposition of Sam Chan in the matter of
Entral Group versus YHCL. Today's date
is May 25, 2006 at approximately 9:53
a.m.

Will counsel please introduce
themselves and who they represent.

MR. HANLON: Robert E. Hanlon for
Entral Group International LLC, plaintiff
in this matter.

MS. CLARK: Brook Clark with
Alston & Bird for plaintiff Entral Group
International LLC.

MR. HOFFMAN: David Hoffman for
Sam Chan and the North American Karaoke
Works Trade Association Inc.

I should say we have the same
objection. We will permit the
videotaping subject to the same
objections that we had for Mr. Yim's
deposition, and subject to the same post
deposition application for the
destruction of the tape.

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1 Chan
2 is ASIC design, A-S-I-C. It stands for
3 Application Specific Integrated Circuit.
4 And later on I moved to what is
5 called, another area RFID technology, it is
6 called Radio Frequency Identification
7 Technology. At that time I was relocated to
8 Hawthorne research. Then I started my
9 research career right there, and that is my
10 experience.
11 **Q. Before 1989 when you were in your**
12 **master's degree program were you also employed**
13 **then?**
14 A. No, I was a student.
15 **Q. And before your masters program**
16 **when you were an undergraduate were you**
17 **employed then?**
18 A. No. I was a student. I withdraw
19 that.
20 Undergraduate -- between
21 undergraduate and graduate I was working a
22 research project that offered from the school,
23 working with Mount Sinai Hospital with the
24 three dimensional reconstruction imaging
25 system.

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1 Chan
2 **Q. Do you have any other employment**
3 **aside from your work at IBM presently?**
4 A. No. Just a -- it just the karaoke
5 business that I was getting involved, and also
6 the NAKWTA, non-profit organization that I
7 also get involved.
8 **Q. We will talk about those in a**
9 **minute?**
10 A. Okay.
11 **Q. Is your employment at IBM**
12 **full-time?**
13 A. Yes.
14 **Q. Let's just take the karaoke**
15 **business at this point. What karaoke business**
16 **are you involved in; I am not talking about**
17 **NAKWTA now, I am talking about actual karaoke**
18 **business?**
19 A. It is an entertainment business
20 when I am seeing it. It is a bar where we
21 sell beer and wine, that is it, no hard
22 liquor. And offering people to come in and
23 drink beer and sing along with whatever they
24 like to sing.
25 So basically this is the business

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1 Chan
2 that I get involved in with right now.
3 Actually I am learning this right now.
4 **Q. You said it is a beer and wine**
5 **business only?**
6 A. Yes. Beer and wine business.
7 **Q. What is the name of this bar?**
8 A. Galaxy 45.
9 **Q. Where is it located?**
10 A. In 45 Mott Street.
11 **Q. What is the business name or the**
12 **corporation that operates Galaxy 45?**
13 A. ABC Target Corporation.
14 **Q. Are you a principal of ABC Target;**
15 **are you -- withdrawn.**
16 **Are you an owner of ABC Target?**
17 A. I am one of the shareholder, not a
18 hundred percent.
19 **Q. Are you a majority shareholder, a**
20 **minority shareholder?**
21 A. I am a majority shareholder, yes.
22 **Q. Who are the other shareholders?**
23 MR. HOFFMAN: I think you agreed
24 to have the answer also held attorney's
25 eyes only yesterday to the same question,

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1 Chan
2 or excuse me, Tuesday, with Mr. Yim.
3 MR. HANLON: You want Mr. Chai to
4 leave the room for that?
5 MR. HOFFMAN: Sure.
6 (Mr. Chai left the room).
7 (The following portion has been
8 deemed attorney's eyes only.)
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1 Chan - attorney's eyes only

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6 **REDACTED**
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11 (Continued in non-attorney's
12 eyes only portion of transcript.)
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1 Chan

2 (Mr. Chai reentered the room)

3 **Q. Mr. Chan, are you also an employee**
4 **of Galaxy 45, and let me and try clarify what**
5 **I mean by that. I realize that if you are --**
6 **if you are a shareholder you might receive**
7 **payments in the form of dividends or something**
8 **of the sort as a shareholder. That is not**
9 **what I am asking, what I am asking is --**
10 **profits and so on.**

11 **What I am asking is are you an**
12 **employee, meaning do you have a position that**
13 **has some formal duties and for which you**
14 **receive a salary, and that is usually**
15 **evidenced by either receiving a W-2 form at**
16 **the end of the year or a 1099 form or**
17 **something of the sort?**

18 A. No.

19 **Q. So you don't receive --**

20 A. I don't receive anything.

21 **Q. You don't receive salary in that**
22 **form?**

23 A. Yes.

24 **Q. Approximately how often do you**
25 **visit Galaxy 45?**

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1 **Chan**

2 A. Not quite often, maybe two times a
3 week, sometimes three times a week. Usually I
4 stay there maybe like one or two hours, I just
5 come to visit my employees, greeting them up,
6 saying hey, how are you doing, make them feel
7 better. I try to be a good boss. I try to
8 buy them some lunch, maybe dinner.

9 **Q. You are giving my colleagues**
10 **ideas, then they are going to think that I am**
11 **going to have buy them lunch or dinner and**
12 **that is not a good thing.**

13 A. That is a good thing.

14 **Q. You are a better boss than I?**

15 A. I am not quite sure on that. You
16 are better than me on some other stuff.

17 **Q. Approximately how many employees**
18 **does Galaxy 45 have?**

19 A. We have four full-time employees
20 and two part-time. Total about six.

21 **Q. And what do the full-time people**
22 **do?**

23 A. Full-time means like they work 40
24 hours a week.

25 **Q. I'm sorry, my question was not**

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1 **Chan**

2 **clear. What kinds of jobs do they have, that**
3 **is what I meant?**

4 A. Waiter or bartender. We have one
5 bartender and three waiter.

6 **Q. Is there a manager there other**
7 **than yourself?**

8 A. No.

9 **Q. When did you first become involved**
10 **with Galaxy 45?**

11 A. I believe on the end of 2005.

12 **Q. End of 2005?**

13 A. No. End of 2004, beginning of
14 2005, yes. Actually I think -- withdrawn that.
15 Either January or February of 2005.

16 **Q. Before you became an owner then**
17 **did you work in that club at any time?**

18 A. No.

19 **Q. Have you ever worked in a**
20 **karaoke -- withdrawn.**

21 **Other than this relationship of**
22 **ownership of Galaxy 45 have you ever been**
23 **involved with a karaoke bar?**

24 A. No, not at all. That is what I am
25 saying before, I am still learning how to run

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1 Chan
2 MR. HOFFMAN: Excuse me, what time
3 do we have?
4 THE COURT REPORTER: I have 10:32.
5 MR. HOFFMAN: Would you note that
6 on the record.
7 **Q. Who are some of the sources of the**
8 **videos you have in your club?**
9 A. Taiwanese songs --
10 **Q. Start with the Cantonese songs?**
11 A. Yes.
12 **Q. Where do you get Cantonese songs**
13 **from?**
14 A. The Cantonese song we got is
15 original come from one of the guys, they send
16 us the whole list of the songs that we have.
17 And later on Nicholas Chai, EGI, came to tell
18 me that, hey, this is -- this is our licensed
19 song. Most of the song that we play in our
20 karaoke premises is licensed by EGI. So that
21 I say, is it true; yes. He proved to me it is
22 true. And then whatever it is a true
23 statement, so we signed a contract with EGI.
24 **Q. That covers most of the songs that**
25 **are in your system now?**

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1 Chan
2 A. For Cantonese, yes.
3 **Q. What about Mandarin?**
4 A. Mandarin we have a bunch of
5 Mandarin song. Some of them is not original
6 ones. Some of them is people, just cartoon in
7 the background, some people mix it for special
8 song, or for special purpose for people if
9 they really like it.
10 **Q. The ones that are with the**
11 **original artists, are those also from EGI**
12 **primarily?**
13 A. No. EGI doesn't have any license,
14 as far as I know so far, EGI doesn't have any
15 Taiwanese songs that he has the license for.
16 **Q. I was asking about Mandarin?**
17 A. Well, Mandarin, that is different.
18 I am saying that he also has some license for
19 Mandarin song because some artists in Hong
20 Kong also sing Mandarin song. I am saying
21 that for Taiwanese, that publishing those
22 songs, that we have in our system.
23 **Q. Where did you -- do you have any**
24 **licenses for the Taiwanese songs?**
25 MR. HOFFMAN: What does that have

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1 Chan
2 to do with this?
3 **Q. You can answer the question.**
4 MR. HOFFMAN: Can we move on; is
5 there any question about EGI, NAKWTA,
6 some Taiwanese songs, that is not part of
7 the case, is it; is it part of the case?
8 **Q. You can answer the question?**
9 A. I want to take --
10 **Q. Your lawyer has not instructed you**
11 **not to answer the question.**
12 MR. HOFFMAN: I want to know what
13 this has to do with the subpoena?
14 **Q. You can answer the question.**
15 A. We actually, you know, the song
16 that we got from -- the Taiwanese song that we
17 got from the persons, we talked about this
18 persons, if those songs have a license right
19 to play in here, he said you are supposed to
20 get those licensed song, but no one is
21 representing Taiwanese publishing company in
22 North America. So even though we are willing
23 to pay it, and no one actually taking money.
24 **Q. When you became involved with**
25 **Galaxy 45, I think you said it was in January**

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1 Chan
2 **or February of 2005?**
3 A. Yes.
4 **Q. Was the material that -- when I**
5 **say EGI you understand I mean Entral Group**
6 **International, the plaintiff in this case?**
7 A. I understand.
8 **Q. Let me start the question again.**
9 **When you became involved with**
10 **Galaxy in January or February of 2005 was the**
11 **material that EGI said it holds the license**
12 **for already on the equipment at the club?**
13 A. Yes.
14 **Q. Since then have you added any more**
15 **material from EGI to the equipment at the**
16 **club?**
17 A. Some of the songs that we add to
18 it is not -- some of the song that we would be
19 playing, some of the song has the same title
20 and same artist singing, but because of
21 different versions so we replace that on to
22 our system. Like if a publishing for -- if
23 a -- if there is a song they make in 1999 and
24 then later on the same song, they remake it in
25 2000, and then we using the same title, same

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1 Chan
2 don't go to the bar, they want to go to
3 karaoke.
4 How we can promote that, how we
5 can educate the customer, how to educate
6 people outside the karaoke business, or how to
7 educate people that doesn't know karaoke. So
8 we want to send this message to everybody that
9 we have a karaoke, and not each -- not a
10 traditional karaoke fashion, is it maybe a
11 next step of the karaoke fashion.

12 **Q. On the press release one of the**
13 **purposes of NAKWTA listed under item D is to**
14 **provide free resources and supports to members**
15 **of the karaoke business or industry.**

16 **What type of free resources?**

17 A. Resources, we just provide
18 something like how to apply a liquor license
19 and how to not violate any violations for the
20 Health Department and how to select better
21 server component, so to make sure that the
22 server has a more robust, that it is supposed
23 to be so the downtime will be close to zero.

24 And also, we also provide like
25 lawyer. At that moment we tried to get a

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1 Chan
2 legal consultant for our club. So I tell them
3 if we get one of these and everybody, if they
4 have a legal problem, they can call this legal
5 counselor to represent to our club. So that
6 is resources that we like to give. Actually
7 it is more.

8 **Q. When you met with the members or**
9 **people who were going to become members back**
10 **before December did you offer to get them new**
11 **karaoke works from a new source?**

12 A. No. At that time we didn't even
13 think about how we put together with these
14 resources. All we just focussed before
15 December 8th, we just know what -- actually we
16 talk about how we can help them out in another
17 way. So that, you know, everybody would be
18 happy about, and also people also bring up the
19 questions of how can they reduce the cost.
20 That is really important to people doing
21 business, how can we reduce costs.

22 And so first of all they thinking
23 about, is anyway that we can produce our own
24 karaoke works, and I told them there is a way,
25 but it is a very hard way to do it because

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1 Chan
2 making a video, VCD is a very, very hard --
3 first of all you have the right skilled
4 people. Even though I know -- I know how to
5 make it, but if I make it I will be totally
6 off for the quality for a synchronization for
7 the music together.

8 So you have to have a very
9 specific skill of people, know how to make and
10 create this kind of karaoke works. And so I
11 told them it is not ease okay, but I am
12 concerned to find out. So we asked a lot of
13 people inside our members and tell them does
14 anyone have any related, you know, friends or
15 cousins, whatever, that have this specific
16 skills.

17 So we just spread the message out
18 to our members at that moment, and during a
19 couple of meeting that we talked about. And
20 also we tender in the meantime -- also in the
21 meantime during the meeting I told them saying
22 that, you know, everybody have to comply,
23 require the license to play your own video
24 works in your premises.

25 As for example EGI, okay, if you

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1 Chan
2 don't have any alternative way to commercially
3 play this karaoke works and all you have to
4 do -- I mean I am not saying audio -- I am not
5 saying all -- let me withdraw.

6 Only for the publishing, Hong Kong
7 record -- only for the Hong Kong record
8 company publishing, and the works you guys
9 have to buy licenses from EGI. So I told
10 them, the message is really clear to my
11 members saying that don't play any
12 non-licensed copyright song in your premises,
13 okay. So make sure you guys comply with all
14 the licenses you are required.

15 And then, you know, people just
16 saying, well, this is so expensive. I said
17 well, expensive is expensive, if you cannot
18 pay for license, then you have to talk to EGI,
19 hopefully he can help you out to make an
20 installment payment plan, whatever it is, and
21 maybe EGI can help you out to give you a
22 little bit of discount, and if you signed a
23 little bit longer license agreements,
24 something like that I suggested to them.

25 They said well, then they said,

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1 Chan
2 well, it is still expensive. I said, putting
3 this way, our club, they are trying to help
4 everybody out, but in the legal way, not in an
5 illegal way. So --
6 **Q. Make sure you got that.**
7 A. Then everybody said okay, they
8 understand. So, you know, this karaoke
9 business people is very, very -- they are not
10 really highly educated people like you, Mr.
11 Hanlon. They are very like middle class
12 people and their mind is --
13 **Q. I am a pretty middle class person?**
14 A. You are very highly intelligent
15 people. Anyway so I am saying that when you
16 deal with these karaoke owners or managers,
17 they are not a -- normal person that you can
18 deal with. They say this is funny language, I
19 don't understand sometimes. Finally I
20 understand it, as long as we get along.
21 So to put it in short form,
22 finally we say okay, and then eventually I
23 believe on June -- actually we tried to
24 locate -- okay, supposedly EGI can -- let me
25 withdraw, there is no suppose.

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1 Chan
2 I think I tell the member if EGI
3 can go to get those license from Hong Kong
4 publishing company and he got seven of them by
5 the time that we have license agreement, I
6 believe that maybe there is some other Hong
7 Kong publishing company that have their own
8 artists, that EGI have no license agreement
9 with them. So, but I don't know who and I
10 don't know where.
11 So we told our members, is anybody
12 knew, anyone knew about this industry, and
13 then somehow Ray --
14 MR. HANLON: Excuse me,
15 Mr. Hoffman, please take your feet off
16 the furniture.
17 MR. HOFFMAN: I don't have my
18 shoes on.
19 MR. HANLON: I really don't care.
20 Please take your feet off our furniture,
21 I have asked you now three times.
22 MR. HOFFMAN: Ask your next
23 question.
24 MR. HANLON: Mr. Hoffman, take
25 your feet off our furniture.

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1 Chan
2 MR. HOFFMAN: Ask your next
3 question. Or what; ask your next
4 question. I am bored to tears with this.
5 MR. HANLON: You are going to
6 persist and not take your feet off the
7 furniture, is that what you are telling
8 me?
9 MR. HOFFMAN: I don't think I am
10 doing anything wrong.
11 MR. HANLON: This is my office and
12 you are here as a guest in our offices,
13 and it is highly inappropriate and
14 unprofessional of you to put your feet up
15 on our furniture. In the last deposition
16 you put your feet on the furniture with
17 your shoes on and I asked you to take
18 them off, and you now have your feet on
19 the furniture again. I really don't care
20 whether your shoes are on or off, your
21 feet do not belong on our furniture, and
22 I ask you to take them off.
23 MR. HOFFMAN: If this is what you
24 want to spend your deposition time --
25 MR. HANLON: Are you refusing to

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1 Chan
2 do that, sir?
3 MR. HOFFMAN: I am not refusing or
4 not refusing --
5 MR. HANLON: But you are keeping
6 your feet on the furniture?
7 MR. HOFFMAN: I am not refusing
8 or not refusing.
9 MR. HANLON: But you are leaving
10 your feet on the furniture.
11 MR. HOFFMAN: I am not refusing
12 or not refusing.
13 MR. HANLON: I note for the record
14 that your feet remain on the furniture
15 and we will deal with that at a later
16 time with the court. This is really
17 outrageous behavior.
18 **Q. I am sorry, Mr. Chan.**
19 A. So that members still complaining,
20 you know, anyway we can reduced the cost. So
21 that is the end of our discussions in one
22 session. Actually a couple of meeting that we
23 have, still going around same question, how
24 they reduce the cost for running the karaoke
25 business. And I believe in -- I think in

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1 Chan
 2 March that Ray, around the time, timeframe,
 3 March, April, Ray Yim is our vice president
 4 and he went to Hong Kong, talk to the CASH
 5 people, the CASH is like ASCAP here, and also
 6 talk to IFPI, I believe that is Ricky Fung, I
 7 forget the name of the CASH people, so you can
 8 find in the web-site.
 9 So that he talked about how we
 10 contact other Hong Kong publishing company
 11 that have no license agreement with EGI. And
 12 then the question come back is, very briefly
 13 answer our questions, answer Ray's question
 14 is, that is Ray told me that afterward, he
 15 come back from Hong Kong, he said, you know,
 16 they don't give us any hints or point of where
 17 we can locate those Hong Kong, other Hong Kong
 18 publishing companies that have no license with
 19 EGI.
 20 So then I said okay, then we have
 21 to go -- then I said why don't we -- that is
 22 during the meeting.
 23 **Q. That is during a meeting?**
 24 A. Then I said why don't we, all the
 25 members, why don't we go to another way, maybe

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1 Chan
 2 this is hard way and maybe take a much longer
 3 time to have our own creative works, okay.
 4 The question is none of us know, none of us
 5 has expertise on that. As I said before you
 6 have to have a real specific skill to create
 7 those karaoke works.
 8 So that is why I keep asking
 9 people. I know one of our members and now his
 10 business already closed down because I don't
 11 know how he runs the business, and now he went
 12 back to China to open another karaoke business
 13 in China, and I am sure he opened up
 14 successfully or not, but that is the last I
 15 heard.
 16 Then his name is Jimmy, and he has
 17 a connection with a guy, I don't know the
 18 name, everybody called him Cheng.
 19 **Q. The name that we were, that**
 20 **Mr. Yim gave us we phonetically are writing in**
 21 **English as C-H-E-N-G, does that sound close to**
 22 **the English version?**
 23 A. Because is -- he really pronounce
 24 in Mandarin way, so I pronounce --
 25 **Q. You pronounce Cheng?**

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1 Chan
 2 A. Cheng.
 3 **Q. Cheng?**
 4 A. Like cleaning, as in my
 5 prospective, in Cantonese way we call
 6 cleaning, Cheng.
 7 **Q. If we are spelling it as C-H-E-N-G**
 8 **is how we spelling it now?**
 9 A. Yes.
 10 **Q. I think we will know who are**
 11 **talking about. We are going to use that word**
 12 **just to keep track of it.**
 13 Let me back up and see if I
 14 understand. Jimmy is not Mr. Cheng; Jimmy is
 15 someone who new Mr. Cheng?
 16 A. Yes. Jimmy knew Mr. Cheng.
 17 **Q. Do you know what Jimmy's last name**
 18 **is?**
 19 A. We always call him Jimmy, I don't
 20 know.
 21 **Q. Do you know what club he was**
 22 **connected with?**
 23 A. His business only run very
 24 briefly, he just closed down. He just came to
 25 the meeting a couple of times. He said oh, I

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1 Chan
 2 know this guy, maybe he help you out. I said
 3 that is great. And then he said, he said how
 4 we contact this guy and he said, well, then he
 5 contacted this guy and then talked to Ray.
 6 And then -- at same time Ray, I believe Ray
 7 also has a trip to Hong Kong and in June or
 8 July I believe, I don't remember the time
 9 frame.
 10 And then we say if you are on the
 11 way there why don't you pay a visit for this
 12 guy and see how he works. Is he -- is he
 13 capable of doing it. Then Ray called me back,
 14 he said, Sam, looks like this guy is very --
 15 had skill for that. And then I say, well, ask
 16 him can we -- what kind of stuff we can
 17 provide him so that they can willing to
 18 provide these karaoke works at minimum cost,
 19 because our owners are very, very poor. We
 20 don't have that much money.
 21 So because we were newly formed in
 22 less than a year at that time. So the guy
 23 said, well, you know, that guy has a very
 24 friendly attitude. He said oh, all they need
 25 is a hardware. And then he said, hardware,

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1 Chan
2 what kind of hardware, specify. Well, he said
3 any PC would be fine. I said are you sure any
4 PC would be fine, and he said yes.
5 Then Ray called me back, he said,
6 Sam, you know, is anyone in our organization
7 have any used computer, so send it back to
8 Hong Kong now. But no one has it. And then I
9 asked again, Jimmy, anyone in China that you
10 have a connection. He said well, you know,
11 there is maybe one guy in Hong Kong named
12 Danny, and then he has, I believe a music, a
13 certain music record store. It is like a
14 medium size, then he tell us that -- Jimmy
15 talked to him.

16 **Q. Please go ahead?**

17 A. Then Jimmy said, maybe he will
18 help you out, I said great. Let's talk to
19 Danny then, is any, maybe he can donate to us.
20 And at the same time his company just changed
21 to another new equipment, so they have a bunch
22 of old PC equipment. And then I said, wow,
23 that is great. We just need any PC that will
24 run, any piece that runs, Intel based, and
25 then can use it, yes. Can we have a good use

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1 Chan
2 for this old computer. Can we have a good use
3 for this computer, he said yes, go ahead, we
4 donate to this organization.

5 So then Ray going to pick up the
6 computer and bring it over to the Cheng, and
7 Cheng said okay.

8 MR. HANLON: Stop there for a
9 minute. We have a tape issue.

10 THE VIDEOGRAPHER: Time is 11:31,
11 we are going off the record.

12 (Recess taken.)

13 THE VIDEOGRAPHER: The time is
14 11:36. This is the start of tape number
15 2 of the videotape deposition of
16 Mr. Chan.

17 **Q. Mr. Chan, we were talking about**
18 **your dealings or the organization's dealings**
19 **with Mr. Cheng in China. Did Mr. Cheng**
20 **then -- withdrawn.**

21 Did Mr. Cheng tell you -- let me
22 try it one more time. I will get it right if
23 I keep trying.

24 Did you ask Mr. Cheng, you or
25 Mr. Yim on your behalf, did you ask Mr. Cheng

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1 Chan
2 **to create a certain number of karaoke works?**

3 MR. HOFFMAN: Objection.

4 A. I can answer this. I didn't talk
5 to Mr. Cheng directly because at that time it
6 was Ray talking to him. And he just called
7 back us to see does anybody have the used
8 computer they can donate and for this guy to
9 do it. But from my understanding when Ray
10 comes back, I asked him, can he actually do it
11 for us, he said yes, he said, quote, Ray said,
12 Ray actually told me that he just is doing
13 whatever he can --

14 **Q. He is going to do whatever he can?**

15 A. He is going to do whatever he can
16 produce, and we never asked him how many he
17 did or how many we want, because this is for
18 free services, and this is a really nice guy
19 in China who is willing to do it. But one
20 agreement is, if he finished all this work, I
21 don't know how many piece, maybe ten or four
22 or 20, then he said he would keep those and
23 use the computer for good. I said no problem,
24 those computer, we cannot use it anyway. We
25 cannot bring it back to the U.S., it is used

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1 Chan
2 computer and we don't want it, keep it in
3 China.

4 So that is why the guy -- really
5 nice, so we don't pressure time, take your
6 time. Since, you know, we don't have money to
7 give to you, but you are welcome to keep those
8 computer in a good use, we don't like -- even
9 old, the computer can still be used.

10 **Q. Now, it was your understanding**
11 **that he was going to create a few, you said**
12 **four or ten --**

13 A. No, I am not saying that. I
14 saying that -- you said did we ask him how
15 many of them?

16 **Q. Yes.**

17 A. I said we never asked him to do --

18 **Q. You said as many as he could?**

19 A. Yes.

20 **Q. You mentioned four or ten --**

21 A. I mentioned, I think, even though
22 he is making some, like four or five for us,
23 that is good, so we can see how good his
24 quality is, how good it is. That is what I am
25 saying. I didn't talk to him at all.

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1 Chan
 2 **Q. As I understand what you are**
 3 **saying is that he was going to make several,**
 4 **you thought he would make several songs,**
 5 **samples so you can see the quality?**
 6 A. Yes.
 7 **Q. And in exchange he was going to be**
 8 **able to keep the computers?**
 9 A. Yes.
 10 **Q. Did he make samples and send them**
 11 **to you?**
 12 A. Yes. Actually he make samples and
 13 bring it back from another guy that
 14 actually -- we have a couple of friends back
 15 and forth in China. They came back with a
 16 disk, CD, a couple of song there. Then I
 17 looked into it and I called a meeting together
 18 with all the members and saying this is what
 19 Cheng did that, okay, is everybody acceptable,
 20 and everybody said it looks good, but still it
 21 is not very good because the background is
 22 scenery, not either scenery or animals, fish,
 23 something like that.
 24 **Q. Now, you showed the sample, CD to**
 25 **the members?**

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1 Chan
 2 A. Yes.
 3 **Q. When you say a CD, this is not**
 4 **just an audio CD, this is a VOD?**
 5 A. Yes.
 6 **Q. Which shows audio images as well**
 7 **as audio; correct?**
 8 A. Yes.
 9 **Q. What happened to that CD?**
 10 A. The CD I have it in one of --
 11 where did I put it. I don't know, I just have
 12 it and maybe it is in -- because I need to
 13 show it to the members, and I have it in a CD
 14 that maybe in my shelf, I am not sure --
 15 sorry.
 16 THE VIDEOGRAPHER: The time is
 17 11:41. We are going off the record.
 18 (Recess taken.)
 19 THE VIDEOGRAPHER: The time is
 20 11:42. We are back on the record.
 21 RQ **Q. Mr. Cheng, we would ask that that**
 22 **CD be produced, it was previously requested in**
 23 **the document production, and we ask that it be**
 24 **produced as soon as possible?**
 25 A. No problem.

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1 Chan
 2 **Q. You can produce either the**
 3 **original CD or make a true copy so long as you**
 4 **can attest to the fact that it is a true copy?**
 5 A. Sure.
 6 **Q. Did you then contact Mr. Cheng and**
 7 **tell him that the quality was acceptable and**
 8 **that you would like him to make more karaoke**
 9 **videos for you?**
 10 MR. HOFFMAN: Objection.
 11 **Q. You can answer?**
 12 A. No, I cannot answer --
 13 MR. HOFFMAN: If I object you can
 14 answer. I am objecting to the form. If
 15 you don't understand the question you can
 16 ask him to explain it.
 17 A. We didn't ask him to do it. I
 18 said if you have -- if you appreciate our
 19 donation of the computer and if you have a
 20 free time you are welcome to make more of
 21 these things for us, if you can, that is what
 22 we asked him. He said yes, that is what we
 23 asked for. We never asked him how many of
 24 them or when we can have them, we never asked
 25 him.

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1 Chan
 2 **Q. Did Mr. Cheng say that he would**
 3 **make more?**
 4 A. He didn't directly say yes or no.
 5 He just said, well, he said what can he do.
 6 We said okay, no problem. Then later on I
 7 don't know what it is, there was a dialog with
 8 Ray from Cheng, and then Ray said, Cheng
 9 actually has a couple, you know, song. I said
 10 a couple, I said how many, and then Ray said
 11 it looks like he is able to make 8,000 song,
 12 all different songs, not only Cantonese song,
 13 but some Taiwanese song, a variety.
 14 So I don't know how -- I never see
 15 those -- let me rephrase that. He has a
 16 dialog with Cheng, that Cheng told him that,
 17 you know, they have some songs or that Cheng
 18 makes it, uses the computer, and Ray said, you
 19 know, okay, how many. And then Ray told me
 20 that like 2,000 each hard drive and he said
 21 probably have 8,000 songs at that moment.
 22 He said, well, that is great, I
 23 think the timeframe is the end -- is end of
 24 the year before I take my trip to Hong Kong.
 25 **Q. Now, when Mr. Cheng was going to**

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1 **Chan**
2 **make these songs, make these karaoke videos,**
3 **what was your understanding about how he was**
4 **going to make them; was he obtaining a singer?**

5 A. When I look at the demo that he
6 made for one of the sings, I knew this guy
7 really know how to make a karaoke song, I
8 understand how to make a VCD, based on what I
9 understand how to make the VCD. What he do
10 is, he has very clear pictures, background,
11 clear pictures meaning scenery or animals or
12 fish. Those kind of background very clear and
13 then he super impose with the lyrics, and it
14 is very -- the lyrics are kind of small
15 because he typed into it. That is how you
16 make the VCD, and then this is okay, this is
17 acceptable, the quality.

18 Then he has to synchronize, even
19 though synchronize you have to have color.
20 You have color to synchronize the sing so that
21 you know where the character is sung, so you
22 keep going down.

23 **Q. Mr. Chan, who is the singer who is**
24 **singing the songs on the work that Mr. Cheng**
25 **prepared?**

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1 **Chan**

2 MR. HOFFMAN: Objection.

3 A. The one that he give to me, I
4 forget who it is. It sounds to me -- I am not
5 speech expert.

6 **Q. I understand.**

7 A. So I listened it through the
8 computer and stuff, it looks like to me is an
9 original singer to me. To me is original
10 singer, but I don't know.

11 **Q. Did Mr. Cheng tell you who the**
12 **singer was?**

13 A. Yes, he write down a piece of
14 paper.

15 **Q. Do you have that piece of paper?**

16 A. No, not a piece of paper, actually
17 when the karaoke comes up they have artist
18 saying the name, so you know what it is.

19 **Q. It is your understanding that the**
20 **person whose name is there is the person who**
21 **is singing the song on the vocals?**

22 MR. HOFFMAN: Objection.

23 A. I am not sure, because I am not a
24 speech expert.

25 **Q. I understand.**

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1 **Chan**

2 A. I listened to the singer, it
3 sounds like to me is his original, but some
4 people told me it is not original. It is
5 really subjective.

6 **Q. But as far as you know from what**
7 **Mr. Cheng showed you it is supposed to be the**
8 **original singer?**

9 A. I don't know.

10 **Q. Do you know whether Mr. Cheng**
11 **hired that singer or recorded that singer?**

12 A. I never asked him how to do it
13 because he do it for free, we don't want to
14 like interrogate this guy, how much you make,
15 what list and things like that. He is doing a
16 free service, a really nice guy, you know, so
17 we never given any questions like that.

18 **Q. So you don't know whether he**
19 **arranged that singer to sing or not?**

20 A. No.

21 **Q. Or whether he might have taken an**
22 **existing recording of that singer?**

23 MR. HOFFMAN: Objection.

24 A. Cannot be recording it, because
25 the sound -- you have to understand how to

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1 **Chan**

2 make the VCD, it is not easy. You are using
3 the WAV file to just put into the video, it is
4 not like this. Let me give you a procedure
5 how this thing -- -- sorry for interruption.

6 THE VIDEOGRAPHER: The time is
7 11:49. We are going off the record.
8 (Recess taken.)

9 THE VIDEOGRAPHER: The time is
10 11:51. We are back on the record.

11 MR. HOFFMAN: If I can say, when
12 we were off the record, that was a
13 telephone call from Andrew Lin who
14 explained that he intended to be here
15 this morning, however he had some car
16 trouble. He is currently at the George
17 Washington Bridge, but it doesn't look
18 like he would get here to have any
19 meaningful participation.

20 So he is not going to attend, but
21 he certainly never waived his right to
22 attend this deposition as far as I know.

23 **Q. You were explaining why, you were**
24 **explaining about the music and the wav file?**

25 A. Sorry about that. The music how

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1 Chan
2 to make it is first of all you have, take a
3 video source, any video source like you can go
4 out to make the video yourself like using a
5 video recorder, or you can using existing any
6 video pictures, okay.

7 **Q. Okay.**

8 A. So first of all you have a video
9 source. You can obtain the video source from
10 different sources. Then you have to have a
11 song --

12 THE VIDEOGRAPHER: The time is
13 11:52. We are going off the record.
14 (Recess taken.)

15 THE VIDEOGRAPHER: The time is
16 11:54. We are back on the record.

17 A. Okay, saying how to make this
18 video, MPEG 1 video, you need a video source,
19 I tell you how to obtain the video from
20 various way. Second of all you have to obtain
21 a song with the singer who sings the song with
22 the music, music code. And then second part
23 is you need to have a lyrics.

24 Then first of all you have to type
25 in the lyrics into digital format on the

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1 Chan
2 paper, turn into digital format. Then once
3 you turn it into digital -- transfer it into
4 digital format, then you can play your music.
5 When you play the music and you try to
6 synchronize now, very hard work, try to
7 synchronize the singer singing each word and
8 then using a color to high light which
9 character was sung. And then once you have
10 that, that is a very difficult part. Once you
11 have that this would be multi irritation, you
12 have to do it multi times --

13 **Q. I think you mean multi iteration.**

14 A. Yes. So you have to do sometime
15 do it too fast, sometimes too slow and most of
16 all is if you don't -- if you not familiar
17 with the song that will even make it more
18 difficult.

19 **Q. Now, to create --**

20 A. That is how to create the videos.

21 **Q. About how long would you estimate
22 it takes to create one of these songs?**

23 MR. HOFFMAN: Objection.

24 A. Because I never see a very
25 skilled, specified skilled people to make song

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1 Chan
2 by myself, in my own eyes, I cannot answer
3 your questions. Because it really depends
4 on -- if you very, very familiar with the
5 song, you can listen to the song, you can sing
6 along yourself. But if the song is totally
7 not familiar, but you have to -- oh, too fast,
8 or sometimes too slow and you think you are
9 singing, actually not singing, pausing. Then
10 you have to redo it again. So that is why I
11 can't answer the question.

12 **Q. Let's go back to the WAV files
13 that are part of the materials, the samples
14 that Mr. Cheng gave you. Did the samples that
15 he gave you have two tracks, one with vocals
16 and one without vocals?**

17 A. Yes.

18 **Q. Where did Mr. Cheng get the
19 recordings for those samples?**

20 A. I believe in China.

21 **Q. Did Mr. Cheng arrange for those
22 recordings to be made, or did he obtain the
23 recordings from an existing source?**

24 MR. HOFFMAN: Objection.

25 A. Can you rephrase your question, I

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1 Chan
2 didn't get it.

3 **Q. Sure. Is it your understanding
4 that Mr. Cheng obtained recordings that had
5 already been made, or did whether Cheng
6 arrange for a new recording to be made?**

7 MR. HOFFMAN: Objection.

8 A. I have no idea about that.

9 **Q. Did Mr. Cheng tell you that?**

10 A. He never told me.

11 **Q. Did Mr. Yim tell you what**

12 **Mr. Cheng said?**

13 A. Not that I know.

14 **Q. When you were told that Mr. Cheng
15 had an additional 8,000 songs what was your
16 response?**

17 A. My response, well, that is great.
18 Okay. That means like that he did a lot of
19 progress to have these songs come out and
20 naturally can give it to us for free so we can
21 have a good use for it. Even though it is a
22 very experimental, variation copy, and still
23 is to me is acceptable.

24 **Q. Mr. Chan, you said it was free.**

25 **Why would Mr. Cheng create 8,000 karaoke works**

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1 **Chan**
 2 **and give them to you for free?**
 3 MR. HOFFMAN: Objection.
 4 A. Well, as I said, they really,
 5 because, you know, one thing I can understand
 6 is, I am not quite sure I am saying this
 7 right, but I think because, you know, they can
 8 produce this song to sell on their own, okay,
 9 using our equipment for free. You understand
 10 what --
 11 Q. The equipment is that one used
 12 computer that was not worth much you said?
 13 A. Yes.
 14 Q. So you gave him one used computer
 15 that is not worth much and he then turned
 16 around and gave you 8,000 karaoke works that
 17 took him a lot of time and effort to create?
 18 A. And don't forget, he got the
 19 master for that too, so he can sell that in
 20 China because he create that song by himself.
 21 So he has a total right for license. He can
 22 license to anyone.
 23 Q. Mr. Chan, it seems as if Mr. Cheng
 24 didn't need you to create the 8,000 works?
 25 MR. HOFFMAN: Objection.

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1 Chan
 2 MR. HANLON: Can I finish my
 3 question?
 4 MR. HOFFMAN: It is an argument,
 5 it is argumentative. Ask him what he
 6 did, where he went, who he talked to.
 7 Q. Mr. Chan, it seems that Mr. Cheng
 8 didn't need you to create the 8,000 works,
 9 that he -- that once he had the computer he
 10 could have created them himself and then sold
 11 them to whoever he wanted; why wouldn't he
 12 charge you a fee like he would charge other
 13 people a fee?
 14 MR. HOFFMAN: Objection.
 15 A. I can answer. Because at the
 16 beginning we say if you can have a good use of
 17 computer and produce songs, and then you can
 18 keep the computer, and just give whatever you
 19 guys have, that is it.
 20 Q. What do you estimate the computer
 21 was worth?
 22 MR. HOFFMAN: Objection.
 23 A. I didn't look at the computer
 24 myself, so I cannot tell you.
 25 Q. Was it a standard PC?

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1 Chan
 2 A. I have no idea.
 3 MR. HOFFMAN: Objection.
 4 A. What I said was an PC Intel based
 5 PC.
 6 Q. You can buy an Intel based PC
 7 brand new down at CompUSA for \$400?
 8 MR. HOFFMAN: Objection.
 9 A. For my knowledge I never see the
 10 used computer myself. I have no idea how much
 11 it cost.
 12 Q. Was it worth more than a few
 13 hundred dollars?
 14 A. I already said I don't know.
 15 MR. HOFFMAN: He already said he
 16 doesn't know.
 17 Q. Did Mr. Cheng deliver the 8,000
 18 songs to you?
 19 A. Yes. At the time that I was, when
 20 they have a dialog with Ray, I think it is
 21 almost the end of the year, as I told you
 22 before that my trip is going to Hong Kong in
 23 December, and so when I get down there, so I
 24 talk to Danny, because I don't how to speak
 25 Mandarin, I am not familiar with Cheng. So I

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1 Chan
 2 need someone to show me where Cheng is located
 3 and where this -- where the restaurant is that
 4 I can pick up the drive.
 5 So that I talked with Danny.
 6 Danny bring me -- when I was in Hong Kong, and
 7 so I took the hard drive out from there and
 8 without inspection, so I didn't know, I didn't
 9 know what was inside the hard drive, but I
 10 know it is all data. That is what he told me.
 11 I took it from him because I have no reason
 12 not to believe him.
 13 Q. Let's stop there for a moment.
 14 This was in Hong Kong?
 15 A. No, this is -- Danny bring me to
 16 Cheng.
 17 Q. Did he take you to Guong Zhou?
 18 A. I don't know -- because I don't
 19 know.
 20 Q. He took you somewhere into --
 21 A. Train.
 22 Q. In PRC though?
 23 A. Yes.
 24 Q. You met Mr. Cheng then?
 25 A. Yes.

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1 Chan
2 **Q. Did Mr. Cheng give you a business**
3 **card?**
4 A. Yes. I asked him do you have any
5 business to make this karaoke work, he said
6 no, I have a bunch of people, that we are in a
7 consortium, kind of like NAKWTA, they have
8 people that -- they claim themselves is an
9 expert on making video, VCD.
10 **Q. You said he gave you a business**
11 **card?**
12 A. No. He never.
13 **Q. Did he give you any piece of**
14 **paper?**
15 A. No, he just said thank you for the
16 hardware that you donate to us and this is a
17 hard drive. That is all the data that we
18 make. I hope you enjoy it, that is it. I
19 never look at the data at the time that I take
20 it because I have no computer on hand.
21 **Q. How many hard drives did he give**
22 **you?**
23 A. Four at the moment that I have.
24 **Q. So you gave him a computer and he**
25 **gave you back four hard drives filled with**

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1 Chan
2 **data?**
3 A. Not like --
4 **Q. I understand. Previously you gave**
5 **him a computer?**
6 A. Yes.
7 **Q. And in exchange he gave you four**
8 **hard drives back filled with data?**
9 A. Yes.
10 **Q. Did you pay him for the hard**
11 **drives?**
12 A. I pay the hard drives. Actually
13 Ray, when he was there, they asked him -- that
14 is why I said they need hardware, computer, so
15 the hard drive, we paid for the hard drive.
16 **Q. You paid for the hard drives?**
17 A. Yes.
18 **Q. What type of hard drives were**
19 **they?**
20 A. At the time that we have, because
21 we don't want to carry that many hard drives,
22 so we said the biggest hard drive that they
23 could buy in PRC. At that moment so the
24 biggest hard drive is 250 gigabytes. So we
25 bought 250 gigabytes hard drives, that is the

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1 Chan
2 biggest one that we had.
3 **Q. What type?**
4 A. ISA type. Regular type, not like
5 a SCSI type.
6 **Q. What did Mr. Cheng tell you about**
7 **the rights to the video that he was giving**
8 **you?**
9 A. Yeah, he told me, I asked him,
10 okay, very particular I asked him did you
11 create this video from the ground zero. Then
12 he said yes, he created the video from ground
13 zero. I said okay, good, then you have your
14 right to use it.
15 **Q. What do you mean when you say from**
16 **ground zero?**
17 A. Ground zero means like they have
18 their own video source from some other source
19 they have it, maybe they videotape outside or
20 they have their own, you know, video copy, and
21 they buy some of the CD. When you buy you can
22 use it in your home, wherever you want to do
23 it. Then they type the lyric themselves, and
24 then they put everything together and fill the
25 computer equipment to generate and create this

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1 Chan
2 MPEG 1 VCD.
3 **Q. Let me see if I understand. When**
4 **you say ground zero, you mean they obtain**
5 **video, they take it themselves or they obtain**
6 **it somewhere?**
7 A. Yes.
8 **Q. They then get a CD of recorded**
9 **music?**
10 A. Yes.
11 **Q. They combine the video with the**
12 **CD, and they add the lyrics and they**
13 **synchronize all those things into one combined**
14 **file?**
15 A. Yes. Now, I give you extra
16 information is, VCD is one layer, okay,
17 everything. When you synthesize it, that is
18 called synthesize, that means like the picture
19 and the lyrics, when the lyrics and pictures
20 come together, they synthesize it, it becomes
21 one single picture and you cannot -- never can
22 separate the video and the lyrics, it is
23 sticking in one panel.
24 Only you can extract like you said
25 like audio. So that is why you know if you,

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1 Chan
 2 like you said, you want to take out the audio
 3 and inject another thing, the lyrics cannot be
 4 taken out. There is no way.
 5 **Q. I understand.**
 6 A. That is why I believe them. When
 7 I look at their video work, I believe that
 8 they make it from ground zero. When I come
 9 back here to look at the tape.
 10 **Q. And you looked at it?**
 11 A. When I come back here.
 12 **Q. As you understood it they took**
 13 **prerecorded CDs, they combined them with new**
 14 **video and new lyrics?**
 15 MR. HOFFMAN: Objection.
 16 A. Yes.
 17 **Q. They may have typed them in**
 18 **themselves, but --**
 19 A. You have to.
 20 MR. HOFFMAN: Objection.
 21 **Q. You said you thought he --**
 22 **withdrawn.**
 23 **You said you thought Mr. Cheng**
 24 **either took the videos or arranged to have the**
 25 **videos taken. What about the music, what was**

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1 Chan
 2 **your understanding about the music that**
 3 **Mr. Cheng was using?**
 4 A. The music to me is acceptable way,
 5 and I tell you that I don't know is originally
 6 singer, really hard. Even though someone
 7 bring a CD to you, hey, this is a singer by
 8 Bon Jovi, even though you are Bon Jovi fan,
 9 you can't even tell -- I am saying that if
 10 someone is a Bon Jovi fan, and even though he
 11 just listen to Bon Jovi song, he won't be able
 12 to identify this is original it is Bon Jovi's
 13 song, because when you go through digital he
 14 can do a lot of pitching, lower the voice,
 15 change the frequency, and match what the
 16 singer is, the sounds like.
 17 I can match Mr. Hanlon's voice if
 18 I have original voice, I put inside and have
 19 another singer sing it, I can synthesize the
 20 whole thing based on your pitch and signs. I
 21 can change your whole entire dialog range so
 22 that no one actually can listen to you unless
 23 you are a speech expert or you have the
 24 equipment to tell this is the reproduction of
 25 the audio. It is not original singer.

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1 Chan
 2 **Q. I don't think you want to**
 3 **reproduce my singing?**
 4 A. Just an example.
 5 **Q. Did Mr. Cheng tell that you the**
 6 **recordings, that the audio recordings were the**
 7 **original artists?**
 8 A. I didn't ask him.
 9 **Q. Did he tell you that they were not**
 10 **the original artists?**
 11 A. He didn't tell me that. By the
 12 time, we have dinner together, I said these
 13 are the hard drives. We didn't really -- the
 14 time I met him we didn't talk about business,
 15 we just talked about social stuff, like how,
 16 how many karaoke business in this area and
 17 like do they -- do you have any good food
 18 around, specialty food, like social.
 19 **Q. Social stuff?**
 20 A. We don't get into business,
 21 personal, no need to.
 22 **Q. Did Mr. Cheng give you any**
 23 **documents concerning ownership of the hard**
 24 **drives?**
 25 A. Ownership of the hard drives; no.

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1 Chan
 2 He never give me that.
 3 **Q. Did he give you any documents**
 4 **concerning rights to the content of the hard**
 5 **drive?**
 6 A. No.
 7 **Q. Did he ask for any payment, any**
 8 **additional payment for the creation of the**
 9 **works?**
 10 A. No, not at all.
 11 **Q. Did he say that he wanted some**
 12 **payment in the future?**
 13 A. Not even that.
 14 **Q. Did he indicate that he was going**
 15 **to continue to make more karaoke works?**
 16 A. Yes. He intended to say that he
 17 make more karaoke works because he want to --
 18 using a new technique that they come out,
 19 because they are writing their own software.
 20 So that they have to have -- making or
 21 creating more VCD so that to -- like a
 22 testing, because they only debug their
 23 software.
 24 I sensed that it is not they told
 25 me, but since I am a professional on

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1 Chan
2 electrical engineering, by the information he
3 told me, he said that he need to -- I said why
4 you want to make such huge amount of data. He
5 told me we have new software that will make --
6 to help people make karaoke much more easier,
7 to bring them to next stage, okay, not the
8 traditional that I know of.

9 So I said wow, that would be
10 great. I said well, even though a high school
11 kid can produce this quality VCD in no time.
12 That is what he said to me. So for my
13 understanding, I am guessing, is that he needs
14 a lot of data to test, okay, his software.
15 That is why I believe he keep making all this
16 new video.

17 **Q. Did you and Mr. Cheng discuss**
18 **obtaining any licenses from any rights**
19 **holders?**

20 A. I did discuss -- he asked me, do
21 we have any license; I mean do anybody in New
22 York charging licensing fees. I tell him yes,
23 EGI for example, they are charging license fee
24 for Hong Kong publishing songs. Then I told
25 him, he said okay, he said that means that we

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1 Chan
2 can do the same thing here because I create
3 it.

4 I said yes, sure, you can sell
5 this to people or you can just give it free to
6 people and charging them no license, whatever
7 it is, because you have your own work. That
8 is why we have discussion with the license
9 right at that moment. We briefly discussed
10 it.

11 **Q. Did he tell you that he had**
12 **obtained rights from anyone?**

13 A. What does that mean, obtaining --

14 **Q. Did he tell you that anyone gave**
15 **him a license or gave him rights?**

16 A. No, he didn't say that. He didn't
17 tell me anything about that.

18 **Q. You now have the hard drives.**

19 A. Yes.

20 **Q. Did you bring them back to New**
21 **York?**

22 A. Yes.

23 **Q. What happened then?**

24 A. The hard drive, we bring it back
25 to New York, then we try to share with our

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1 Chan
2 member. Tell them, hey, now we try to reduce
3 the costs, now we have a set of video that I
4 believe, when I told Mr. Cheng saying that
5 they created, so that means that they have a
6 right. So then we have the right that they
7 give us to use it. And then I told all my
8 members that you can use it, you can use it in
9 good use or not use it.

10 If you are going to use it in a
11 commercial you have to have to comply all the
12 license rights. For example I said you have
13 to pay license fee for ASCAP because ASCAP
14 owns the musical and lyrics right. So that --
15 I said even though you are not using our work,
16 ASCAP have to have the -- to pay to the
17 license because you are using EGI song, it
18 doesn't matter what song you are playing, as
19 long as you are playing musical and lyric and
20 singing, you have to pay license to ASCAP if
21 you want to play commercial. Publicly.

22 **Q. When was this told to the members,**
23 **at a meeting?**

24 A. In one of the meetings, yes.

25 **Q. Approximately when?**

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1 Chan
2 A. I don't remember. Actually every
3 meeting they bring up the license right, I
4 told them, because I have to educate them,
5 because their mind set everything is free. I
6 said no, nothing is free. We are dealing
7 legal stuff in here, nothing is free. Please
8 go to buy ASCAP license.

9 **Q. Did you tell them that if they got**
10 **an ASCAP license, then they were allowed to**
11 **play video?**

12 MR. HOFFMAN: Objection.

13 A. I didn't tell them to play video.
14 I said one thing you guys have to pay the
15 license fee. What I know of is ASCAP, and
16 other license fee that you need to pay that I
17 don't know, because you have to based on your
18 judgment. It is not my judgment or my call to
19 say that you feel free to use it without
20 consulting any license right or whatever.

21 But, you know, for the video,
22 video work, I mean the video work that the
23 Cheng do it, I took Cheng's word that he
24 created it. That he created the whole thing.
25 I told my members Cheng created that. So that

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1 Chan
2 you guys have the right, that what Cheng's
3 work is for playing in public. That is what I
4 relate Cheng's work, that is -- but, okay,
5 make sure go out to find, okay, go out to find
6 out if any license that have to be complied
7 before you guys play commercially.
8 **Q. Did you tell them that they needed**
9 **a separate license for Cheng's work?**
10 A. Yes. ASCAP.
11 **Q. Did you tell them that ASCAP was**
12 **the only license that they needed for Cheng's**
13 **work?**
14 A. No. I said you guys -- besides
15 ASCAP you guys have to go out to find any
16 other license compliance, to comply to play
17 the video in the public.
18 **Q. Did you make copies of the hard**
19 **drives to give to members?**
20 A. Yes, based on their request, yes.
21 **Q. How many members did you make**
22 **copies for?**
23 A. I believe 100 Fun, Melody and what
24 is it, I believe there is one more. What is
25 this guy's name. I have to look at the

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1 Chan
2 record.
3 **Q. Was it YHLC?**
4 A. Yes.
5 **Q. Black Swan?**
6 A. Yes, thanks for reminding me.
7 **Q. Is there another club beyond those**
8 **three?**
9 A. I believe that is it.
10 **Q. Did you install Cheng's content --**
11 A. We never installed --
12 **Q. Let me finish the question. Did**
13 **you install Cheng's content in Galaxy 45?**
14 A. No.
15 **Q. Do you believe that these clubs**
16 **needed additional licenses from other sources**
17 **aside from ASCAP to use Cheng's work?**
18 MR. HOFFMAN: Objection.
19 A. I am still in the discovery period
20 for my club -- for this non-profit
21 organization. And I am -- that is why I have
22 Mr. Hoffman, our legal consultant to see, you
23 know, if any license right that we need
24 besides ASCAP to play in public. But for our
25 club we never using it for any public use. In

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1 Chan
2 our club just like a repository. We just
3 collect it, put it in the basement and sit
4 there. We never use it.
5 **Q. Do you copy it?**
6 A. What?
7 **Q. Have you copied it?**
8 MR. HOFFMAN: Objection.
9 A. We have one master copy.
10 **Q. Have you ever made copies from**
11 **that master copy?**
12 A. Yes. We copy it to, as I said, A
13 100 Fun, YHLC and Melody.
14 **Q. So you made copies and you**
15 **distributed it to these three companies?**
16 A. Based on the request, yes.
17 **Q. But you have never, you meaning**
18 **you, Sam Chan, nor NAKWTA has ever obtained a**
19 **license from any other source authorizing you**
20 **to make copies or distribute these works; is**
21 **that correct?**
22 A. Yes. You are correct.
23 **Q. When did you give YHCL copies of**
24 **the work?**
25 A. I believe it is beginning of --

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1 Chan
2 beginning of this year.
3 **Q. Mr. Chan, I missed something, let**
4 **me back up. I want to make sure we are not**
5 **confused about the time. This trip that you**
6 **made to Hong Kong and then to meet Mr. Cheng,**
7 **when was that trip?**
8 A. I think it was mid December to end
9 of December, in that timeframe.
10 **Q. Did you come back during that**
11 **period as well, back to the United States?**
12 A. Yes.
13 **Q. And when did you tell the club**
14 **members -- the NAKWTA members that you now**
15 **have these works for distribution?**
16 A. I am not saying that we have for
17 distribution. I said we obtained this -- we
18 have this four hard drive on hand. I said it
19 was after I come back, I think a couple of
20 days later I called a meeting. Usually a
21 response to my members when I have new news, I
22 call a meeting to say I have the hard drive.
23 I told them I have not looked at
24 the quality yet, but I believe based on the
25 demo that that may be good, that is it. Next

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1 Chan
2 with ASCAP is.
3 **Q. How many E-mails did you send to**
4 **ASCAP?**
5 A. I think only one, and they never
6 respond to me.
7 **Q. Did you send an E-mail to anyone**
8 **else about this material?**
9 A. Yes. I think I cc'd to Ray Yim I
10 believe.
11 **Q. Did you send E-mails to any other**
12 **organization aside from ASCAP?**
13 A. No. That is the only one.
14 **RQ MR. HANLON:** We would ask that the
15 E-mails to ASCAP be produced.
16 **MR. HOFFMAN:** What category does
17 that fall under; he said the subject
18 matter of that E-mail was that he wanted
19 to have NAKWTA appointed as a person to
20 collect royalties on Cantonese songs. It
21 has nothing to do with karaoke works per
22 se. It certainly has nothing to do with
23 your client's rights.
24 **MR. HANLON:** The record relates to
25 the development, production or

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1 Chan
2 distribution of any karaoke work by you.
3 That relates to the distribution of
4 karaoke works. The E-mail is called for.
5 **Q. Mr. Chan, produce the E-mails?**
6 A. I can produce the E-mail, no
7 problem. Very, very simple E-mail, asking can
8 we have this.
9 **Q. Did you tell Mr. Yim that you were**
10 **going to get in touch with publishers to**
11 **discuss rights?**
12 A. Publisher -- no.
13 **Q. Publishers to discuss obtaining**
14 **rights from the publishers?**
15 A. Well, I told him, I told him to
16 talk to CASH and IFPI to --
17 **Q. I am not being clear, let me try**
18 **again. Did you talk to any publishers about**
19 **obtaining rights?**
20 A. No.
21 **Q. Did you tell Mr. Yim that you were**
22 **going to?**
23 A. I only tell him that I am going to
24 talk to one of the publishers as from PCTW,
25 the record company label called Music Nation.

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1 Chan
2 The chairman of the Music Nation is called
3 Robert Chan, the last name same as mine,
4 C-H-A-N.
5 **Q. Did you speak to the publisher --**
6 **did you speak to Mr. Chan?**
7 A. Yes, personally.
8 **Q. About obtaining rights?**
9 A. About obtaining the license
10 rights, yes.
11 **Q. Did you enter into a license with**
12 **Music Nation?**
13 A. They are still considering it
14 right now. We don't have any concrete
15 statement from them.
16 **Q. Did you -- where is Music Nation**
17 **located?**
18 A. Hong Kong.
19 **Q. Are you distributing any of Music**
20 **Nation's works now?**
21 A. No.
22 **Q. Have you spoken to Cheng since you**
23 **have brought back those hard drives; Mr. Cheng**
24 **in China?**
25 A. Cheng?

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1 Chan
2 **Q. Cheng?**
3 A. No.
4 **Q. Mr. Chan, I am showing you a**
5 **document that has been marked as Plaintiff's**
6 **Exhibit 22.**
7 A. Yeah.
8 **Q. Can you tell me what this document**
9 **is?**
10 A. This is a document, this is the
11 song list.
12 **Q. What song list?**
13 A. A song list is a list of the songs
14 and also the author, the singer.
15 **Q. What songs is this a list of?**
16 A. This list is what Cheng give to me
17 at the time that I pick up the hard drive, and
18 he said, you know, this is a song book that
19 you guys know, you need it, because before
20 this song book it is really hard to recognize
21 the hard drive song, because the song hard
22 drive data is a number, is not in naming. It
23 is numbering.
24 So based on that, I said what was
25 this for, he said without this you cannot put

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1 Chan
2 the song in the system. I said okay, how to
3 use this. Then after he explained to me how
4 to use it, then I know how to use it. Because
5 every karaoke system have their own server
6 technology and have their own different
7 database. This is considered database, this
8 is what he told me.

9 So you have to give this to
10 whoever need to use the karaoke song and ask
11 their technicians, whatever it is, ask the
12 technician to put this database in the system
13 in order they can play the data in hard drive
14 like a VOD system.

15 **Q. And so you have given this song**
16 **list to the members of the organization?**

17 A. Yes? When they asked me did they
18 have a copy for the song, yes, I gave that to
19 them, yes.

20 **Q. Have other members asked for**
21 **copies of this list as well?**

22 A. No. Only people that request for
23 the hard drive.

24 **Q. So you have given this out to**
25 **three or four different clubs now?**

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1 Chan

2 A. Yes, 100 Fun and Melody and
3 also --

4 **Q. YHCL?**

5 A. Yes.

6 **Q. So YHCL has been given this list?**

7 A. Actually I gave it to IUG.

8 **Q. You gave it to IUG, a third-party,**
9 **they are not a member of the club?**

10 A. Yes.

11 **Q. They are an outside vendor, an**
12 **outside company that distributes?**

13 A. Yes, because YHCL told me that
14 they don't know anything about the database
15 because the system is maintained by IUG. So
16 that they told me, give to them to have a good
17 use.

18 **Q. So you gave this to IUG so they**
19 **can deal with entering it into the VOD system?**

20 A. Yes.

21 **Q. Did you give IUG any special**
22 **instructions when you gave them the list?**

23 A. No. Cheng told me this is the
24 database, so I -- they are, they know the VOD
25 system, they know exactly.

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1 Chan
2 **Q. But you didn't give them any other**
3 **instructions or told them there was any**
4 **limitations?**

5 A. No. I said this is the database,
6 go use it.

7 **Q. They were free to use it as they**
8 **needed to?**

9 MR. HOFFMAN: Objection.

10 A. I didn't say that.

11 **Q. You didn't tell them that they**
12 **couldn't use it?**

13 A. I told them only use it for the
14 system conversion for the YHCL, yes.

15 **Q. Are all of the songs that are on**
16 **this list on the hard drives?**

17 A. No, of course not. If we have
18 this it would be great. The problem is, Cheng
19 told me this is a database that they intended
20 to make, and he said, you know, that is only
21 part of it, they give to us. It is not all of
22 them, like that.

23 **Q. And so in order -- if you have the**
24 **hard drives in order to be able to find any**
25 **songs on the hard drives you have to have this**

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1 Chan
2 **list, right?**

3 A. Yes.

4 **Q. It is not possible to figure out**
5 **which songs are which without this list?**

6 A. No way.

7 **Q. Is it your expectation that you**
8 **will get the rest of these songs from**
9 **Mr. Cheng at some point in the future?**

10 A. I have no idea. If the guy is
11 nice enough he will produce more. If not,
12 then we are just stuck with the four hard
13 drives.

14 **Q. Is there any indication on this**
15 **list as to which songs are on the hard drive?**

16 A. Then you have to specify. You
17 have to look at the data and match the number.

18 **Q. My question is not clear. In just**
19 **looking at this list can you figure out which**
20 **of the songs in this list are already on the**
21 **hard drives?**

22 A. I don't know, I told you I never
23 looked at the data myself.

24 **Q. But there is no marking on this**
25 **list that says that this song has already been**

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