

EXHIBIT E

LAWRENCE FERRARA, PH.D.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ORIGINAL

-----x

BOURNE CO.,

Plaintiff,

- against -

07 Civ 8580 (DAB)

TWENTIETH CENTURY FOX FILM
CORPORATION, FOX BROADCASTING
COMPANY, TWENTIETH CENTURY FOX
TELEVISION, INC., TWENTIETH CENTURY
FOX HOME ENTERTAINMENT, INC., FUZZY
DOOR PRODUCTIONS, INC., THE CARTOON
NETWORK, INC., SETH MACFARLANE,
WALTER MURPHY,

Defendants.

-----x

DEPOSITION of LAWRENCE FERRARA, Ph.D., held at
the offices of Moses & Singer LLP, 405 Lexington
Avenue, New York, New York 10174-1299, on the 6th day
of March 2008, commencing at 10:05 a.m., before
Colette Cantoni, a Registered Professional Reporter
and Notary Public of the State of New York, pursuant
to Notice.

LAWRENCE FERRARA, PH.D.

Ferrara

1
2 A Yes.

3 Q But you didn't mention them in your report
4 as things you had considered?

5 A That is correct.

6 Q Are there any other things, materials that
7 you considered in preparing this report that are not
8 identified in the report, other than what we just
9 spoke about?

10 A I saw the episode of "The Family Guy"
11 that is at issue, but did not include it in my report
12 because I stated that I am analyzing the music that
13 was at issue and not the episode in its entirety.

14 Q But you did actually watch a video version
15 in addition to the CD version or the audio version
16 that you reference in your report?

17 A Yes, I did. A DVD version.

18 Q Have you ever had one any of your expert
19 testimony excluded from evidence in a case?

20 A Not to my knowledge.

21 Q In your report on page 1, footnote 1, you
22 say that you have not been asked to opine on the
23 lyrics for the report.

24 A Yes.

25 Q But you did analyze the lyrics?

LAWRENCE FERRARA, PH.D.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Ferrara

A Yes, I did.

Q So why did you not opine?

MR. FAKLER: Off the record.

(Off the record.)

MR. FAKLER: Back on the record.

And if you could read the last question,
please.

(Question read.)

BY MR. FAKLER:

Q On the lyrics?

A To the best of my recollection, Mr. Zavin
said that the lyrics could easily be assessed and
analyzed by a trier of fact who is not a
musicologist. That is, that the meaning of the
words, and the parody inherent therein, is already
there on the face, and therefore a musicologist would
not be required in this issue to so opine.

Q Did you agree with Mr. Zavin's assessment?

A Yes, I do believe that the lyrics are easy
enough to understand by a non-musicologist.Q And what was the conclusion you came to in
the analysis you did with respect to the lyrics?

Well, I am sorry, let's take a step back.

How did you analyze the lyrics?

LAWRENCE FERRARA, PH.D.

1 Ferrara

2 A I went through the lyrics on the basis of
3 first whether or not any of the lyrics or lyrical
4 phrases from the Pinocchio song were actually used
5 verbatim in The Family Guy song.

6 In addition, I looked at the overall
7 semantic meaning line by line and section by section
8 in the lyrics in the Pinocchio song and The Family
9 Guy song.

10 In addition to that, I considered the way
11 in which syllables were actually used, set to various
12 rhythms and to melody. And essentially, on that
13 basis, drew conclusions as to the lyrical
14 similarities and differences and as to whether or
15 not, in my opinion, the lyrics represented a parody
16 in Family Guy song of Pinocchio's song lyrics.

17 Q And what conclusions did you come to?

18 A I found that the only verbatim similarity
19 in the lyrics is in the "Wish Upon a Star" phrase,
20 and noted that it is in a different place, that is
21 that the opening lyrical phrase in Pinocchio song is
22 "When You Wish Upon a Star," yet the use of a part of
23 that "Wish Upon a Star" is not in the opening phrase
24 in the lyrics of Family Guy song.

25 In addition, I noted that outside of that

1 Ferrara

2 similarity, and certainly the fact that there are
3 similar setting of syllables to various notes
4 quantitatively, that the qualitative impact of the
5 vast lyrical changes in differences in The Family Guy
6 song represented very new expression, and from the
7 standpoint of parody, as a musicologist, that it took
8 what was in the original a very pure idea about how
9 one might "Wish Upon a Star," and turned it into an
10 extraordinarily vulgar approach about how the
11 Peter Griffin character was wishing for a Jew.

12 And in that sense I concluded that the
13 lyrics, by themselves, are a parody and indeed
14 overall, in terms of their semantic meaning, very,
15 very different as compared with the lyrics in
16 Pinocchio's song.

17 Q And did you share these conclusions with
18 counsel prior to them asking you to omit that from
19 your report?

20 MR. RIMOKH: Objection.

21 MR. FAKLER: On what ground?

22 MR. RIMOKH: We never asked him to omit
23 them from his report.

24 Q You were asked to exclude the --

25 MR. RIMOKH: No.

LAWRENCE FERRARA, PH.D.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Ferrara

Q -- the opinions from the report?

MR. RIMOKH: The words in the report was that he was not asked to opine on it.

He was not asked to exclude anything.

BY MR. FAKLER:

Q You did exclude this from your report?

MR. RIMOKH: Objection.

Q Did you exclude this opinion from your report?

MR. RIMOKH: Objection, unclear.

Q You can answer.

MR. RIMOKH: What is this opinion?

MR. FAKLER: This opinion on the lyrics that we've been discussing for the past five minutes.

A As per my footnote 1, I was not asked to include my analysis of the lyrics in the report.

Q So when you don't include something that you've done, would you consider that excluding it?

A Yes, I guess.

Q So prior to your excluding it from the report, did you discuss these opinions with counsel?

A Yes.

Q Thank you.

Were you at any time asked to consider the

LAWRENCE FERRARA, PH.D.

1 Ferrara

2 composition Clair de Lune in connection with this
3 case?

4 A Yes.

5 Q When was that?

6 A Relatively recently.

7 Q And what were you asked to do?

8 A I was asked if there were any notable
9 similarities in Clair de Lune and The Family Guy --
10 no, I am sorry -- and Pinocchio song.

11 Q And what were your conclusions?

12 A That there were none that were notable.

13 Q Do you know who Walter Murphy is?

14 A I have seen his name on some of the sheet
15 music that has been proffered, but I do not know who
16 he is other than that.17 Q Did you at some point receive sheet music
18 with Mr. Murphy's name on it?19 A The first time that I saw sheet music with
20 Mr. Murphy's name on it was that sheet music that was
21 attached to Ms. Wilbur's report.22 Q And based on looking at the sheet music,
23 do you have any understanding of who Mr. Murphy is?24 A It would seem as though he was a composer
25 of the music in Family Guy song.

1 Ferrara

2 Q Have you had any communications with
3 Mr. Murphy?

4 A No.

5 Q Do you know the title of what you refer to
6 as The Family Guy song?

7 A To the best of my recollection, in the
8 episode that I saw I think it said "Wish Upon a Star
9 David," or something like that.

10 Q And where did you see that?

11 A I think it was in the episode that I saw,
12 but I don't recall.

13 Q Did you ever ask anyone at counsel or
14 defendants what the title of the song was when you
15 were doing your analysis?

16 A No.

17 Q Is it fair to say then you just didn't
18 know what the title was when you wrote the report,
19 and that's why you call it Family Guy song?

20 MR. RIMOKH: Objection.

21 A I am not aware that there is a title, that
22 there is a set title. And so the use of "Family Guy
23 song" is to specify that it is that song, and
24 particularly the song that was actually broadcast in
25 the TV show.

LAWRENCE FERRARA, PH.D.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Ferrara

A Yes.

Q Do you consider "When You Wish Upon a Star" to be a standard?

A Yes.

Q Do you have any sense of how many times it's been recorded since the 1940s?

A I do recall, Googling that at one point, and it has been recorded many times.

Q And a rough sense, are we talking over 50? Over 100?

A I don't recall.

Q But a lot of times?

A But a lot of times, yes.

Q Would you expect there to be, in these various recordings, many different variations in the singer's rendition of the melody line?

A There could be, yes.

Q Did you review or consider any of the other recorded versions of "When You Wish Upon a Star" in doing your musicological analysis?

A There was another release of the movie song in a longer arrangement but by the same performer, and I found -- to the best of my recollection, the parts that were the same were

LAWRENCE FERRARA, PH.D.

Ferrara

1
2 are not identical.

3 Q But "dream" is a quarter note on the third
4 beat?

5 A No, that's wrong.

6 Q Oh, it is the second beat. I got you. So
7 that's why it doesn't correlate.

8 And if we could look at 46, "need" and
9 "dream."

10 A Yes?

11 Q Why don't those correlate?

12 A I have them -- are they not --

13 Q There is no line --

14 MR. RIMOKH: I am sorry, where are we?

15 MR. FAKLER: In Section E.

16 A How can we have a different...

17 Q That's the strangest thing. The copy that
18 I have doesn't have it.

19 MR. RIMOKH: Where are you?

20 MR. FAKLER: Let me double-check this one.

21 A Here (indicating).

22 Q No, I got it. It's a bad copy. That
23 answers that one.

24 We have discussed before a couple of times
25 that in this comparison you compared your

LAWRENCE FERRARA, PH.D.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Ferrara

transcription of the version in the version of "When You Wish Upon a Star" in the movie Pinocchio to your transcription of The Family Guy episode.

Would this analysis in fact have changed if you had used the Deposit Copy sheet music version of the melody?

A Yes, I think so.

I think there may have been less similarity, I remember doing it at one point, that is going through it visually, but I'd have to actually do it measure by measure now, if you'd want it.

Actually, there could have been -- I am looking at it right now -- it's possible that there could be greater rhythmic similarity.

Q Yes, that's what I am asking about.

A I think that --

Q Can we look at that, please.

A Yes. Yes.

Q And if you could, maybe the quickest and easiest way to do this -- actually, that's the original, or maybe I could give you another one to rip up. So don't rip up that one because she put her initials on it.

If you could go through, with the two

LAWRENCE FERRARA, PH.D.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Ferrara

documents, and if you could indicate each one of the notes in "I Need a Jew" that would have a line added, that would indicate --

A How would you like me to so indicate?

Q Orally. Just call out the note -- not the name of the note but perhaps the word that the note appears over.

A Would you like me to make a check as well?

Q That would be great.

A In the event that you wanted me to summarize it, the checks would make it easier for me to do so.

Q Right. That's an excellent idea.

In fact, don't let me tell you how to do it. Why don't you tell me what you think the best way for you to do this is.

A I will say orally those that do in fact correlate identically in terms of rhythm.

Q Okay.

A And we are comparing The Family Guy song to the "When You Wish Upon a Star" Deposit Copy, and specifically what's called the chorus to start with in the Deposit Copy.

Q Right.

EXHIBIT PL 1

LAWRENCE FERRARA, Ph.D.
PROFESSOR AND DIRECTOR
THE STEINHARDT SCHOOL
MUSIC AND PERFORMING ARTS PROFESSIONS
NEW YORK UNIVERSITY
35 WEST 4TH STREET/SUITE 777
NEW YORK, NY 10012
(212) 998-9412 EMAIL: LAWRENCE.FERRARA@NYU.EDU

Report re: “When You Wish Upon A Star” and
“When You Wish Upon A Weinstein” *Family Guy* episode

INTRODUCTION AND SUMMARY

1. I have been asked to complete a comparative musicological analysis of the musical¹ composition embodied in the sound recording of “When You Wish Upon A Star” which is part of the 1940 motion picture *Pinocchio* (hereafter *Pinocchio song*) and the musical composition embodied in a song from the *Family Guy* TV series episode entitled “When You Wish Upon A Weinstein” (hereafter *Family Guy song*)². I have

¹ I have not been asked to opine on the lyrics in this report.

² I have also compared *Pinocchio song* with what I have been informed is the Deposit Copy of “When You Wish Upon A Star”; the latter is published sheet music. The harmony and sequences of melodic pitches in the verse and chorus in *Pinocchio song* are virtually the same as in the Deposit Copy sheet music of “When You Wish Upon A Star.” On the other hand: (1) the rhythmically free singing in *Pinocchio song* creates differences in the melodic rhythm as compared with the more evenly written melodic rhythm in the Deposit Copy sheet music of “When You Wish Upon A Star”; (2) *Pinocchio song* and the Deposit Copy sheet music have different Introductions; (3) *Pinocchio song* incorporates a 2-bar choral part immediately following its middle section that is not in the Deposit Copy sheet music; and (4) the final note in *Pinocchio song* is higher in pitch than the final note in the Deposit Copy sheet music. Nevertheless, the Introduction section in *Family Guy song* is very different from both the Introduction sections in *Pinocchio song* and the Deposit Copy sheet music of “When You Wish Upon A Star.” Moreover, the other differences between *Pinocchio song* and the Deposit Copy sheet music of “When You Wish Upon A Star” are not substantial. On that basis, the findings and conclusions in this report with respect to the musical composition embodied in *Pinocchio song* also apply to the Deposit Copy sheet music of “When You Wish Upon A Star.”

COMPARATIVE TRANSCRIPTION

FAMILY GUY SONG placed over PINOCCHIO SONG

In the key of C major

C C#o7 F/A G/B Am A#7 C A#+/E
 No-thing else has worked so far so I'll wish up - on a star. Wond'rous dan-cing

C A+ A7 Dm Dm7 G7 C° C C#9 C°
 When you wish up-on a star, makes no diff'rence who you are, an-y - thing your

6 F#7 F#° G C Gsus G C C#o7 F/A G/B Am A#7
 speck of light need a Jew. Lo-is makes me take the rap 'cause our check book

Am7 Dm G9 C G9G7 C A+ A7 Dm Dm7 G7
 heart de sires will come to you, if your heart is in your dream, no re-quest is

12 C C A#+/E F#7 F#° G C D/C C C/G G Eb7/G
 looks like clap. Since can't give her a slap I need a Jew. Where to find

C° C C#9 C° Am7 Dm F G9 C Fm Em C
 too ex-treme. When you wish up - on a star as dream - ers do. Fate is kind.

19 C/G G C° C Am E Am A# C/G Dm G6
 a Baum or Steen or Stein to teach me how to whine and do my tax - es?

Dm Eb° G7 C° C Am Am° Am7 D7 Fm
 She brings to those who love the sweet ful - fill-ment of their se-cret long -

25 *instrumental melody*

B^bm⁷ B^b7 F^b7/E^b A A[#] Bm C^o A/C[#] A

G⁷

ing. Oo.

32 A/E F⁺ F[#]m C/G A^b Am C⁷/B^b B E

39 G C C[#] F/A G/B Am A^o7 C

Though by man - y they're ab - horred, He - brew peop - le I've a - dored

C A⁺ A⁷ Dm Dm⁷ C⁷ C^o C

Like a bolt_ out of the blue, Fate steps in_ and sees you through_

44 C A^b/E F⁺ E[#] C/G Gsus G C C/D C C/D C

ev - en though they killed my Lord. I need Jew.

C⁹ C^o Am⁷ Dm G⁷ C

When you wish up - on a star_ your dream comes true.

50 C A^b/E F⁺ F[#] C/G Gsus G C

Now my trou - bles are all through. I have a Jew.

EXHIBIT F

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BOURNE CO.,)
)
 Plaintiff,)
)
 vs.)
)
 TWENTIETH CENTURY FOX FILM)
 CORPORATION, FOX BROADCASTING)
 COMPANY, TWENTIETH CENTURY FOX)
 TELEVISION, INC., TWENTIETH)
 CENTURY FOX HOME ENTERTAINMENT,)
 INC., FUZZY DOOR PRODUCTIONS,)
 INC., THE CARTOON NETWORK, INC.,)
 SETH MAC FARLANE, WALTER MURPHY,)
)
 Defendants.)
)

ORIGINAL

No. 07 CIV. 8580 (DAB)

RULE 30(B)(6) DEPOSITION OF FOX EMPLOYEE
 THOMAS CAVANAUGH
 TAKEN ON
 THURSDAY, MARCH 13, 2008

Reported by:
 Daryl Baucum, RPR, CRR, CBC, CSR No. 10356

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A. Yes.

REDACTED

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

REDACTED

Q. Did Fox seek a license to use "When You Wish Upon A Star" in connection with the "When You Wish Upon a Weinstein" episode?

1 any way decides to request a license for a particular
2 episode of "Family Guy"?

3 A. No.

4 Q. And let me just ask you was this document
5 prepared by Marni Feenberg in the ordinary course of her
6 employment at Fox?

7 A. I believe so.

8 Q. I would like to show you a document we have
9 marked as Plaintiff's Exhibit 28. It was produced in
10 discovery at FOX 2 through FOX 4.

11 (Plaintiff's Exhibit 28 was
12 marked for identification.)

13 BY MR. FAKLER:

14 Q. And can you tell me what this document is?

15 A. Yes, this is a status report that is produced
16 by the licensing department that reports on all of the
17 license requests that have been sent out and what the
18 status of each is.

19 Q. And would this have been produced by a Fox
20 employee in the ordinary course of their employment with
21 Fox?

22 A. Yes.

23 Q. Did Fox seek a license to use "When You Wish
24 Upon A Star" in connection with the "When You Wish Upon
25 a Weinstein" episode?

1 A. Yes.

2 Q. Why did Fox seek that license?

3 A. They intended to use the song in the episode.

4 Q. And by "they," you mean the "Family Guy"

5 production team?

6 A. The production, yes.

7 Q. What were the terms of the license that you
8 were requesting?

9 A. Our standard request -- at least I can see from
10 here on this memo they asked for two quotes. One was
11 for a five-year license for all forms of television
12 worldwide, and then the second is a quote for all
13 television in perpetuity worldwide.

14 Q. Is there anything -- do you know whether a
15 particular request was made to change lyrics from the
16 original song?

17 A. I don't know. It wouldn't be reflected on this
18 piece of paper. It would have been in the request that
19 was sent to the publisher, and typically script pages
20 are attached.

21 Q. Does Fox keep those records of these requests
22 when they have been denied?

23 A. I believe so, yes, but . . .

24 Q. Do you know whether anyone looked for those?

25 A. They have not -- from personal experience, they

1 haven't been easily to locate, and I am not referring
2 specifically to this matter, some other matters I am
3 looking at.

4 Q. Do you have any understanding of a search that
5 was made for the original request for this license?

6 A. For this specific, no.

7 Q. And do you know specifically who was
8 contacted -- who Fox contacted with this request for the
9 license?

10 A. Well, I know it was Bourne Music. I don't know
11 who the individual was at Bourne.

12 Q. And that request was denied by Bourne?

13 A. Apparently, yes, as it says on the memo.

14 Q. Are you aware of the fact that during season
15 two, Fox decided not to air the "When You Wish Upon a
16 Weinstein" episode?

17 A. Yes.

18 MR. ZAVIN: Objection.

19 MR. FAKLER: Are you aware.

20 MR. ZAVIN: You haven't defined Fox. There are
21 a number of different Foxes.

22 MR. FAKLER: The Fox defendants.

23 MR. ZAVIN: Sorry, still haven't defined them.
24 Not all the defendants initially made that decision.

25 BY MR. FAKLER:

1 It was -- one of the executives in the sales
2 group watched it and actually loaned it to a group of
3 friends, most of whom were Jewish, and they had asked
4 him for it and they saw it and came back and said we
5 think it's hysterical.

6 And he then gave it to another executive to
7 rewatch and the decision was made to allow the Cartoon
8 Network to see a copy of it and let them decide whether
9 they wanted to add it to their rotation or not.

10 Q. Do you know which executives made that
11 decision?

12 A. The first one was Steve McDonald,
13 M-A-C-D-O-N-A-L-D, and he's the one who loaned it to the
14 group of friends. And then he gave it to his boss to
15 watch, Bob Cesa, C-E-S-A.

16 Q. So once that offer was made to Cartoon Network,
17 how did Cartoon Network respond?

18 A. I believe that they wanted to take a look at
19 the episode. They watched it and then ultimately
20 decided that it was in keeping with the overall spirit
21 of the show and they added it to the rotation.

22 Q. At a certain point, a decision was made by a
23 Fox entity to release the episode on DVD?

24 A. Uh-huh.

25 Q. Do you know which Fox entity made that

1 decision?

2 A. That would have been -- the DVD's are released
3 by a division called FHE, which stands for Fox Home
4 Entertainment, and it was included in what's Volume II
5 of the "Family Guy" but it was actually season three
6 because seasons one and two were combined.

7 And it was -- as they do with all DVD's, they
8 go to the -- for the television DVD's that they're going
9 to release, they go to TCF TV, the production entity,
10 and say give us all the materials that you have because
11 the value-added materials have a lot to do with the
12 commercial viability of the product.

13 That episode was one of the things they said
14 they had from season three, and FHE decided to include
15 it.

16 Q. Was the fact that the episode had previously
17 not be aired by Fox also part of the commercial value of
18 including that episode?

19 A. I believe so.

20 Q. Has the episode been released in other formats?

21 A. Such as?

22 Q. Such as ring tones.

23 A. No.

24 Q. I shouldn't say that.

25 Has the song "I Need A Jew" been released as a

EXHIBIT G

MICHAEL NICHOLAS LAZZO

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BOURNE CO.,
Plaintiff,

CIVIL ACTION FILE

vs.

NO. 07 Civ 8580 (DAB)

TWENTIETH CENTURY FOX FILM
CORPORATION, FOX BROADCASTING
COMPANY, TWENTIETH CENTURY FOX
TELEVISION, INC., TWENTIETH CENTURY
FOX HOME ENTERTAINMENT, INC., FUZZY
DOOR PRODUCTIONS, INC., THE CARTOON
NETWORK, INC., SETH MACFARLANE,
WALTER MURPHY,
Defendants.

DEPOSITION OF
MICHAEL NICHOLAS LAZZO

March 13, 2008

10:59 a.m.

600 Peachtree Street, NE
Suite 5200
Atlanta, Georgia

Jennifer D. Hamon, CCR-B-2287, RPR

MICHAEL NICHOLAS LAZZO

- 1 Q. What other ones?
- 2 A. TBS, I believe. That's it.
- 3 Q. When did TBS start telecasting
- 4 "Family Guy"?
- 5 A. I'm not sure of the exact date.
- 6 Q. Roughly? Do you have a year?
- 7 A. I believe sometime in 2004. I don't
- 8 know exactly.
- 9 Q. Was it before or after Fox started
- 10 broadcasting "Family Guy" again?
- 11 A. Again? It would have been after, I
- 12 believe.
- 13 Q. Do you have any responsibilities
- 14 with respect to the TBS telecasting of "Family
- 15 Guy"?
- 16 A. No.
- 17 Q. So you testified already that
- 18 Cartoon Network telecast an episode known as
- 19 "When You Wish Upon a Weinstein" or "Wish Upon
- 20 a Weinstein"; correct?
- 21 A. Correct.
- 22 Q. And when was the first telecast of
- 23 the episode?
- 24 A. November 9th, 2003.
- 25 Q. How many times to date has the

MICHAEL NICHOLAS LAZZO

- 1 episode been telecast for Cartoon Network?
- 2 A. I believe it's 36 times.
- 3 Q. And is there a song in the episode
- 4 called "I Need a Jew"?
- 5 A. I believe that's the title of it.
- 6 Q. You're familiar with the song.
- 7 A. Yes.
- 8 Q. Other than telecasts, has Cartoon
- 9 Network distributed the episode in any other
- 10 ways, for example, on the Internet or in
- 11 ringtones or video games or anything like
- 12 that?
- 13 A. We have clipped the "Family Guy"
- 14 programming on the Internet, offered clips to
- 15 our website.
- 16 Q. What website is that?
- 17 A. Adultswim.com.
- 18 Q. So the entire episode is available?
- 19 A. No.
- 20 Q. Portions?
- 21 A. Portions.
- 22 Q. Do you know whether the song "I Need
- 23 a Jew" is available on the Adult Swim website?
- 24 A. I do not believe it is.
- 25 Q. Is the song "I Need a Jew" available

MICHAEL NICHOLAS LAZZO

1 And it says "Lazzo/Cahill."

2 So tell me: Does that mean you
3 produced this particular bump?

4 A. Mike Lazzo and Michael Cahill
5 produced that particular bump.

6 Q. So now I'm going to play the bump.
7 (Playing DVD.)

8 So I just paused it at the first
9 screen, and I will read it into the record.
10 It says, "The following program contains
11 content that some viewers may find
12 objectionable."

13 And then in the bottom right corner,
14 in parentheses, it says "Adult Swim."

15 So can you tell me about this card
16 and this bump.

17 A. We occasionally air that type of
18 disclaimer within the block at the top of
19 every hour to alert viewers that some of our
20 material is for mature audiences. So that's
21 just a fairly standard disclaimer like you
22 would see on many television -- preceding many
23 television shows.

24 Q. So is it fair to say that although
25 Cartoon Network decided to air the Weinstein

MICHAEL NICHOLAS LAZZO

1 episode, they felt that a disclaimer was still
2 necessary?

3 A. Yes.

4 Q. Can you explain that reasoning to
5 me.

6 A. Well, for, you know, any number of
7 shows, we occasionally air disclaimers
8 alerting viewers about mature content, like
9 many television networks, including NBC.

10 You know, it's just a fairly
11 standard operating procedure to air
12 disclaimers in front of programming. In fact,
13 we air disclaimers in front of our block when
14 it signs on at 11:00 every night.

15 Q. So you're saying "mature content."
16 What was the mature content in the Weinstein
17 episode?

18 A. Well, we're just -- we're trying to
19 differentiate -- we program to an 18-year-old
20 audience and older. So we're, in essence, by
21 day Cartoon Network and by night a young adult
22 audience. So we, in a standard way,
23 differentiate our block by running
24 disclaimers.

25 Q. Do you run this bump in front of

MICHAEL NICHOLAS LAZZO

1 every "Family Guy" telecast?

2 A. No. We run this bump at 11:00, in
3 front of whatever program might be there.
4 Right now, that's "Family Guy," but it used to
5 be "Futurama." Prior to that, it was home
6 movies. It's a rotating collection of shows.

7 Q. Does this bump run -- not this bump,
8 because it says Cartoon Network. Does a
9 similar bump run in front of "Family Guy" on
10 TBS?

11 A. I don't know.

12 Q. So is it your testimony that this
13 bump really has nothing to do with the
14 Weinstein episode?

15 A. If it aired in front of the
16 Weinstein episode -- you know, I don't recall
17 whether we ran a specific disclaimer in front
18 of the Weinstein episode or not. It would not
19 surprise me if we did, however.

20 Q. And why is that?

21 A. We like to alert our audience that
22 sometimes the content of a specific show is
23 for mature audiences. We would do that for
24 any number of our programs.

25 Q. Let's look at the next card.

MICHAEL NICHOLAS LAZZO

1 (Playing DVD.) So does this second card
2 refresh your recollection with respect to
3 running this bump in front of Weinstein and
4 the specific reasons --

5 A. Yes.

6 Q. So tell me what your recollection is
7 now.

8 A. Well, I don't exactly remember the
9 card, however, we clearly produced it. We
10 make packaging like this every week for every
11 night. So we make a lot of these cards. This
12 is a disclaimer-type card which we have run in
13 the past for other shows, and this one is
14 specific to that episode.

15 MS. STARK: Let me just state -- I'm
16 sorry -- for the record that this second
17 part of this bump is a card that states,
18 "The views expressed in, quote, When You
19 Wish Upon a Weinstein, end quote, are
20 comedic in nature and do not reflect the
21 opinions of Adult Swim or Cartoon
22 Network."

23 And then, again, the Adult Swim, in
24 paren, logo appears at the bottom right.
25 And I think this clears up the question as

MICHAEL NICHOLAS LAZZO

1 to what the name of the episode is.

2 Q. (By Ms. Stark) So is it your
3 testimony that you have no clear recollection
4 as to the decision to create this custom card?

5 A. I don't remember making it, however,
6 we clearly did.

7 (Deposition in recess, 11:35 a.m. to
8 11:45 a.m.)

9 Q. (By Ms. Stark) So did Cartoon
10 Network receive complaints regarding the
11 episode after it aired?

12 A. Not to my knowledge.

13 Q. You're speaking on behalf of the
14 company. Did you educate yourself as to
15 whether there were any?

16 A. I always get phone calls when we
17 have what I would consider a notable number of
18 complaints. And in this particular case, I
19 did not get that phone call saying that we had
20 received a number of complaints and that we
21 should look into this.

22 Q. What is the median age of a "Family
23 Guy" viewer?

24 MR. RIMOKH: Objection.

25 Q. (By Ms. Stark) You can answer.