

**EXHIBIT J**  
**TAB 1**

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

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

PHARRELL WILLIAMS, an individual;)  
ROBIN THICKE, an individual; and )  
CLIFFORD HARRIS, JR., an )  
individual, )

Plaintiffs, )

vs. )

CV13-06004-JAK

BRIDGEPORT MUSIC, INC., a )  
Michigan corporation; FRANKIE )  
CHRISTIAN GAYE, an individual; )  
MARVIN GAYE III, an individual; )  
NONA MARVISA GAYE, an individual; )  
and DOES 1 through 10, inclusive, )

Defendants. )

-----)

VIDEOTAPED DEPOSITION OF JUDITH FINELL  
New York, New York  
Friday, April 18, 2014

Reported by:  
Philip Rizzuti  
Job No. 72812

Page 6

1 MR. COHEN: Brad Cohen,  
 2 in-house counsel at Universal Music  
 3 Group.  
 4 MR. BUSCH: Richard Busch on  
 5 behalf of Nona and Frankie Gaye.  
 6 THE VIDEOGRAPHER: Will the  
 7 court reporter please swear in the  
 8 witness.  
 9 [ JUDITH FINELL, called as a  
 10 witness, having been duly sworn by a  
 11 Notary Public, was examined and  
 12 testified as follows:  
 13 EXAMINATION BY  
 14 MR. MILLER:  
 15 Q. Good morning Ms. Finell.  
 16 A. Good morning.  
 17 Q. I represent the plaintiffs and  
 18 counter-defendants in this case which  
 19 includes Robin Thicke and Pharrell  
 20 Williams and various record label entities  
 21 associated with their two pieces that are  
 22 in dispute in this case.  
 23 I gather from doing a little  
 24 Internet research that you have probably  
 25 been deposed many, many, many times and

Page 8

1 for me.  
 2 MR. MILLER: I do not.  
 3 MR. BUSCH: Do you have copies  
 4 for me for the other exhibits?  
 5 MR. MILLER: Everything else,  
 6 this was a last minute one.  
 7 A. This is an old resume, but it  
 8 appears to be accurate as of the date of  
 9 the resume.  
 10 Q. Which is 2009; is that correct?  
 11 A. I would think it is older than  
 12 that, I am not sure where you found it,  
 13 but I mean just from the years of articles  
 14 I have written and since. But it appears  
 15 to be accurate up to the point that it was  
 16 written.  
 17 Q. In looking at Exhibit 1 it  
 18 reflects that you have a masters in  
 19 musicology from U.C. Berkeley; is that  
 20 correct?  
 21 A. Yes.  
 22 Q. Have you had any formal  
 23 training in musicology since obtaining  
 24 your masters?  
 25 MR. BUSCH: Objection to the

Page 7

1 you know the procedure. If there is  
 2 anything that you would like me to go over  
 3 with you about the process of the  
 4 deposition please let me know.  
 5 A. Thank you.  
 6 Q. You understand that you are  
 7 under oath?  
 8 A. Yes.  
 9 Q. Is there any reason that you  
 10 can't give your best testimony today?  
 11 A. No.  
 12 Q. Let me start out by marking as  
 13 Exhibit 1 something I pulled off the  
 14 Internet which appears to be a resume for  
 15 you and I think maybe we can short circuit  
 16 your background if this is an inaccurate  
 17 document. So I will mark a document  
 18 entitled Judith Greenberg Finell, 2009  
 19 WestLaw 2048548 as Plaintiff's Exhibit 1.  
 20 (Plaintiff's Exhibit 1,  
 21 document entitled Judith Greenberg  
 22 Finell, 2009 WestLaw 2048548, marked  
 23 for identification, as of this  
 24 date.)  
 25 MR. BUSCH: Do you have copies

Page 9

1 form. So from time to time  
 2 during the deposition you might hear  
 3 me say objection to form, that is  
 4 because I think there is something  
 5 wrong with the question. But unless  
 6 I for some reason instruct you not to  
 7 answer the question, it is just for  
 8 me to preserve the record and you  
 9 still have to answer the question.  
 10 So don't be distracted if you hear me  
 11 say objection to form.  
 12 A. Could you repeat the question.  
 13 Q. Have you had any formal  
 14 training in musicology since receiving  
 15 your masters in musicology from U.C.  
 16 Berkeley?  
 17 A. Yes. The rest of my career  
 18 since my studies has been in musicology,  
 19 and I have written and done research in  
 20 musicology for all of the years since my  
 21 graduate work.  
 22 Q. When did you obtain your  
 23 graduate degree?  
 24 A. 1970.  
 25 Q. Have you had any actual formal

Page 66

1 meanings that I -- as I understand it.  
2 One is is it important to either or both  
3 of the songs, is it an important element  
4 that could be seen as an identifying  
5 feature or what you might consider a  
6 signature feature of either or both songs.  
7 And the other element is how often it  
8 recurs. So does it take up a significant  
9 proportion of either or both songs.  
10 Q. Does the quantity of the  
11 similarity in terms of the number of notes  
12 or whatever other factors are involved,  
13 does that matter at all as to whether it  
14 is a substantial similarity?  
15 MR. BUSCH: Under the law or  
16 under her analysis; I object to the  
17 extend that you are asking her  
18 whether that matters under the law.  
19 Q. Yeah, I am not asking for your  
20 opinion under the law, I am asking for  
21 your opinion as a musicologist when you  
22 state in the report that there are  
23 substantial similarities, or when you  
24 testified today that something is a  
25 substantial similarity, does it matter to

Page 68

1 feature like that is distinctive and they  
2 both seem to share a certain kind of  
3 function with that often goes along with  
4 the other two that I have already  
5 mentioned.  
6 Q. Is there anything else you look  
7 at in determining whether a similarity is  
8 substantial?  
9 A. Yes, it is the amount of  
10 material that is similar in itself when  
11 comparing song A to song B. Let's say I  
12 am comparing a specific phrase, is the  
13 higher proportion of material similar or  
14 dissimilar is a question that I have to  
15 answer.  
16 Q. And how much of a proportion of  
17 material has to be similar before you  
18 determine that it is a substantial  
19 similarity?  
20 MR. BUSCH: Objection to the  
21 form of the question. Overbroad.  
22 A. There is no way for me to  
23 answer that because it depends on the  
24 exact matter at hand every time.  
25 Q. Now you say in your report the

Page 67

1 you -- well does anything else matter to  
2 you other than the two elements that you  
3 just mentioned?  
4 MR. BUSCH: Objection to the  
5 form. This has been asked and  
6 answered.  
7 A. I don't understand your  
8 question.  
9 Q. So when you are deciding  
10 whether something is a substantial  
11 similarity one thing you look at is  
12 whether it is an important element to  
13 either song; is that correct?  
14 A. Yes.  
15 Q. And another thing you look at  
16 is how often that element occurs in either  
17 song?  
18 A. Yes.  
19 Q. Is there anything else you look  
20 at in determining whether a similarity is  
21 substantial or not?  
22 MR. BUSCH: Objection to the  
23 form. The report speaks for itself.  
24 A. Sometimes I look at if they  
25 share a function, if it is an unusual

Page 69

1 tonal center of "Got to Give It Up" is A;  
2 correct?  
3 MR. BUSCH: Can you tell me  
4 where you are referencing?  
5 Q. It is on the first page, number  
6 4.  
7 A. Did you ask me a question?  
8 Q. I am directing you to the first  
9 page of the report, the very bottom,  
10 paragraph 4?  
11 A. Uh-hum.  
12 Q. You say regarding key the tonal  
13 center of "Got to Give It Up" is A. Do  
14 you see that?  
15 A. Yes.  
16 Q. Is "Got to Give It Up" in the  
17 key of A?  
18 A. Well "Got to Give It Up" is in  
19 sort of a modified key of A I'd say  
20 because it uses blue tones, which means  
21 flats.  
22 Q. Is there a name for that  
23 modified key of A?  
24 A. Yes, it is a modified key of A.  
25 Q. Would you use the phrase

1 Q. Let me ask you to turn to page  
2 2 of your report, and in paragraph 6 you  
3 talk about a constellation of eight  
4 substantially similar features, do you see  
5 that?

6 A. I don't think -- oh yes, excuse  
7 me, I see it.

8 Q. And that is referring to the  
9 similarities 1 through 8 that are  
10 identified later in the report?

11 A. Exactly.

12 Q. When you say these similar  
13 elements occur simultaneously in each  
14 work, what do you mean by that?

15 A. Well among those eight  
16 elements, elements 1 through 5 which  
17 are -- yes, I am sorry, elements 1  
18 through -- excuse me a minute -- 1 through  
19 6 contain melodic elements.

20 I am going to correct myself.  
21 1 through 5, those elements are vocal in  
22 nature and they are part of the key vocal  
23 melodies in each of the two songs. And  
24 those are supported by the instrumental  
25 accompaniment which are elements 6, 7 and

1 8. So they occur, the instrumental  
2 accompaniment occurs simultaneously as  
3 these various vocal themes and what I am  
4 calling themes, hooks, et cetera, are  
5 occurring. So the elements 6, 7 and 8 are  
6 going throughout both songs continuously  
7 while the vocal part is sung and is heard.

8 Q. You say in paragraph 7 the two  
9 songs' substantial similarities surpass  
10 the realm of generic coincidence reaching  
11 to the very essence of each work. Can you  
12 explain what you mean by that?

13 A. Yes. The song "Blurred Lines"  
14 has certain repeated musical themes and  
15 phrases, and they are either the initial  
16 what you call in musicological terms the  
17 initial statement of that phrase such as  
18 the first time you hear that particular  
19 melody with the first time you hear those  
20 particular words, like I talked about the  
21 signature phrase.

22 Then what occurs in "Blurred  
23 Lines" is that phrase sometimes is  
24 repeated quite a bit. In one case one  
25 phrase is repeated 21 times for example,

1 another one lengthier. It is a song built  
2 on repeats of material. And if you would  
3 think of it this way, they are basically  
4 individual modules of melodies, and  
5 those -- each one of those vocal melodies  
6 I was able to find to be substantially  
7 similar to an important melody in  
8 Mr. Gaye's song.

9 And that is why I referred to  
10 it in the way that I did in paragraph 7,  
11 that it was not just an occasional  
12 similarity, it was not a similarity that  
13 could have occurred because they shared  
14 certain underlying materials that are  
15 common throughout the literature, they  
16 were very specific and that is why I used  
17 the words that I did.

18 Q. And again you are referring to  
19 the eight similarities that are identified  
20 in the report; correct?

21 A. Yes.

22 Q. And then in paragraph 8 you say  
23 in listening to these two songs the  
24 ordinary lay listener would likely  
25 recognize substantial similarities between

1 them.

2 Other than what is set out in  
3 the report is there any basis for that  
4 opinion?

5 A. Some of the similarities to me  
6 are obvious enough that a lay listener  
7 would hear them immediately, such as the  
8 bass line, the cowbells, the keyboard  
9 parts, and some would take guidance from  
10 an expert like myself in terms of  
11 understanding how to isolate the similar  
12 materials and understanding how to listen  
13 in a way where they would be able to hear  
14 the similarities more easily.

15 Q. Is there anything other than  
16 the bass line and the cowbell that you  
17 think are obvious to a lay listener?

18 A. Depends on the sophistication  
19 level of the listener to be honest with  
20 you. But I did say the keyboard also.

21 Q. And the keyboard, okay.

22 A. I would just add one point  
23 there, that each of those three elements  
24 that I mentioned, bass line, cowbell and  
25 keyboard recur constantly through both

1 songs, and especially in the case of  
2 "Blurred Lines" the bass line and the  
3 cowbell become what I would consider the  
4 musical glue of the song. For example  
5 when it changes into a rap section the  
6 only thing holding it together musically  
7 is that bass line that is substantially  
8 similar to Mr. Gaye's song, and the  
9 cowbell, and at times the keyboard, and  
10 that becomes the glue of the song and  
11 holds together all the various sections  
12 within "Blurred Lines", and I see it as  
13 substantially similar to Mr. Gaye's song.

14 MR. BUSCH: Give me one second  
15 before you ask the next question  
16 please.

17 Q. Your report does not make any  
18 reference to copying. Is it your opinion  
19 that you would be adding later to the  
20 report or is it your -- is it your opinion  
21 that "Got to Give It Up" copied "Blurred  
22 Lines"?

23 MR. BUSCH: I believe you are  
24 mischaracterizing her report within  
25 that question. I object to the form

1 of the question.

2 A. I think you meant is it my  
3 opinion that "Blurred Lines" copied "Got  
4 to Give It Up", not the other way around.

5 Q. That is correct.

6 A. Thank you. So --

7 MR. BUSCH: I object however to  
8 the extent that you have  
9 misrepresented her report, a more  
10 basic level by suggesting she doesn't  
11 suggest that there is copying when  
12 she does. Go ahead.

13 A. Could you please repeat the  
14 question.

15 Q. Sure. The word copying does  
16 not appear in your report, so what I am  
17 asking is is it your opinion that "Blurred  
18 Lines" copied elements of "Got to Give It  
19 Up"?

20 MR. BUSCH: And my objection is  
21 you are completely mischaracterizing  
22 the report by suggesting that.

23 A. As I understand the role of a  
24 musicologist in this kind of proceeding,  
25 it is to give objective analysis and

1 compare two musical works, and so in doing  
2 that I pointed out the similarities. But  
3 because there are so many prevalent  
4 similarities that really are woven into  
5 the fabric of "Blurred Lines" and affect  
6 its whole identity, I would say that I do  
7 believe that "Blurred Lines" did copy  
8 Mr. Gaye's song. But I didn't use that  
9 word, you are correct.

10 Q. And that is based upon what is  
11 stated in your report?

12 MR. BUSCH: Objection to the  
13 form.

14 Q. Your opinion that there has  
15 been copying is based upon what has been  
16 put forth in your preliminary report?

17 MR. BUSCH: And in addition to  
18 her testimony today about what she  
19 might add to her report, or just the  
20 report?

21 MR. MILLER: I would appreciate  
22 just a regular objection.

23 Q. You can answer it however you  
24 like, but --

25 MR. BUSCH: Here is the issue.

1 You wanted to know what she would add  
2 to her report earlier. I could have  
3 objected and said you could find out  
4 when she does her report. I agreed  
5 to allow her to testify about what  
6 else she as she sits here today might  
7 add. So I think it is fair if you  
8 are going to ask her a question about  
9 her conclusion about copying to say  
10 is that based upon what you have  
11 analyzed up until now which might  
12 include what she has already  
13 testified at length she would add.  
14 So I think it is fair.

15 Q. Let me ask it very openly.  
16 What is your opinion that there is copying  
17 based on?

18 MR. BUSCH: Asked and answered.

19 A. I would say it is a couple of  
20 things. Musically it is the similarities  
21 I found so far, and the knowledge that I  
22 will find more that are also quite  
23 significant and very substantial just  
24 because of the way the composition has  
25 been organized and written by the writers

**EXHIBIT J**  
**TAB 2**

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

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION  
-----x  
PHARRELL WILLIAMS, an )  
individual, )  
) )  
Plaintiff, )  
) )  
vs. ) CV13-06004-JAK (AGRx)  
) )  
BRIDGEPORT MUSIC, a Michigan, )  
corporation; FRANKIE CHRISTIAN )  
GAYE, an individual; NONA )  
MARVISA GAYE, an individual; )  
and DOES 1 through 10, )  
inclusive, )  
) )  
Defendants. )  
-----)

VIDEOTAPED  
DEPOSITION OF JUDITH FINELL  
New York, New York  
Friday, December 5, 2014

Reported by:  
FRANCIS X. FREDERICK, CSR, RPR, RMR  
JOB NO. 87797

Page 6

1 THE VIDEOGRAPHER: Will the court  
 2 reporter please swear in the witness  
 3 \* \* \*

4 [ JUDITH FINELL, called as a  
 5 witness, having been duly sworn by a  
 6 Notary Public, was examined and  
 7 testified as follows:

8 EXAMINATION BY  
 9 MR. MILLER:

10 Q. Good morning, Ms. Finell.  
 11 A. Good morning.  
 12 Q. You were previously deposed in  
 13 this case by me, correct?  
 14 A. Yes.  
 15 Q. And you've submitted a number of  
 16 expert reports and a declaration in this case  
 17 to date, right?  
 18 A. I did.  
 19 Q. In the deposition today, I'm going  
 20 to use the abbreviations that have become  
 21 somewhat common in the discussions between the  
 22 musicologists in their various reports, et  
 23 cetera, like "Give" for Marvin Gaye's "Got To  
 24 Give It Up" and Theme X for certain grammatic  
 25 material you've identified in your report by

Page 8

1 Q. And then -- I'm just trying to get  
 2 a clear record of what we have so we can refer  
 3 to it going forward.  
 4 A. Um-hum.  
 5 Q. And then you did an initial formal  
 6 expert report on October 31 of this year,  
 7 right?  
 8 A. Yes.  
 9 Q. And then you did a -- I suppose --  
 10 I don't know if it's a rebuttal report or  
 11 supplemental report on November 4th of 2014,  
 12 right?  
 13 A. I think you missed one.  
 14 Q. Let me see what I've got here. I  
 15 don't think so.  
 16 MS. ELLIS: There was a rebuttal  
 17 and then supplemental rebuttal if that  
 18 helps.  
 19 MR. MILLER: Right.  
 20 Q. Well, there were two reports in  
 21 November.  
 22 A. That's right. In the same week,  
 23 yes.  
 24 Q. And the two reports in November  
 25 were responding to Sandy Wilbur's expert

Page 7

1 that name, et cetera.  
 2 If -- and I assume -- well, let me  
 3 ask you this. If I do that will that be clear  
 4 to you what I'm referring to?  
 5 A. Yes.  
 6 Q. And if at any point I'm using  
 7 loose references to the things that we have  
 8 discussed before or that are in the reports  
 9 and you're not sure what I'm referring to,  
 10 please just clarify in your answer or tell me  
 11 you're not sure what I'm asking about, okay?  
 12 A. Okay.  
 13 Q. So you initially created or  
 14 prepared a preliminary report that's dated  
 15 October 17th, 2013, right?  
 16 A. Yes.  
 17 Q. And then you submitted a  
 18 declaration in connection with a summary  
 19 judgment motion and that was dated September  
 20 7th, 2014, right?  
 21 A. I thought it was dated September  
 22 8th, actually.  
 23 Q. Okay. Whatever the date, it was  
 24 early September 2014, right?  
 25 A. Um-hum.

Page 9

1 report, right?  
 2 A. Yes.  
 3 Q. Do you have any opinions  
 4 concerning the subject matter of this lawsuit  
 5 that you intend to express at trial in this  
 6 case that have not previously been expressed  
 7 in writing in one of your prior reports or the  
 8 summary judgment declaration?  
 9 MS. ELLIS: Objection, vague.  
 10 A. No.  
 11 Q. Did you see the deposition notice  
 12 for today's deposition?  
 13 A. No, I didn't. I think I received  
 14 one with the wrong date on it.  
 15 Q. Okay. Did you look at the  
 16 document requests in that deposition notice?  
 17 A. Yes.  
 18 Q. And do you have any documents to  
 19 provide today in response to that notice?  
 20 A. Yes. I sent a packet of them to  
 21 Sara Ellis last week.  
 22 MS. ELLIS: We have them for you.  
 23 MR. MILLER: Oh, okay. Are you  
 24 planning to give them to me before the  
 25 end of the deposition?

Page 10

1 MS. ELLIS: I apologize about  
 2 that. We can take a quick break.  
 3 MR. MILLER: I mean, I'm not going  
 4 to look at them at this moment. At the  
 5 first break why don't you give it to me.  
 6 MS. ELLIS: There's not much to it  
 7 but, yes.  
 8 MR. MILLER: Okay.  
 9 BY MR. MILLER:  
 10 Q. And other than the documents you  
 11 gave to Ms. Ellis, do you have any other  
 12 documents that are called for by the request?  
 13 A. No.  
 14 MS. ELLIS: Objection, privileged.  
 15 A. No.  
 16 THE WITNESS: Oh, sorry.  
 17 MR. MILLER: And, Sara, are you  
 18 representing to me that other than  
 19 documents in which you assert a  
 20 privilege you are going to provide me at  
 21 the break with whatever additional  
 22 responsive documents Ms. Finell has that  
 23 haven't previously been produced to me  
 24 in this lawsuit?  
 25 MS. ELLIS: Yes. I believe

Page 12

1 "infringe."  
 2 Q. So is it correct that you will not  
 3 express any opinions at trial as to whether  
 4 either of the songs at issue infringes either  
 5 of the Marvin Gaye songs; is that a correct  
 6 statement?  
 7 MS. ELLIS: Same objection.  
 8 A. From a legal standpoint I will  
 9 not. But from a musical standpoint I guess my  
 10 opinion could probably substantiate the legal  
 11 opinion. But I'm not a lawyer so I would not  
 12 cross that line.  
 13 Q. Okay. I'm not trying to trick you  
 14 and stop you somehow from being able to  
 15 testify at trial as to whether music in one  
 16 song is similar or substantially similar to  
 17 another song. I'm trying to find out if you  
 18 intend to express as an opinion at trial that  
 19 "Blurred Lines" infringes "Got To Give It Up."  
 20 Is that an opinion you intend to  
 21 discuss?  
 22 MS. ELLIS: Objection.  
 23 A. As I say, I will express the  
 24 musical similarities that I have found and  
 25 believe are there so that a legal conclusion

Page 11

1 everything has been previously produced  
 2 but, yes. Other than what's privileged,  
 3 yes.  
 4 MR. MILLER: Okay. So you have a  
 5 few documents to produce but you think  
 6 it's all been previously produced.  
 7 MS. ELLIS: I'll have to  
 8 double-check but I'm fairly certain that  
 9 you have it all already.  
 10 MR. MILLER: Okay.  
 11 BY MR. MILLER:  
 12 Q. Forgive me if I asked this at the  
 13 last deposition but -- I probably didn't,  
 14 actually.  
 15 Do you intend to express any  
 16 opinions in this case as to whether any of my  
 17 clients -- either of the two songs by my  
 18 clients at issue infringe either of the two  
 19 songs by Marvin Gaye?  
 20 MS. ELLIS: Objection. Calls for  
 21 a legal conclusion.  
 22 A. I'm qualified to discuss  
 23 similarities -- substantial similarities  
 24 between the works. But I'm really not  
 25 qualified to give a legal opinion on the word

Page 13

1 could be drawn from that. But I'm not a  
 2 lawyer. So I'm not in a position to give  
 3 legal opinions.  
 4 Q. Will you be using the word  
 5 "infringe" in your testimony at trial?  
 6 A. I don't know.  
 7 Q. Okay. So you can't give me a  
 8 clear answer that you will not be testifying  
 9 at trial as to whether the songs infringe or  
 10 don't infringe?  
 11 MS. ELLIS: Asked and answered.  
 12 A. Yeah, I've answered to the best of  
 13 my ability at this moment.  
 14 Q. Do you understand the difference  
 15 between infringement and evidence that  
 16 something may or may not be similar to  
 17 something else?  
 18 MS. ELLIS: Calls for a legal  
 19 conclusion.  
 20 A. No, I don't. I don't know what  
 21 you mean.  
 22 Q. Okay. In your experience as a  
 23 musicologist testifying in these kinds of  
 24 cases, have you developed any understanding of  
 25 the concept of copyright infringement, which

Page 46

1 A. I think I do, yes.  
 2 Q. Okay. And -- okay.  
 3 You were present at the  
 4 depositions of Pharrell Williams and Robin  
 5 Thicke, as I recall; is that correct?  
 6 A. Yes.  
 7 Q. Did anything you learned at those  
 8 depositions form a basis for any of your  
 9 opinions in this case?  
 10 MS. ELLIS: Objection, vague.  
 11 A. Well, I learned a little bit about  
 12 their creative process and a little bit --  
 13 pardon me -- excuse me -- about -- one moment,  
 14 please.  
 15 (Pause on the record.)  
 16 A. Pardon me. A little bit about  
 17 their musical education and background that  
 18 would inform the way in which they could  
 19 compose music together or individually.  
 20 Q. All right. And how did anything  
 21 you learned -- well, strike that.  
 22 Before we go any further, do you  
 23 recall at at least Robin Thicke's deposition  
 24 there were a lot of interviews and press  
 25 articles that were introduced at the

Page 48

1 happened to come to that level.  
 2 Q. Okay. So your musicological  
 3 opinions as to similarity are not based in any  
 4 way on what they happened to testify about how  
 5 they worked in creating the song; is that  
 6 correct?  
 7 A. That's correct.  
 8 Q. Okay. Do you intend to opine at  
 9 trial in this case that Pharrell Williams and  
 10 Robin Thicke copied "Got To Give It Up" when  
 11 they created "Blurred Lines"?  
 12 MS. ELLIS: Objection,  
 13 speculation.  
 14 A. Well, it's the only explanation  
 15 for all the similarities that are there, yes.  
 16 Q. And so your opinion as to  
 17 whether -- well, let me ask you. Is it your  
 18 opinion that Robin Thicke and Pharrell  
 19 Williams copied "Got To Give It Up" when they  
 20 created "Blurred Lines"?  
 21 A. Yes. With the caveat that I  
 22 wasn't in the studio so I didn't witness it  
 23 with, you know, them doing it. But musically  
 24 there's no other explanation for so many  
 25 similarities.

Page 47

1 deposition and he was questioned about them.  
 2 Do you recall that?  
 3 A. Yes.  
 4 Q. Okay. So when I'm referring to  
 5 the two depositions of Mr. Thicke and Mr.  
 6 Williams, I'm including within it, you know,  
 7 the various press articles that were discussed  
 8 really at some length in those depositions.  
 9 Do you understand that?  
 10 A. Yes.  
 11 Q. Okay. To what extent -- what  
 12 opinions in this case, if any, do you base in  
 13 part on anything you learned at those  
 14 depositions?  
 15 MS. ELLIS: Objection, vague.  
 16 A. None of my analysis -- my own  
 17 musical analysis would have been affected at  
 18 all by their statements at their depositions.  
 19 But I did learn something about how -- you  
 20 know, how they used the resources they had  
 21 available to them to construct a musical work.  
 22 Q. Okay.  
 23 A. But that is -- as I say, that's  
 24 more construction of it. I analyzed the music  
 25 as it's finally presented rather than how it

Page 49

1 Q. And when you say -- well, what do  
 2 you mean by musically there's no other  
 3 explanation for so many similarities.  
 4 A. The nature of the similarities,  
 5 the level of detail of the similarities, and  
 6 the multitude of them that they occupy all but  
 7 three measures of "Blurred Lines" in one form  
 8 or in a coinciding form, I would find it  
 9 impossible that that level of similarity could  
 10 exist accidentally.  
 11 Q. Is it your opinion that it is not  
 12 possible that Pharrell Williams, without any  
 13 reference to "Got To Give It Up" sat down in  
 14 the recording studio and came up with a song  
 15 that had what you are calling various  
 16 similarities to "Got To Give It Up"?  
 17 A. I think it's highly unlikely. And  
 18 I've seen no other song that contains anywhere  
 19 near that many after many hours of Ms.  
 20 Wilbur's research.  
 21 Excuse me.  
 22 Q. And -- okay.  
 23 Is it your opinion that Pharrell  
 24 Williams and Robin Thicke must have listened  
 25 to "Got To Give It Up" in the process of

Page 50

1 creating "Blurred Lines" in order to create  
 2 the similarities?  
 3 A. Well, as I say, it's really  
 4 impossible for a musicologist to know why  
 5 another artist would somehow have his own  
 6 music imbued with the music of another or  
 7 infused with it. It could be by listening.  
 8 It could be any number of reasons. I don't  
 9 have a way of knowing how they more or less  
 10 implanted many identifying elements in  
 11 "Blurred Lines" that I can only find combined  
 12 in "Got To Give It Up."  
 13 I don't know -- artists have  
 14 various levels of capabilities. I don't know  
 15 if listening to it was enough. Or if they  
 16 used some of the electronic facilities they  
 17 had available to do more than listen and  
 18 actually use it as a template.  
 19 But I wasn't in the studio. All I  
 20 know is that in the end you have two songs  
 21 that have a lot of very identifying, very  
 22 individualistic details that are in common.  
 23 Q. What do you mean by doing some  
 24 sort of digital process that uses it as a  
 25 template? I didn't quite quote you correctly,

Page 52

1 expert in recording engineering. But that was  
 2 pretty much of a red flag for me. I mean, so  
 3 are a lot of the other similarities, but that  
 4 was -- that was beyond that.  
 5 Q. Do you believe in -- well, you  
 6 heard Mr. Williams' testimony that he  
 7 basically created the whole song before Robin  
 8 Thicke came to the studio. Do you recall  
 9 that?  
 10 A. Um-hum, yes.  
 11 Q. Do you have any basis to dispute  
 12 that that's how the song was created?  
 13 A. No.  
 14 Q. Do you believe -- having heard Mr.  
 15 Williams testify at his deposition about his  
 16 musical background and training and how he  
 17 works, do you believe that it would have been  
 18 impossible or highly unlikely for him to  
 19 create -- well, you know, let me not load it  
 20 with adjectives. Let me just ask you this.  
 21 Knowing what you know from the  
 22 deposition about how Pharrell Williams works  
 23 as a musician, do you believe it's possible  
 24 that he created the song in the manner he  
 25 testified to without having "Got To Give It

Page 51

1 but what do you mean by that?  
 2 A. I'm not a recording engineer but I  
 3 found it pretty telling that the exact  
 4 location of the rap section in "Got To Give  
 5 It" -- or I'm sorry -- in "Blurred Lines" is  
 6 two minutes, 26 seconds into it and that's  
 7 exactly where the deviation occurs in the  
 8 other song -- or bar 73, whichever way you  
 9 want to describe it -- and that ends in  
 10 exactly the same place. And in both songs  
 11 it's a deviation from what comes before and  
 12 after it. And in both songs it's pre -- in  
 13 one song it's preceded -- it's book-ended by  
 14 an eight-bar lead-in into and the other song  
 15 is book-ended by an eight-bar lead-out from  
 16 it.  
 17 It's just I haven't seen that kind  
 18 of coincidence and I've been doing this for 25  
 19 years. That's very suspicious.  
 20 Q. Is it your opinion that that could  
 21 only have happened by them digitally analyzing  
 22 or timing "Got To Give It Up" to find out  
 23 where the parlando section, as you call, it  
 24 starts?  
 25 A. No. Again, I don't -- I am not an

Page 53

1 Up" in the studio as some kind of reference  
 2 for him?  
 3 MS. ELLIS: Objection, vague.  
 4 Speculation. Incomplete hypothetical.  
 5 A. You know, he didn't really give  
 6 very -- what I would consider kind of  
 7 hard-core descriptions of how he worked. And  
 8 I'm not sure of he's aware of what he produces  
 9 until he sort of spontaneously does it in the  
 10 studio. He doesn't have musical training. He  
 11 doesn't read music. He doesn't seem to create  
 12 a record in that way of his work or have a  
 13 systematic process. He says he picks up the  
 14 vibe from the artists and he imbues the music  
 15 with -- I mean, that was one of his -- I'm  
 16 paraphrasing -- one of his ways of producing  
 17 his recordings.  
 18 So he said things like that that  
 19 don't have any -- any concrete basis for  
 20 understanding how he actually comes up with  
 21 them. So it's a little bit difficult for me  
 22 to assess what he could have done and what Mr.  
 23 Thicke could have done, you know.  
 24 Q. Do you find that you don't  
 25 understand how he works creatively as a

Page 54

1 musician after hearing his testimony?  
2 MS. ELLIS: Objection, vague.  
3 A. I think he works on a very  
4 intuitive level, on a level that doesn't  
5 involve a lot of formal or rigorous training.  
6 But he's intuitively talented and he  
7 understands the audio atmosphere in which He  
8 works quite will. And he uses that as his  
9 tool box.  
10 But describing on a concrete level  
11 afterwards or before is something that he  
12 was -- he did not appear to be capable of  
13 doing.  
14 Q. Let me just go back to my question  
15 because I think I didn't really get an answer  
16 to it. And I'm not blaming you but we sort of  
17 went off on a tangent here.  
18 Do you believe it's possible that  
19 Mr. Williams, in creating the music in the  
20 intuitive way he did, simply came up with  
21 something that has the various similarities  
22 you claim exist with "Got To Give It Up"  
23 without attempting to copy "Got To Give It  
24 Up"?  
25 MS. ELLIS: Vague, speculation,

Page 56

1 the timing of the parlando section that you  
2 mentioned earlier, what other similarities  
3 stand out for you as being important as a  
4 basis for your opinion that Pharrell Williams  
5 copied "Got To Give It Up" when he created  
6 "Blurred Lines;" in other words, tried to copy  
7 it?  
8 MS. ELLIS: Misstates testimony  
9 and vague.  
10 A. Well, I'd need my reports in front  
11 of me to be very specific. So I need my  
12 preliminary and my full report.  
13 Q. Let me make it easy for you.  
14 Is the cow bell one of the reasons  
15 that you -- that stands out to you as a red  
16 flag for why he copied it?  
17 Actually, you know what? Maybe  
18 this is too hard. I was going to just read  
19 through the various pieces, but let me give  
20 you your report and then we'll -- you want the  
21 preliminary report?  
22 A. Please.  
23 Q. Okay.  
24 A. And the full one.  
25 MR. MILLER: All right. Why don't

Page 55

1 incomplete hypothetical.  
2 A. Well, I do remember him saying  
3 that he was thinking of Marvin Gaye. So I  
4 don't know how far that thinking went, if it  
5 went into his musical choices or not. But  
6 given an array of any choice that he could  
7 have made with any of the melodies that are  
8 similar, he could have chosen different notes.  
9 He could have chosen different harmonies.  
10 But a large proportion of the  
11 choices that were made down to the hi-hat on  
12 exactly the same half beat of the fourth beat,  
13 the second half of the fourth beat, he made a  
14 lot of really specific choices that were more  
15 or less the recipe to Marvin Gaye's song.  
16 So I don't know if it was  
17 deliberate or not, but in the end he has a  
18 song that's very similar because of the  
19 artistic choices he made.  
20 Q. And so how likely -- well, I mean,  
21 do you have an opinion then, as to whether he  
22 copied it or not?  
23 A. I don't know why or how he copied  
24 it, but, yes, I think he did copy it.  
25 Q. Other than the parlando section or

Page 57

1 we mark as 1751 the preliminary report.  
2 (Deposition Exhibit 1751,  
3 Preliminary Report of Judith Finell,  
4 marked for identification as of this  
5 date.)  
6 (Deposition Exhibit 1752, Expert  
7 Report of Judith Finell, marked for  
8 identification as of this date.)  
9 BY MR. MILLER:  
10 Q. All right. So I have marked 1751  
11 as your preliminary report. 1752 is the full  
12 report. And I will put in front of you your  
13 Exhibit A and the guide to Exhibit A of which  
14 I only have one copy so --  
15 A. Thank you.  
16 Q. -- that's all I got.  
17 Actually, you know what? Why  
18 don't we mark those as Exhibit 1753, which  
19 will be Exhibit A, 1754 is the guide to  
20 Exhibit A, and then we'll have it all in the  
21 record.  
22 (Deposition Exhibit 1753, Exhibit  
23 A: "Blurred Lines" -- Constellation of  
24 8 Similarities with "Got To Give It Up,"  
25 marked for identification as of this

Page 58

1 date.)  
2 (Deposition Exhibit 1754, Guide to  
3 Exhibit A, marked for identification as  
4 of this date.)  
5 BY MR. MILLER:  
6 Q. Okay. So with your reports in  
7 front of you, and I'd like you to take as much  
8 time as you need, this is not a rush test  
9 here, my question is please go through the  
10 reports and tell me what, besides the timing  
11 of the parlando section that you previously  
12 mentioned, stands out to you as a similarity  
13 that forms the basis for your opinion that  
14 Pharrell Williams must have copied "Got To  
15 Give It Up."  
16 MS. ELLIS: Objection. The  
17 document speaks for itself.  
18 A. Okay. So I -- number one, I found  
19 the most compelling was the collection of the  
20 similar elements. But each of the similar  
21 elements is also very substantially similar.  
22 But did you want me to now go through and talk  
23 about every similarity in my report?  
24 Q. Okay. So you find each of the  
25 similarities individually substantially

Page 60

1 Up." And you also have -- it's more than just  
2 the timing of the parlando section. There are  
3 similarities within it of lyrics. There are  
4 similarities within it of rhythm. And then  
5 it's a deviation from the rest of the song in  
6 the same way. I mean, it's more than just the  
7 timing. The timing suggests that it was a  
8 template somehow.  
9 But even during the parlando and  
10 the rap section in Pharrell Williams' song,  
11 the other similarities continue playing. The  
12 baseline. The keyboards. The hi-hat. All of  
13 that is still going on during those sections.  
14 So even if there weren't a  
15 parlando section, you still have this ongoing  
16 constant similarity. And I rarely see -- I  
17 rarely see that quantity.  
18 Q. And you said almost every vocal  
19 line in "Blurred" can be traced back to  
20 "Give." What do you mean by that?  
21 A. Well, you've got the main vocal  
22 line of the verse which itself is repetitive.  
23 I mean, that's the nature of "Blurred Lines."  
24 So you've got the verse, which can be traced  
25 immediately back to a melody in "Got To Give

Page 59

1 similar, the ones you've identified in your  
2 reports, correct?  
3 A. That's right.  
4 Q. And you find the collection of all  
5 of them or the combination of all of them  
6 substantially similar, correct?  
7 A. As a collection itself. Yes,  
8 um-hum.  
9 Q. Okay. You testified a minute ago  
10 that the timing of what you called the  
11 parlando section struck you as particularly  
12 suspicious in leading you to conclude that  
13 Pharrell Williams must have intentionally  
14 copied "Got To Give It Up." I'm asking you if  
15 other than that timing of the parlando  
16 section, are there any other similarities that  
17 stand out to you as being particular red flags  
18 for you that Pharrell Williams must have  
19 copied "Got To Give It Up"?  
20 MS. ELLIS: Objection. Misstates  
21 testimony.  
22 A. My answer is still the same, that  
23 it's because of all of these individual  
24 elements, almost every vocal line in "Blurred  
25 Lines" can be traced back to "Got To Give It

Page 61

1 It Up." You've got the hook. You've got what  
2 I call the back-up hook, which is the "hey,  
3 hey, hey" sections which occurred 21 times in  
4 "Blurred Lines." That's a lot of one piece of  
5 material. And much else. The instrumental  
6 support, meaning the base, and the keyboard  
7 and aspects of the percussion. And almost all  
8 of the vocal lines. Plus some of the lyrics  
9 and some of the story line. It's almost  
10 leaked into every aspect of "Blurred Lines."  
11 That's why I made this Exhibit A. I wanted to  
12 see -- this for me was to see the roadmap of  
13 "Blurred Lines." Does it all -- is it so  
14 constant? And on the bottom of each of -- in  
15 my exhibit here is the black line. That's the  
16 composite of what's above it. That means that  
17 the only places that aren't black are three  
18 places -- three or four places, like these  
19 aren't even entire measures, meaning that  
20 everything else has at least one but usually  
21 multiple versions of material that come from  
22 "Got To Give It Up." That's just -- as I say,  
23 I haven't seen that kind of quantity of  
24 similar material very often. And I've been  
25 involved in many cases.

Page 62

1 Q. So it's all of what you just  
2 testified that leads you to conclude that  
3 Pharrell Williams must have copied "Got To  
4 Give It Up."  
5 MS. ELLIS: Objection. Misstates  
6 testimony.  
7 Q. Maybe I'm confusing you. I'm  
8 trying to see if there's specific things.  
9 Maybe I got off on a misunderstanding because  
10 of the way you talked about the timing of the  
11 parlando section.  
12 Is it -- are there specific things  
13 that stand out for you as more suspicious than  
14 others of copying? Or is it just everything  
15 all together equally to you is just  
16 overwhelming evidence he must have copied it?  
17 A. Well, there are a few specifics  
18 but that wasn't what turned the tide. But as  
19 I said before, I considered the "woo" to be  
20 almost a fingerprint. You know, that in a  
21 sense the elephant in the room while this song  
22 was being produced, "Blurred Lines," had to be  
23 the Marvin Gaye song. I mean, because it's  
24 just an unlikely -- it's an unlikely  
25 duplication.

Page 64

1 "Blurred Lines." And they are -- in a very  
2 short section, which is a bridge in each case,  
3 there are four identical lyrics. They share  
4 three of the same notes. They serve totally  
5 the same function and they do the same word  
6 painting. By that I mean the lyrics are "up,"  
7 "down," "round," and "shake." So word  
8 painting in music means that you illustrate  
9 the meaning of the word with something that  
10 you do musically. In this case "up" ascends  
11 to same place in both songs. And "down"  
12 descends in the same way in both songs -- both  
13 those words I mean, et cetera.  
14 And they have the lot in common.  
15 And they both buy bookend these sections,  
16 these semi-spoken sections. That was  
17 something new I discovered that wasn't  
18 discussed in my first report but that was  
19 pretty stunning.  
20 Q. Okay. And along -- I want to talk  
21 about that because I didn't know anything  
22 about that. But -- so before I go back to  
23 explore that and go through your report on  
24 that, is there anything else in addition to  
25 the parlando, the vocal "woo," this up/down,

Page 63

1 Q. Okay. You mentioned the vocal  
2 "woo" and just so we have a record on it I  
3 assume -- are you referring to the "woo" that  
4 in your report you describe as occurring on  
5 the end of three -- a little less than two  
6 minutes into the "Give" sound recording?  
7 A. I give the timing in my report.  
8 I'd have to look it up.  
9 Q. I was trying to avoid looking it  
10 up. Is that what you're referring to, the  
11 vocal "woo" that occurs --  
12 A. It occurred I believe three times  
13 in Marvin Gaye's song but I'd have to look  
14 that up. But it's very similar and it's  
15 exactly in the same rhythmic position, yeah.  
16 Q. Okay. So the vocal "woo." The  
17 timing of the section you called parlando  
18 starts. Is there anything else that jumped  
19 out to you as being, you know, indicative of  
20 the elephant in the room that "Give" was  
21 copied when they created "Blurred Lines"?  
22 A. Yes. The other section that's  
23 very similar is this section that occurred  
24 before the parlando section in "Got To Give It  
25 Up" and immediately after the rap section in

Page 65

1 whatever it was that you just mentioned, is  
2 there anything else that, again, was sort of  
3 like really stood out to you as being a reason  
4 why they must have copied "Got To Give It Up"?  
5 A. Those are compelling reasons. I  
6 would have to go through all of the others to  
7 answer you the most fully.  
8 Q. Okay. So those are the three most  
9 compelling reasons as you sit here today  
10 anyway.  
11 MS. ELLIS: Objection. Misstates  
12 testimony.  
13 A. No. It's really the multitude.  
14 What I call the constellation. It's the way  
15 they interact and intersect in the same way  
16 and that they're the same within themselves or  
17 very similar. But those are some high points  
18 that I noticed. You know, that have to do  
19 more with -- somewhat with structural  
20 similarities. And that's what made me think  
21 that the "Blurred Lines" was somehow formatted  
22 or used the other song as almost a template.  
23 Q. Okay. And I'm the attorney for  
24 the side that is opposing the side that has  
25 retained you. I'm not your friend. I'm

Page 70

1 defendants claim to own a copyright?  
 2 MS. ELLIS: Speculation.  
 3 A. I don't understand. I mean --  
 4 MS. ELLIS: Calls for a legal  
 5 conclusion, as well.  
 6 Q. The copyright deposit sheet music  
 7 reflects some, but not all, of the  
 8 compositional elements of "Got To Give It Up"  
 9 that appear in the sound recording. Do you  
 10 agree with that?  
 11 A. Yes.  
 12 MS. ELLIS: Objection, vague.  
 13 Q. Do you intend to express an  
 14 opinion in this case as to what elements are  
 15 contained in the composition that the  
 16 defendants claim to own?  
 17 MS. ELLIS: Objection,  
 18 speculation. Calls for speculation.  
 19 A. Well, I mean, I'm not qualified to  
 20 know, other than gathering from the sheet  
 21 music and all, and what the attorneys have  
 22 said to me about owning music -- I mean,  
 23 that's really a legal concept, who owns it.  
 24 Q. I agree with you. Maybe you're  
 25 suspecting that I'm expecting you to have an

Page 72

1 know what composition the defendants own a  
 2 copyright in?  
 3 MS. ELLIS: Objection. Calls for  
 4 a legal conclusion and vague.  
 5 A. I mean, from the sheet -- from the  
 6 way it looks on the sheet music it looks  
 7 like -- and from what the attorneys here in  
 8 the room have told me, I believe it's -- the  
 9 defendant owns the underlying song, the  
 10 copyright in the underlying song.  
 11 Q. And as reflected in the copyright  
 12 deposit sheet music?  
 13 MS. ELLIS: Objection. Calls for  
 14 a legal conclusion and vague.  
 15 A. Yeah. I don't know exactly --  
 16 they own, I think, beyond that from what I  
 17 understand because deposit copy is so sparse.  
 18 But I believe that the composer of the song  
 19 was Marvin Gaye and that he and his heirs own  
 20 that.  
 21 THE VIDEOGRAPHER: Sorry to  
 22 interrupt, but I need to switch the  
 23 tape.  
 24 MR. MILLER: Okay. That's fine.  
 25 MS. ELLIS: The time is 12:07 p.m.

Page 71

1 opinion on that. I'm just trying to find out  
 2 how your attorneys intend to use you in this  
 3 case so I'm not expecting you actually to have  
 4 an opinion on this. But I'm just trying to  
 5 make sure that I know whether or not you will  
 6 have an opinion.  
 7 A. Oh.  
 8 Q. So other than your musicological  
 9 testimony as to what compositional elements  
 10 are in the sheet deposit and what  
 11 compositional elements you believe are  
 12 reflected in the sound recording, are you  
 13 planning to express any opinion, separate and  
 14 apart from that, as to the scope of the  
 15 compositional material that the defendants own  
 16 a copyright in?  
 17 MS. ELLIS: Objection, vague.  
 18 Speculation. Calls for a legal  
 19 conclusion.  
 20 A. I don't know the answer right now.  
 21 Q. You don't have any opinion on that  
 22 right now, do you?  
 23 MS. ELLIS: Objection, vague.  
 24 Calls for a legal conclusion.  
 25 Q. Well, let me just ask you. Do you

Page 73

1 We're going off the record.  
 2 (Recess taken.)  
 3 THE VIDEOGRAPHER: The time is  
 4 12:19 p.m. We're back on the record.  
 5 Video number two.  
 6 BY MR. MILLER:  
 7 Q. I have just a couple of questions  
 8 kind of out of order for stuff I forgot to go  
 9 over earlier because we got sidetracked. The  
 10 couple hundred hours, 300 to 500 hours you  
 11 spent working on this case, how much of that  
 12 time was spent prior to September 8th, 2014  
 13 when you submitted your declaration in the  
 14 summary judgment proceeding?  
 15 A. I don't know.  
 16 Q. Can you ballpark it? Half, a  
 17 third, two-thirds, you know.  
 18 A. You mean prior -- prior to the  
 19 declaration with the motion for summary  
 20 judgment?  
 21 Q. Right. How many hours would you  
 22 estimate you spent working on this case from  
 23 inception until September 8th, 2014?  
 24 A. I really don't know.  
 25 Q. You think it's more than half of

Page 86

1 relating to this Exhibit A?  
 2 MS. ELLIS: Objection, vague.  
 3 A. I mean, it's in my report. It's  
 4 in my full report. This is a companion to the  
 5 full report but...  
 6 Q. Okay. And so what is your opinion  
 7 that's expressed in your report in that  
 8 regard?  
 9 MS. ELLIS: Objection, vague.  
 10 A. My opinion is --  
 11 MS. ELLIS: And the document  
 12 speaks for itself. You can continue.  
 13 A. My opinion is that "Blurred Lines"  
 14 is bleeding with "Got To Give It Up."  
 15 Q. Bleeding with it?  
 16 A. Um-hum.  
 17 Q. What does that mean?  
 18 A. It's in every -- three bars out of  
 19 124 bars, only three bars contain nothing.  
 20 It's just too much. It's not believable that  
 21 it was an accident.  
 22 Q. Okay. Do you have any opinion --  
 23 you know, strike that.  
 24 Now, when you say "Got To Give It  
 25 Up" is -- well, let me use your words.

Page 88

1 A. Could you repeat the question,  
 2 please?  
 3 MR. MILLER: Why don't you just  
 4 read it back.  
 5 (Record read.)  
 6 MS. ELLIS: Same objection.  
 7 A. Yes. But to be clear, as my  
 8 reports say, I didn't rely heavily on the  
 9 published sheet music.  
 10 Q. Okay.  
 11 A. That was a reference.  
 12 Q. But in your opinions in this case,  
 13 as they're expressed in the reports and as you  
 14 intend to express them at trial, as I  
 15 understand it, and tell me if I'm wrong, your  
 16 opinions are, as you refer to the "Give"  
 17 composition -- sorry. Strike that. After I'm  
 18 on the third clause it's just a terrible  
 19 question.  
 20 So in your opinions when you're  
 21 expressing your opinions about the "Give"  
 22 composition, what you mean by that is the  
 23 composition as it is found in the combination  
 24 of the "Give" sound recording and the "Give"  
 25 copyright deposit; is that right?

Page 87

1 When you say "Blurred Lines" is  
 2 bleeding with "Got To Give It Up," are you  
 3 referring to the composition of "Got To Give  
 4 It Up"?  
 5 MS. ELLIS: Objection, vague.  
 6 A. Yes.  
 7 Q. And are you referring to the  
 8 composition as it is found in your opinion in  
 9 the "Give" sound recording?  
 10 MS. ELLIS: Objection, vague.  
 11 A. I think the composition is  
 12 enhanced in the deposit copy and the sound  
 13 recording and to a lesser extent in the  
 14 publicly-available sheet music. It's all of  
 15 those combined that represent to me what the  
 16 sound -- what the composition is and what the  
 17 composer intended.  
 18 Q. Did you -- in forming all of your  
 19 opinions in your expert reports that you  
 20 intend to express at trial, did you consider  
 21 the "Give" composition to be the compositional  
 22 elements that are found in the composition of  
 23 the "Give" sound recording, the published  
 24 sheet music, and the deposit copy?  
 25 MS. ELLIS: Objection, vague.

Page 89

1 MS. ELLIS: Objection, vague.  
 2 A. Yes. That's right.  
 3 Q. Were you told by the attorneys  
 4 that the Gayes owned the composition as it's  
 5 embodied in the sound recording?  
 6 MS. ELLIS: Objection, Rule 26,  
 7 and the witnesses is instructed not to  
 8 answer.  
 9 Q. Well, you testified earlier that  
 10 you were told by your attorneys that the Gayes  
 11 owned the composition -- I believe you said in  
 12 the sound recording. I don't want to put  
 13 words in your mouth.  
 14 MS. ELLIS: Objection. Misstates  
 15 the testimony. I didn't mean to  
 16 interrupt. Hearsay.  
 17 Q. Why don't you tell me what your  
 18 attorneys told you about the composition that  
 19 the Gayes owned as it pertains to the work you  
 20 did in comparing that.  
 21 MS. ELLIS: Objection, Rule 26.  
 22 And the witness is instructed not to  
 23 answer.  
 24 MR. MILLER: She has already said  
 25 that you told her what the composition

Page 98

1 And so you tell them I've looked  
 2 at the copyright deposit and the extent of the  
 3 copyright is limited to this part of the  
 4 composition and there either is or is not  
 5 additional material in the recording you gave  
 6 me that you should clear separately.  
 7 A. Half of the time it's the  
 8 copyright deposit and the other half of the  
 9 time it's an early edition of a song -- of a  
 10 song or the musical work that is in the public  
 11 domain because it's that old.  
 12 Q. Oh, okay.  
 13 A. And so I'm comparing it -- I'm  
 14 comparing it to a version that either doesn't  
 15 need any clearance or if it's still under  
 16 copyright protection, it's -- I'm comparing  
 17 what new elements have been brought to this  
 18 old song.  
 19 Q. Got it. Okay.  
 20 MS. ELLIS: Seth, if we can take a  
 21 break in about five minutes or break for  
 22 lunch in about five minutes.  
 23 MR. MILLER: Okay. Boy, it's that  
 24 time. Okay.  
 25

Page 100

1 MS. ELLIS: Objection, vague.  
 2 A. Not exactly.  
 3 Q. What do you mean by not exactly?  
 4 A. When I was shown the deposit copy  
 5 fairly late in this process I had not yet seen  
 6 it until -- I think I saw it during -- I think  
 7 it was during the motion for summary judgment  
 8 process if I'm not mistaken. I'd never been  
 9 exposed to it before then. The Stockett  
 10 declaration, I think.  
 11 So at that point I compared it to  
 12 my analysis of "Got To Give It Up" to see if  
 13 the same elements were in it. So it was more  
 14 of a comparison to "Got To Give It Up" itself.  
 15 Q. Okay. So you did an analysis  
 16 initially based on the composition as found in  
 17 the "Give" sound recording and you compared  
 18 that to "Blurred Lines" and that resulted in  
 19 your preliminary report.  
 20 A. That's right.  
 21 Q. And then later when you received  
 22 the copyright deposit sheet music you compared  
 23 it to your opinion thus far to see if the  
 24 deposit sheet music for "Give" was different  
 25 in any material respect from the composition

Page 99

1 BY MR. MILLER:  
 2 Q. Who prepared, if you know, the  
 3 publisher sheet music that you relied upon for  
 4 your opinions?  
 5 A. I didn't rely on the publisher  
 6 sheet music.  
 7 Q. Oh, okay. So you looked at it but  
 8 it really doesn't form the basis for your  
 9 opinions.  
 10 A. It was just reference. No.  
 11 Q. Okay. It does not.  
 12 Sorry that was a terrible question  
 13 and answer. Let me just ask it the 14th time.  
 14 You looked at publisher sheet  
 15 music in the context of doing your work but  
 16 you did not rely upon publisher sheet music  
 17 for any of your opinions; is that correct?  
 18 A. That's correct.  
 19 Q. And did you ever do any analysis  
 20 of substantial similarity that's limited only  
 21 to comparing the deposit copy sheet music of  
 22 "Give" to "Blurred Lines"?  
 23 A. Could you repeat that question,  
 24 please?  
 25 (Record read.)

Page 101

1 you found in the sound recording; is that  
 2 correct?  
 3 A. Yes.  
 4 Q. Okay. But you didn't do any sort  
 5 of separate comparison of taking the deposit  
 6 copy sheet music standing alone excluding the  
 7 recording and making any sort of comparison on  
 8 that basis only to "Blurred Lines;" is that  
 9 right?  
 10 MS. ELLIS: Objection. Misstates  
 11 the testimony.  
 12 A. It's more just that I used the  
 13 deposit copy to verify whether or not certain  
 14 elements were there and if any new ones were  
 15 there. So I guess indirectly I did compare it  
 16 to "Blurred Lines" but it wasn't a focused  
 17 study that I wrote a report on. It was more,  
 18 as I say, a verification process.  
 19 Q. Right. Okay. I think I  
 20 understand. So you didn't do anything  
 21 standing alone with the deposit copy. You  
 22 just looked at it to see if it added or  
 23 subtracted anything you had in your prior  
 24 opinion.  
 25 A. Well, no. I mean. I did analyze

1 the deposit copy and it's in my full report.  
2 It describes exactly how many bars contain the  
3 signature phrase and all of the other  
4 similarities. And I think it even points out  
5 some new ones. Even the parlando section is  
6 there, et cetera. So I mean, I verified what  
7 I found and looked to see if there was  
8 anything new or different from "Got To Give It  
9 Up." But my basis of my main comparison was  
10 with the recording.

11 Q. Okay. Great.

12 MR. MILLER: I wanted to get that  
13 down so you can get out. Why don't we  
14 go off the record.

15 THE VIDEOGRAPHER: The time is  
16 12:54 p.m. We're going off the record.

17 (Luncheon recess taken at 12:54  
18 p.m.)  
19  
20  
21  
22  
23  
24  
25

1 AFTERNOON SESSION  
2 (Time noted: 2:24 p.m.)  
3 THE VIDEOGRAPHER: The time is  
4 2:24 p.m. We're back on the record.  
5 \* \* \*

6 JUDITH FINELL, resumed and  
7 testified as follows:

8 EXAMINATION BY (Cont'd.)

9 MR. MILLER:

10 Q. Ms. Finell, have you read Ingrid  
11 Monson's two expert reports in this case?

12 A. Yes.

13 Q. And have you read her declaration  
14 she submitted in connection with the summary  
15 judgment motion?

16 A. Yes.

17 Q. Are there any opinions of Ms.  
18 Monson's that you disagree with?

19 A. No.

20 Q. In your testimony or opinions, at  
21 least, in your reports, you use the phrase  
22 "substantial similarity" a lot.

23 When you use the phrase  
24 substantial similarity are you using that as a  
25 legal term or a musicological term?

1 A. I think I'm using it  
2 musicologically. That's what I mean it to be.

3 Q. Well, I'm asking it because the  
4 term substantial similarity is found in case  
5 law. It's part of the legal doctrine. And so  
6 I just want to make clear if it's the case  
7 that when you use that term in your opinions  
8 you are not using it with the meaning it has  
9 in legal doctrine. You're using it with the  
10 meaning it has to you as a musicologist; is  
11 that correct?

12 MS. ELLIS: Objection. Calls for  
13 a legal conclusion.

14 A. I mean, those reports are written  
15 in response to a copyright dispute. So I  
16 guess in that respect I'm using it -- I'm  
17 finding the music to be similar enough to rise  
18 to what I would consider to be substantially  
19 similar. But, as I said, I'm not a lawyer.  
20 It's not coming from a legal perspective.

21 Q. Okay. And so what do you mean,  
22 then, when something is substantially similar?

23 A. As I've come to understand it over  
24 the years and apply it, it means -- it refers  
25 to the quantitative and qualitative

1 similarities between two musical works, for  
2 example. And if I find that the materials  
3 that resemble one another between the works  
4 are significant to the works or are important  
5 aspects of the works and that they are used  
6 often enough, in a significant proportion of  
7 the newer work, that's when I would call it  
8 substantially similar.

9 Q. And you've come to this approach  
10 to calling something substantially similar  
11 through your experience doing this type of  
12 analysis of work in copyright infringement  
13 disputes over the years; is that correct?

14 A. That's correct.

15 Q. Okay. Other than your hands-on  
16 experience in doing it over the years, is  
17 there any training you have received specific  
18 to the question of when two works can be said  
19 to be substantially similar as that question  
20 comes up in a copyright infringement dispute?

21 MS. ELLIS: Objection, vague.

22 A. You mean course work when you say  
23 training?

24 Q. Correct.

25 A. Well, there is no course work that

Page 118

1 something I would look at. Does it have the  
 2 same function in the two songs.  
 3 Q. Okay. Now, why do you say rhythm  
 4 is secondary to pitch in importance?  
 5 MS. ELLIS: Objection. Misstates  
 6 testimony.  
 7 Q. Did I misstate what you said about  
 8 how you go through this analysis?  
 9 A. No. You did not.  
 10 The reason is because -- two  
 11 reasons, I think. One is with the exception  
 12 of music that doesn't contain pitch, such as  
 13 unpitched drum sounds, for example, or other  
 14 kinds of percussion instruments like, say,  
 15 wood blocks that don't really have a pitch --  
 16 I mean, they actually do have -- you know,  
 17 they're either high sounding or medium  
 18 sounding or low so we can kind of classify  
 19 them, but they don't really have tone the way  
 20 tonal music does.  
 21 So aside from those, then music  
 22 that use tones, I would say that the tone  
 23 would be the driving force as to why the two  
 24 melodies would sound alike much more than  
 25 rhythm because if you had two of the same

Page 120

1 substantially similar."  
 2 Is that the same thing you just  
 3 talked about? I mean I read that as treating  
 4 them equally but maybe I'm misunderstanding.  
 5 A. No. If you look earlier in that  
 6 article -- I think I wrote that in about 1979  
 7 or something so I may be off --  
 8 Q. Yeah, it's pretty old.  
 9 A. Yeah. Well, I've been around a  
 10 while.  
 11 You'll see that I talk about what  
 12 are the most important factors when I compare  
 13 music, and I start with pitch. I start with  
 14 melody. Melody really means pitch plus  
 15 rhythm. But, yes, it's more similar if it has  
 16 both pitch and rhythm and a high number of the  
 17 same ones. There's no question it's a higher  
 18 degree of similarity.  
 19 But without any pitch that's the  
 20 same, I would never start with just the naked  
 21 rhythm, so to speak. It's got to have pitches  
 22 that are related.  
 23 Q. So you start by looking for a  
 24 series of pitches that are the same and then  
 25 you look for rhythmic similarity as the

Page 119

1 rhythms without the same tones or a very  
 2 similar series of the same tones, you wouldn't  
 3 perceive of a similarity. Somebody like me  
 4 would analyze it and say, Oh, they have the  
 5 same rhythms but they're using different  
 6 tones. Somebody who's got my training could  
 7 isolate it and tell you why they have a  
 8 connection. But your ordinary listener I  
 9 think would miss it entirely if all they had  
 10 in common were rhythms.  
 11 Q. Okay.  
 12 A. And that would change if the  
 13 rhythm were very, very distinctive in some  
 14 way. But for your ordinary rhythms, rhythm  
 15 would not be enough to be determinative.  
 16 Q. Let me read you a statement from  
 17 Your Using an Expert Witness article. You're  
 18 familiar with that, correct?  
 19 A. Um-hum.  
 20 Q. I got this off your Web site.  
 21 And -- all right. Let me read it  
 22 to you. So you say with regard to melody:  
 23 "If a large percentage of the same pitches are  
 24 the same rhythmically and occur in the same  
 25 sequence, then I consider the melodies to be

Page 121

1 second --  
 2 A. It's not -- I mean, it depends.  
 3 Q. Or is it not that --  
 4 A. You know, I try to get to the  
 5 truth. If they sound related I determine why.  
 6 Such as it could just be that they have  
 7 similar rhythms.  
 8 What I'm saying is the  
 9 dissimilarity of rhythms would not outweigh  
 10 the similarity of pitches. The pitches -- you  
 11 know, I talked about it in my report, the  
 12 factors. The first factor is pitch. Or scale  
 13 degrees.  
 14 Q. Okay. I may have misunderstood  
 15 your approach entirely.  
 16 Are you saying that what you do is  
 17 you listen to it, hear what sounds similar,  
 18 and then investigate in the compositional  
 19 elements, itself, what it is among rhythm and  
 20 pitch and harmony and structure and so on that  
 21 might be causing it to sound similar to you  
 22 when you hear it?  
 23 A. Yes. I don't have to hear it. I  
 24 can look at it on a page and hear it. I mean,  
 25 I don't have to actually hear it.

1 Q. Well, when you look down at a page  
 2 with pitch you hear it in your head, right?  
 3 A. Yes, I hear everything in my head.  
 4 Q. Okay. So you don't have to play a  
 5 song --  
 6 A. No.  
 7 Q. -- but you sort of sight read it  
 8 to yourself and hear it in your head.  
 9 A. Um-hum.  
 10 Q. And you say why did that sound  
 11 similar and then you look at the compositional  
 12 elements and try and figure out, Oh, it must  
 13 be that these pitches are the same or that  
 14 it's the same rhythm or some of the same  
 15 pitches or whatever you --  
 16 A. I don't usually say it must be,  
 17 but I do remember whether or not it is. I'm  
 18 not trying to be difficult. But I just -- I  
 19 don't -- I mean, by the time I'm done I'm  
 20 pretty certain as to why they sound similar.  
 21 It's not like a mystery to me.  
 22 Q. Okay. So when you decide the  
 23 two -- in our hypothetical -- two phrases  
 24 sound substantially similar, or are  
 25 substantially similar I should say, is that

1 because they sound substantially similar to  
 2 you and you're finding material in the  
 3 composition that bears that out?  
 4 A. I don't understand your question.  
 5 Q. I am wrestling in this case with  
 6 how guys, you musicologists, go from saying,  
 7 you know, yeah, there's some pitches and  
 8 there's some rhythms in the same place or  
 9 whatever. I mean, we can all -- we can all  
 10 sit down, look at two pieces of music written  
 11 out in sheet music and if we know how to read  
 12 sheet music and say, yeah, those are the same  
 13 notes, those aren't the same notes, that's the  
 14 same rhythm, it's the rhythm shifted over.  
 15 You know, we can all do that analysis. That's  
 16 just black and white if you understand how to  
 17 read music notations.  
 18 A. Um-hum.  
 19 Q. And virtually any two songs you  
 20 compare in the same key and in the same genre.  
 21 I mean, undoubtedly there'll be a few of the  
 22 same pitches and a few of the same notes,  
 23 right? Take a pop song written in a typical  
 24 eight-bar verse, eight-bar chorus kind of  
 25 structure and it's got typical pop chords and

1 it's an eight-note rhythm, you know, somewhere  
 2 in the song if they're transposed in the same  
 3 key you'll find the same pitch somewhere,  
 4 you'll find some rhythms in common if it were  
 5 the normal case wouldn't you?  
 6 MS. ELLIS: Objection.  
 7 A. You may find fragments.  
 8 Q. Fragments, yeah.  
 9 A. But you're not going to find  
 10 sequence.  
 11 Q. It's the sequence of the pitches  
 12 that's important to you.  
 13 A. Absolutely.  
 14 Q. Okay. All right. Right, you may  
 15 not find more than one or two in a sequence if  
 16 you're just picking songs at random, right?  
 17 A. Right.  
 18 Q. In songs that are substantially  
 19 similar, it's usually a lot more notes in a  
 20 series.  
 21 A. Exactly.  
 22 Q. Okay, fine. Somewhere in that  
 23 spectrum of finding, you know, just a couple  
 24 of notes here and there in common and finding  
 25 a bunch of notes in a series in common, with

1 all the other factors you've discussed,  
 2 somewhere in that spectrum you say this is not  
 3 just some similarities. This is substantially  
 4 similar, right?  
 5 A. Right.  
 6 Q. How do you know when you have  
 7 crossed that line into substantially similar?  
 8 A. It's on a case-by-case basis but  
 9 it has to do with quantity and quality as I  
 10 said originally. It has to be similar enough  
 11 and meaning -- significant enough to the  
 12 initial song, the first song, let's call it  
 13 song A, the earlier song, to warrant, you  
 14 know, that label, if you will, substantial  
 15 similarity.  
 16 It has to do with, as I say,  
 17 amount, as well as quality of the material.  
 18 Quality meaning the significance of the  
 19 material to the expression.  
 20 Q. Okay. And so now my question, and  
 21 it's going to be a very nice one, so please  
 22 listen carefully.  
 23 Is it the case in your approach to  
 24 this that when something crosses the line for  
 25 you into being substantially similar it's

1 because you hear it to be substantially  
2 similar and you verify that by seeing a bunch  
3 of notes and rhythms in common; or is it  
4 because you look at a bunch of notes and  
5 rhythms in common and at a certain point  
6 there's so much of a percentage of that that  
7 without reference to how it sounds to you, you  
8 say it's substantially similar; or is it  
9 something else?

10 A. When I look at music I hear it.  
11 There's not a disconnect. It's not do I  
12 hear it -- does it sound one way or does it  
13 look one way. It's the same thing to me.

14 Q. Okay.

15 A. It's one gesture.

16 Q. So --

17 A. And the same if I hear it. Just  
18 on an audio level. I -- you know, I could  
19 write down the music. I mean, there is no  
20 separation.

21 Q. So when you hear it, when you look  
22 at the sheet music and you hear it, do you  
23 know sort of right off the bat, yes, that's  
24 substantially similar?

25 A. No. I have to do a lot of

1 analysis. But there's no disconnect between  
2 either the hearing process or the seeing  
3 process. I can look at music and know what it  
4 sounds like. I can hear music and know what  
5 it looks like.

6 Q. All right. So you look at a  
7 two-bar phrase. You hear it in your head in  
8 both songs. At that point have you concluded  
9 that it's substantially similar?

10 A. It depends. I mean, because  
11 there's another factor you're not bringing in  
12 know, which could be the performance of it,  
13 which could be a recording or a live  
14 performance of it. That's the other element  
15 that we're not talking about.

16 Q. Okay. Let's assume for this  
17 hypothetical we're talking about a  
18 composition. So we're not talking about  
19 whether someone's recording of it similar to  
20 someone else's recording. We're talking about  
21 whether the abstract compositions are similar.

22 Is that a concept that you are  
23 aware of, an abstract composition as opposed  
24 to a sound recording of it?

25 MS. ELLIS: Objection, vague.

1 A. I'm aware of it. But I think that  
2 there's been a merging of the two. Certainly,  
3 you know, in the copyright area. So, I mean,  
4 sometimes the recording is the composition.  
5 But you're talking about it as if it's just,  
6 you know --

7 Q. Well, what do you mean by  
8 sometimes the recording is the composition?

9 A. If that is the composer's vision  
10 of the piece, that is the composition. And  
11 that's how I consider it. I don't consider  
12 just what's written on the paper. Especially  
13 if the composer doesn't read music or doesn't  
14 write down that him- or herself.

15 Q. Have you had cases in the past  
16 where you felt that the -- or you -- your  
17 opinion has been based on the notion that the  
18 sound recording is in its entirety the  
19 composition because that's the composer's  
20 vision of it?

21 A. Absolutely. Every day. Not every  
22 day. I'm sorry. That was a little  
23 over-stated. But many, many calls that I get,  
24 that is the issue, yes.

25 Q. Is that the approach you took in

1 this case?

2 A. I think it's the right approach,  
3 yes.

4 Q. Okay. I would like to show you --  
5 by the way, I read you a little bit from this  
6 Using an Expert Witness article. You said  
7 it's very old. I really don't want to go  
8 through reading you all the statements in here  
9 onto the record of what's of interest to me.  
10 Are there things that you said in here that  
11 you no longer stand by in terms of how you do  
12 your musicological process or is it still up  
13 to date?

14 MS. ELLIS: Objection. If you  
15 want her to opine on it then she'll need  
16 a copy of it.

17 A. Thank you. It's been a long time  
18 since I wrote that so I should look at it.

19 Q. Okay. Let me just read the ones  
20 that interest me. I think that'll be quicker  
21 than you reading the whole thing and deciding  
22 whether it's up to date.

23 MS. ELLIS: Is it possible for her  
24 to have a copy in front of her as you do  
25 it?

Page 130

1 MR. MILLER: It's completely  
 2 possible except I only printed out one  
 3 because it cost me \$15 at the hotel so  
 4 --  
 5 THE WITNESS: I'm surprised my  
 6 article cost that much.  
 7 MR. MILLER: Your article was free  
 8 on the Internet but putting it on paper  
 9 cost me a lot of money.  
 10 THE WITNESS: I didn't get paid  
 11 \$15 for it.  
 12 MS. ELLIS: Can we break long  
 13 enough to make a copy for her?  
 14 MR. MILLER: I only have one with  
 15 my notes on it. So I don't have that  
 16 ability.  
 17 MS. ELLIS: I could print it from  
 18 Web site.  
 19 THE WITNESS: It's on my Web site.  
 20 MS. ELLIS: If it's on her Web  
 21 site.  
 22 MR. MILLER: All right. I don't  
 23 mind doing that on a break.  
 24 THE WITNESS: It's a three-part  
 25 article, though. Right? I don't know

Page 132

1 some statements in your report that I wasn't  
 2 really sure what you were saying about the  
 3 sheet music. So what I want to do is just go  
 4 through the various elements of similarity  
 5 that you've claimed in this case -- or you've  
 6 opined, I should say -- and ask you to just  
 7 tell me yes or no whether it's in the deposit  
 8 copy, reflected in the notation in the deposit  
 9 copy. And some of these may be obvious but  
 10 I'm just trying to make sure I understand and  
 11 there are no surprises at trial for me.  
 12 So the fact --  
 13 MS. ELLIS: Seth, just to clarify,  
 14 do you mean one or both of the lead  
 15 sheets?  
 16 MR. MILLER: In either one.  
 17 Q. I would consider -- I'll allow to  
 18 you consider "Got To Give It Up" part 1 and  
 19 part 2 as a composite copy combined for  
 20 purposes of these questions.  
 21 A. Thank you.  
 22 MS. ELLIS: Okay.  
 23 Q. Are the backup vocals that are  
 24 described as a similarity in your report  
 25 contained in the deposit copy? The harmonies

Page 131

1 which part you're reading from.  
 2 MR. MILLER: Well, you will see it  
 3 in a minute when we print it.  
 4 THE WITNESS: All right. I just  
 5 think when you print it you'll need all  
 6 three parts.  
 7 BY MR. MILLER:  
 8 Q. Let me put in front of you as  
 9 Exhibits 1755 and 1756 respectively, the two  
 10 sheet music deposit copies of "Got To Give It  
 11 Up."  
 12 (Deposition Exhibit 1755, sheet  
 13 music deposit copies of "Got To Give It  
 14 Up," marked for identification as of  
 15 this date.)  
 16 (Deposition Exhibit 1756, sheet  
 17 music deposit copies of "Got To Give It  
 18 Up," marked for identification as of  
 19 this date.)  
 20 BY MR. MILLER:  
 21 Q. I would like to go through  
 22 these -- you've seen these before and you've  
 23 paid some attention to them, right?  
 24 A. Yes.  
 25 Q. Okay. I'm a little -- there's

Page 133

1 to the lead vocals is what I mean.  
 2 A. Oh, because the backup vocal --  
 3 there's something -- what I call Theme X which  
 4 is a backup vocal.  
 5 Q. That's right. We'll get to that.  
 6 That came up with Ms. Monson yesterday.  
 7 What I mean by the backup vocals  
 8 is you said there are backup vocals to the  
 9 hook in your preliminary report. So my  
 10 question is are those backup vocals to the  
 11 hook found in the "Give" sheet music?  
 12 A. Only the harmonies that the backup  
 13 vocals were singing, but not the actual vocal  
 14 part that they sang.  
 15 Q. Oh. Show me where the harmonies  
 16 are reflected in the sheet music.  
 17 A. Okay. On page 4 of part 1 where  
 18 stave 3 means three like staff line 3 where it  
 19 says "keep on dancing," for example. See the  
 20 harmonies above it, there's a B7 and A7.  
 21 Those are chords. Those are chord indications  
 22 and the backup vocalists sing those harmonies.  
 23 Q. You're talking about on the third  
 24 stave at the double line where it says "keep  
 25 on dancing" there's an A7 chord above the A7?

Page 134

1 A. Right. But it starts before the  
 2 double line. It states with the words "keep  
 3 on."  
 4 Q. Where it says -- oh, under a B7  
 5 chord.  
 6 A. That's correct.  
 7 Q. Okay. Why -- okay.  
 8 I mean, I don't want to belabor  
 9 this point. The backup notes themselves are  
 10 not in there. In the sheet music.  
 11 A. You're correct. They are not.  
 12 Q. Right. And there's no indication  
 13 in the deposit copy that there even should be  
 14 backup vocals, right?  
 15 A. There's no indication. But the  
 16 harmonies that they sing on the recording are  
 17 these chords.  
 18 Q. Right. Those are the chords of  
 19 the song.  
 20 A. But those the harmonies they're  
 21 harmonizing with. So the content of what the  
 22 backup vocalists --  
 23 Q. Is it your position that there is  
 24 any notation in the deposit copy of the backup  
 25 vocal itself?

Page 136

1 A. I don't understand your question.  
 2 Q. Is it your position that there is  
 3 a trumpet part notated in the sheet music?  
 4 A. No. But there is -- there are  
 5 instrumental parts notated in part 2.  
 6 Q. Okay. But stick with my question.  
 7 There's no trumpet -- there's no tuba in the  
 8 sheet music, is there?  
 9 A. No.  
 10 Q. Now, someone could place play this  
 11 song and do a tuba and have it play notes in  
 12 the A7 chord, right, if they wanted to?  
 13 MS. ELLIS: Objection.  
 14 Speculation.  
 15 A. If they wanted to I guess so.  
 16 Although there is a sax line in here. I mean,  
 17 there are instrumental indications in the lead  
 18 sheet. I mean in the deposit copy.  
 19 Q. Okay. But, I mean, is it your  
 20 position that the -- if someone did that that  
 21 the tuba part would be notated in the sheet  
 22 music because there's an A7 chord?  
 23 A. It could be. It certainly is on  
 24 some.  
 25 Q. So your position is that because

Page 135

1 MS. ELLIS: Objection, vague.  
 2 A. Other than their harmony there is  
 3 not.  
 4 Q. Okay. And the harmony -- you're  
 5 referring to the chord symbols.  
 6 A. That's right.  
 7 Q. Okay. And the deposit copy has a  
 8 melody and it has chord symbols throughout and  
 9 it has a few other things here and there,  
 10 right?  
 11 A. Well, it has a lot of other things  
 12 here and there.  
 13 MS. ELLIS: The document speaks  
 14 for itself.  
 15 A. It does include what you said but  
 16 it has other things, too.  
 17 Q. All right. Let me think of the  
 18 simplest way to do it.  
 19 The chord pattern of "Got To Give  
 20 It Up" that's notated in the sheet music does  
 21 not contain any indication one way or the  
 22 other as to what instruments or voices should  
 23 play any notes in the song other than the  
 24 actual melody that's notated there; is that  
 25 correct?

Page 137

1 there's an A7 chord symbol in the sheet music,  
 2 any instrument that plays any notes of an A7  
 3 chord on any recording of this song, that  
 4 instrumental part is notated in the sheet  
 5 music? That's your position.  
 6 A. No. A portion of that  
 7 instrumental content is. If the instrument is  
 8 staying true to this deposit copy, then it  
 9 would be an A7 chord. It would be at least  
 10 the notes that are contained in the A7 chord.  
 11 But the instrument could change like you're  
 12 saying. It's not saying that it has to be  
 13 played on a tuba or any other instrument. But  
 14 the content of that instrument that that  
 15 instrument plays at that point if it's going  
 16 to be true to the song and going blend with  
 17 the vocal part, it will have to be an A7  
 18 content.  
 19 Q. Let me give you a different  
 20 hypothetical. I come to you. I'm an ad  
 21 agency. I've licensed a performance of "Got  
 22 To Give It Up" that contains a tuba part  
 23 playing notes from the A7 chord over the A7  
 24 bar.  
 25 A. Um-hum.

1 Q. Significant notes, you know.  
 2 Significant melody, let's say.  
 3 The Gaye family comes to you in  
 4 some alternate universe and they say "Our  
 5 composition copyright is in this deposit  
 6 copy." And so, you know, there's no dispute.  
 7 You understand that this deposit copy is what  
 8 they own. The ad agency says to you "I have a  
 9 license from the Gayes to do that to 'Give It  
 10 Up.' Do I need a separate license for this  
 11 improvised very important tube part because  
 12 it's playing an A7 chord?"  
 13 MS. ELLIS: Objection. Incomplete  
 14 hypothetical.  
 15 A. I don't know.  
 16 Q. You can't answer that.  
 17 A. No. I don't understand it.  
 18 Q. Okay. Is the Theme X in the  
 19 deposit copy?  
 20 A. It's there but it's not identical  
 21 to the way it is in the recording.  
 22 Q. And are you referring to the  
 23 "fancy lady" phrase in "Got To Give It Up,"  
 24 part 2?  
 25 A. Right. And all the repetitions of

1 "fancy lady." And also notice -- and this is  
 2 not in my report -- but if you look down four  
 3 staves you'll see "dancing baby." And it's  
 4 descending also. But, yeah, "fancy lady" is  
 5 the closest sort of --  
 6 Q. Well, are you saying that there's  
 7 some connection between the pitches of  
 8 "dancing baby" and the Theme X pitches?  
 9 MS. ELLIS: Objection. Misstates  
 10 the testimony.  
 11 A. Yeah. I need to look at my Theme  
 12 X. May I do that? It's in my report.  
 13 Q. Sure. Your preliminary report is  
 14 in front of you.  
 15 (Document review.)  
 16 A. No. It's the closest to "fancy  
 17 lady."  
 18 Q. Yeah, okay. And "fancy lady" is  
 19 not the same pitches as the Theme X pitch,  
 20 correct?  
 21 A. No, it isn't. But on the  
 22 recording the harmonization to that is closer.  
 23 Q. Okay. But what's reflected in the  
 24 deposit copy is not the same pitches as the  
 25 Theme X in your report, right?

1 A. That's correct.  
 2 Q. And it's not even the same rhythm  
 3 or melodic contour as Theme X in your report,  
 4 right?  
 5 MS. ELLIS: Objection. The  
 6 documents speak for themselves.  
 7 A. The first two notes are the same  
 8 rhythm but the second two notes are not in the  
 9 deposit copy.  
 10 Q. Right. And the contours go the  
 11 opposite direction, right?  
 12 MS. ELLIS: Object. The documents  
 13 speak for themselves.  
 14 A. Yeah, they do.  
 15 Q. Are the "doo-wop" -- you know, the  
 16 "bop, bop, doo-wop" thing, is that in the -- I  
 17 guess I should have a real name for that,  
 18 whatever it is, "hop, fop, fop, doo-wop," is  
 19 that -- is the "doo-wop" vocals what calling  
 20 that -- are the "doo-wop" vocals in the "Give"  
 21 deposit copy?  
 22 A. Could you give me a minute,  
 23 please?  
 24 Q. Sure.  
 25 THE VIDEOGRAPHER: One minute.

1 Q. You got one minute exactly.  
 2 (Document review.)  
 3 A. No. They're not here.  
 4 Q. Okay. Is the hi-hat -- well,  
 5 actually, I forgot about that. Is the base in  
 6 the deposit copy other than in the first eight  
 7 measures with the indication base simile  
 8 meaning to play in a similar style throughout  
 9 the song?  
 10 A. Is there a question?  
 11 Q. Yeah. Is it in the deposit copy  
 12 other than what's reflected in the first eight  
 13 measures including the words "base simile"?  
 14 A. Base simile means to continue that  
 15 way throughout until it stops saying base  
 16 simile.  
 17 Q. I understand what base simile  
 18 means --  
 19 THE VIDEOGRAPHER: Sorry to  
 20 interrupt but we're out of tape.  
 21 MR. MILLER: Okay.  
 22 THE VIDEOGRAPHER: The time is  
 23 3:11 p.m. We're going off the record.  
 24 (Videotape changed.)  
 25 THE VIDEOGRAPHER: The time is

1 3:13 p.m. We're back on the record.  
 2 Video number three.  
 3 BY MR. MILLER:  
 4 Q. In the first eight measures of  
 5 "Give" part 1 deposit copy there is a notated  
 6 base intro that ends with the words "base  
 7 simile."  
 8 Do you see that?  
 9 A. Yes.  
 10 Q. Is there any notation in that  
 11 deposit copy that indicates any base in "Got  
 12 To Give It Up" other than those first eight  
 13 measures?  
 14 A. Well, base simile means that you  
 15 keep doing that.  
 16 Q. Well, I'm asking -- listen, what  
 17 I'm trying to get from you is clarity as to  
 18 what you contend is in the sheet music  
 19 deposit. Base simile means continue in a  
 20 similar fashion, right?  
 21 A. Yes.  
 22 Q. Okay. I acknowledge it says base  
 23 simile right there after the eight measures of  
 24 annotated base music. Is there any notation  
 25 anywhere else in the "Give" deposit copy that

1 indicates a base part?  
 2 A. No. It's not necessary.  
 3 Q. So that's the only notation of it  
 4 in the deposit copy, right?  
 5 A. As I say, base simile is a clear  
 6 instruction that it's -- it's as if it were  
 7 notated. If there were more than one stave in  
 8 this particular format it would include the  
 9 baseline.  
 10 Q. I only have the actual music here  
 11 and they chose, rather than to notate the base  
 12 throughout the song, to use the words "base  
 13 simile" to indicate continue playing in a  
 14 similar manner, right?  
 15 A. That's what that means.  
 16 Q. That's what that means. There are  
 17 no other notations in the entire deposit copy  
 18 of what the base should play and other than  
 19 what's contained in the first two staves of  
 20 the deposit copy, right?  
 21 MS. ELLIS: Asked and answered,  
 22 Seth.  
 23 Q. Is that right?  
 24 A. A base player would keep playing  
 25 it. That's what a base player would

1 understand this score to mean.  
 2 Q. Okay. And on the third stave  
 3 where it says A7, there is no indication in  
 4 that chord symbol of what any instrument  
 5 should play.  
 6 A. No. The A7 is meant for other  
 7 instruments. It has no importance to the  
 8 vocalist.  
 9 Q. What instrument does the A7 notate  
 10 there?  
 11 A. Any instruments playing should be  
 12 playing in the harmony of A7.  
 13 Q. What instrumentation has the  
 14 composer directed to be played based on that  
 15 A7?  
 16 MS. ELLIS: Asked and answered.  
 17 A. It's whatever instruments are  
 18 playing. I mean, on the recording, of course,  
 19 it's the keyboard. But I don't know what else  
 20 to say. That's the harmony they are expected  
 21 to play there.  
 22 Q. Right. The chord A7 simply means  
 23 that whoever is playing this song on whatever  
 24 instrument they choose to play it on at this  
 25 point in the song, they should play something

1 consistent with an A7 chord, right?  
 2 MS. ELLIS: Asked and answered.  
 3 A. Yeah. I mean, I'm sure that the  
 4 composer thought of certain instruments. I  
 5 mean, it's -- I mean, if you were to buy this  
 6 as a piece of sheet music it would say with  
 7 guitar chords or something like that. Or  
 8 piano chords. Those are the accompanying  
 9 instruments and that was the harmony that they  
 10 were directed to play.  
 11 Q. Is the hi-hat in the sheet music?  
 12 A. The hi-hat is a single -- is a  
 13 single -- per measure is a single beat which  
 14 is on the second half of the 4, B4, and there  
 15 are many indications within what's here, not  
 16 as hi-hats, but there are other precursors  
 17 that duplicate that in the baseline, for  
 18 example, and other places where the second  
 19 half of the fourth beat is struck.  
 20 Q. Can you answer yes or no to this  
 21 question? You don't have to. I'm not telling  
 22 you you must. I'm just saying can you answer  
 23 yes or no to the question is the hi-hat  
 24 notated in the sheet music in front of you in  
 25 the deposit copy?

1 MS. ELLIS: Asked and answered.  
 2 A. I'm sorry. But I lost my -- half  
 3 of my glasses on the way here today so I'm a  
 4 little --  
 5 Q. Take your time.  
 6 (Document review.)  
 7 A. No. There's no indication of  
 8 hi-hat.  
 9 Q. Okay. Is there any percussion  
 10 indicated in the "Give" sheet music?  
 11 A. Could you repeat that, please?  
 12 Q. Actually, let me not. I've got a  
 13 problem with the word "percussion."  
 14 Is the tom-tom part in "Give It  
 15 Up" notated anywhere in the deposit copy?  
 16 A. No.  
 17 Q. Is the cow bell indicated anywhere  
 18 in the deposit copy?  
 19 A. The part for the cow bell?  
 20 Q. The cow bell.  
 21 A. No.  
 22 Q. Do you make a distinction between  
 23 the cow bell and the cow bell part?  
 24 A. The reason I asked that is because  
 25 I realize that the tom-tom actually shadows

1 the base rhythms. Actually, it's the same as  
 2 the base rhythm in "Blurred Lines." But I  
 3 think it's also quite close to the base rhythm  
 4 here in "Got To Give It Up." So there is no  
 5 tom-tom indicated but I think the rhythm's  
 6 here.  
 7 Q. Okay.  
 8 A. Because the tom-tom doesn't have a  
 9 pitch.  
 10 Q. But the tom-tom is not in the  
 11 deposit copy.  
 12 A. It doesn't say tom-tom on the face  
 13 of the deposit copy.  
 14 Q. Does the deposit copy have any  
 15 notation for a tom-tom?  
 16 MS. ELLIS: Asked and answered.  
 17 Q. It has not been answered.  
 18 Does the deposit copy have any  
 19 notation for a tom-tom?  
 20 A. I think the rhythms of the tom-tom  
 21 are indicated here. And the tom-tom shadows  
 22 the rhythms that are already here and has no  
 23 pitch by itself.  
 24 Q. Is it your opinion that the  
 25 deposit copy contains a tom-tom?

1 MS. ELLIS: Seth, she's given you  
 2 her answer.  
 3 MR. MILLER: She has not given me  
 4 an answer. She has evaded the answer.  
 5 I don't have the judge to call to  
 6 instruct her to answer.  
 7 A. I would say that the tom-tom  
 8 content is shown here, but the tom-tom in  
 9 terms of indication of the instrument itself  
 10 is not here.  
 11 Q. So when you're -- when the Gayes'  
 12 attorneys argue to the judge that the tom-tom  
 13 and the hi-hat and the keyboard and all those  
 14 parts are contained in the deposit copy, do  
 15 you opine that the composition in the deposit  
 16 copy contains a tom-tom?  
 17 A. No.  
 18 Q. Do you opine that the composition  
 19 in the deposit copy contains a cow bell?  
 20 A. No.  
 21 Q. Do you opine that the composition  
 22 in the deposit copy contains backup vocals?  
 23 A. Well, actually, it does contain  
 24 some backup vocals.  
 25 Q. Does it contain the backup vocals

1 for the hook?  
 2 A. No. Not for the hook.  
 3 Q. Okay. Where does it contain  
 4 backup vocals, by the way? You know what, I  
 5 don't care. I'll find it.  
 6 Does the deposit copy for "Give"  
 7 contain the keyboard part?  
 8 A. Again, it contains the content of  
 9 the keyboard part which is the chords. The  
 10 keyboard part consists of repeated chords on  
 11 the off beats that then shift to another  
 12 repeated chord, et cetera. And it re -- and  
 13 those chords comprise the harmonies that are  
 14 shown here. So if the keyboard were played  
 15 and played anything other than the harmonies  
 16 shown here it would clash with the song  
 17 embodied here.  
 18 Q. Are the chords played on the  
 19 keyboard in the Marvin Gaye sound recording of  
 20 "Got To Give It Up" notated anywhere in the  
 21 deposit copy?  
 22 MS. ELLIS: Asked and answered.  
 23 Q. It's a different question and you  
 24 may answer.  
 25 A. There are two aspects of the

Page 150

1 keyboard. One is the keyboard's content,  
 2 which is the harmonies that it's playing. And  
 3 the other part is the rhythms that those  
 4 harmonies are playing in. The harmonies are  
 5 indicated here.  
 6 Q. Where in the deposit copy is the  
 7 voicing flat 7, third, fifth, with the fifth  
 8 on top, notated in the deposit copy?  
 9 A. Are you just -- that's called  
 10 voicing in terms of a chord.  
 11 Q. That is correct.  
 12 A. If -- it has to conform to the  
 13 chord indications in order for it to be  
 14 consonant with the vocal part.  
 15 Q. Look, you're very experienced. I  
 16 don't want to, you know, tire you out. I'm  
 17 just asking you if the voicing of the Marvin  
 18 Gaye keyboard part is reflected in the deposit  
 19 copy anywhere.  
 20 A. You're divorcing the voicing from  
 21 the harmony?  
 22 Q. That was my question.  
 23 A. No. The voicing's not shown  
 24 there.  
 25 Q. And the rhythm of the keyboard

Page 152

1 place.  
 2 Q. Well, let's stop there for a  
 3 minute. Is it your opinion that the "let's  
 4 dance, let's shout, gettin' funky's what it's  
 5 all about" is intended to be voiced to the  
 6 rhythm indicated in the X -- X marks that are  
 7 on the top line of the staff directly above  
 8 it?  
 9 A. Right. And it sounds background.  
 10 Q. Okay. So that's a chanted or  
 11 spoken series of words to those rhythms as you  
 12 understand it?  
 13 A. Right. And then it says "ad lib"  
 14 at the end of that, meaning sort of keep on  
 15 going that way. I guess ad lib -- or just  
 16 improvise there I guess is another meaning for  
 17 ad lib.  
 18 Q. You're referring to "ad lib - long  
 19 fade"?  
 20 A. Right.  
 21 Q. Meaning the ending of "Got To Give  
 22 It Up," part 2, the 11-minute version on the  
 23 recording, correct?  
 24 A. Yes.  
 25 Q. Okay. Other than that -- and you

Page 151

1 part on the Marvin Gaye sound recording is not  
 2 reflected anywhere in the deposit copy, is it?  
 3 A. No.  
 4 Q. Okay. And, therefore, the only --  
 5 actually, forget that.  
 6 Is the -- so is the crowd noise on  
 7 the Marvin Gaye -- the party noise as you  
 8 called it -- sound recording notated anywhere  
 9 in the deposit copy?  
 10 A. I think I did see some in part 2.  
 11 It will take me a minute to find it.  
 12 Q. Okay.  
 13 (Document review.)  
 14 A. Yeah. I'm sorry. I'm a little --  
 15 my eyeglasses are not serving me right now  
 16 because, as I say, I lost a lens on my way  
 17 here.  
 18 But if you look on part 2 at the  
 19 bottom on page 2 -- it's a single page but the  
 20 second part of the single page where it says  
 21 page 2.  
 22 Q. Yeah.  
 23 A. It says "let's dance, let's shout,  
 24 gettin' funky," et cetera. And I think there  
 25 were some others like that. But that's one

Page 153

1 believe that's the same party noise that's on  
 2 the first four minutes of the "Give" sounding  
 3 recording?  
 4 A. I don't know.  
 5 Q. Okay.  
 6 A. I didn't focus on that.  
 7 Q. And then if you look on -- I'm  
 8 just going to help you out because I had this  
 9 with Ms. Monson -- well, we don't even have to  
 10 search for it.  
 11 Somewhere within "Give" part 1  
 12 there's a notation of "we heard that;" is that  
 13 correct?  
 14 A. Yep. There is. I'd have to find  
 15 it.  
 16 MS. ELLIS: I believe it's page 3.  
 17 A. Um-hum.  
 18 Q. Okay. So other than the "we heard  
 19 that" and the other couple of phrases we  
 20 talked about a second ago, is there any other  
 21 notation of the party noise in the deposit  
 22 copy?  
 23 A. No. I don't think so.  
 24 Q. Is the falsetto vocal used by  
 25 Marvin Gaye on the sound recording notated in

Page 154

1 any fashion in the sound recording -- in the  
2 deposit copy?  
3 A. In the selection of the use of the  
4 falsetto voice?  
5 Q. Yes.  
6 A. No. It's not.  
7 Q. Is the vocal "woo" that you  
8 referred to as a musical fingerprint, is that  
9 notated in the deposit copy?  
10 A. No.  
11 Q. Are the hand claps on 2 and 4 or  
12 on 2 and 4 and 4N that you talk about in your  
13 report notated on the deposit copy?  
14 A. No.  
15 Q. Is the descending base that is  
16 your musical example 6C in your preliminary  
17 report notated in the deposit copy?  
18 A. Yes.  
19 Q. And show me where that's notated.  
20 A. It's in bar 4. And 7 in part 1.  
21 Q. Oh, so in bar 4 you're talking  
22 about in the second half of the measure where  
23 it goes from a D to a C natural to a G  
24 natural; is that correct?  
25 A. That's right.

Page 156

1 don't know about the positioning of the rhythm  
2 without researching it.  
3 Q. Well, okay. You're aware that a  
4 descending base line is a commonplace device  
5 or a gesture for a base to make in popular  
6 music, right?  
7 MS. ELLIS: Objection, vague.  
8 A. Yes. It is by itself. But these  
9 are very alike in a lot of specific ways.  
10 But, yes, it is by itself.  
11 Q. Okay. And you're aware that it's  
12 common to use a descending base line at the  
13 end of a phrase to transition to the first  
14 chord of the next phrase, right?  
15 MS. ELLIS: Objection, vague.  
16 A. Again, I haven't done the research  
17 but I would say that there is -- there are  
18 examples in the literature, yes.  
19 Q. Okay. And you're aware that it's  
20 common in popular music to descend from the  
21 fifth note of the chord down to the root of  
22 the next chord, right?  
23 MS. ELLIS: Objection, vague.  
24 Assumes facts not in evidence.  
25 Q. Let me make it easier.

Page 155

1 Q. And in bar 7 you're talking about  
2 where it goes from a D to a C natural to an A,  
3 right?  
4 A. Right. The G -- oh, excuse me.  
5 The G natural goes up to an A in bar 5. I  
6 just want to point that out. That's part of  
7 that same melodic line.  
8 Q. And you still consider it to be an  
9 descending base line even though the last  
10 pitch actually ascends to the next measure.  
11 A. Well, yes. Because that ended on  
12 the tonic of the scale. So it's not  
13 descending right that moment but it's part of  
14 that gesture.  
15 Q. Okay. And I asked you this in  
16 your deposition and as I recall you -- well, I  
17 won't summarize your deposition. But let me  
18 ask you again, is that a very commonplace use  
19 of a base to descend down to the root note of  
20 the chord in the next measure ending on the  
21 first beat of the next measure?  
22 A. I think when you become that  
23 specific about the rhythms, I don't know  
24 without researching it. A descending base in  
25 itself has been seen in other literature but I

Page 157

1 A. Your question isn't accurate.  
2 Q. Isn't it true that it's common for  
3 the base to play both the root and the fifth  
4 frequently in a base line? That's a common  
5 use of a base?  
6 MS. ELLIS: Objection, vague.  
7 Assumes facts not in evidence.  
8 A. You mean without descending?  
9 Just --  
10 Q. Yeah.  
11 A. Okay. Yes.  
12 Q. Okay. And so as a result of that  
13 being common, it's quite frequent for a base  
14 player in popular music to go from the fifth,  
15 somewhere in the middle of the measure, and  
16 walk on down to the root in the next measure;  
17 that's common, right?  
18 MS. ELLIS: Objection, vague.  
19 Assumes facts not in evidence.  
20 A. It's not the root. It's the  
21 tonic. The root means the root of a chord.  
22 And it doesn't mean the tonic. I think you  
23 mean the tonic.  
24 Q. I believe they are identical in  
25 this case. Is the root of an A7 an A?

Page 158

1 A. Yes. Oh, I see. You're talking  
2 about it that way. Okay. I misunderstood.  
3 Q. Okay.  
4 All right. So your position,  
5 without belaboring it, is that even though the  
6 descending base figure in your example 6C has  
7 somewhat different pitches and rhythms than  
8 what's notated in the deposit copy. It's all  
9 the same thing for purposes of your analysis?  
10 A. I think I found three out of the  
11 four notes the same. I think it's definitely  
12 closely related.  
13 Q. It didn't change your analysis  
14 that what's in the deposit copy is different  
15 from what you had notated in your example 6C?  
16 A. It's not different enough to  
17 change my analysis. It's not material.  
18 Q. Okay.  
19 MS. ELLIS: Seth, before you go on  
20 can we take a break?  
21 MR. MILLER: I'm trying to wrap  
22 this up and I don't really like taking  
23 breaks anymore because you guys  
24 disappear for a long time. We're trying  
25 to get out of here, too. We have a

Page 160

1 Q. I am not --  
2 A. But, I'm not -- well, I'll just  
3 finish.  
4 But as far R&B, I mean, a lot of  
5 the cases over the years that I've been asked  
6 to be involved with do involve music of that  
7 era.  
8 Q. Other than whatever cases you've  
9 worked on over the years involving music of  
10 the same style as these two songs, have you  
11 had any formal training of any sort  
12 specifically in that style?  
13 A. You mean did I take courses in R&B  
14 music? Is that what --  
15 Q. Exactly.  
16 A. No.  
17 Q. Okay. Have you ever -- are you a  
18 musician? Do you play?  
19 A. Um-hum.  
20 Q. Have you ever played in any group  
21 that plays that style of music?  
22 A. Oh, sure. Yeah.  
23 Q. What sorts of groups did you play  
24 in?  
25 A. Well, I mean, I changed to become,

Page 159

1 plane issue, too. So how long a break  
2 do you need?  
3 MS. ELLIS: Five minutes. Just  
4 enough to grab some coffee and refresh.  
5 MR. MILLER: Okay.  
6 THE VIDEOGRAPHER: The time is  
7 3:32 p.m. We're going off the record.  
8 (Recess taken.)  
9 THE VIDEOGRAPHER: The time is  
10 3:41 p.m. We're back on the record.  
11 BY MR. MILLER:  
12 Q. Can you tell me what experience  
13 you have specifically in whatever style of  
14 music you would consider "Give" and "Blurred  
15 Lines" to be, whatever the labels, R&B or soul  
16 or whatever you want to call it. What  
17 specific expertise -- not expertise -- what  
18 specific experience and training do you have  
19 in that type of music?  
20 A. My training really applies -- the  
21 kind of music I analyze is really immaterial.  
22 I've analyzed and opined literally from all  
23 over the world from all different cultures.  
24 If it's got tones and pitches, I'm there. I'm  
25 capable --

Page 161

1 so to speak, a musicologist through my  
2 graduate years and really didn't continue  
3 actively performing. But before then, yes, I  
4 played all kinds of popular music and played  
5 on the radio a great deal, actually, as a  
6 child. And as a young adult.  
7 Q. Did you play in bands that played  
8 R&B and soul music similar to the style we  
9 have in this case?  
10 A. I did. I mean, I wasn't in an  
11 official band but part of just my musical  
12 activities did involve that, yeah. As part of  
13 my, you know, musical training and background.  
14 Q. Can you just tell me what that  
15 was. You played in a group in college or --  
16 A. Yeah, in college.  
17 Q. Okay. So over the years when you  
18 were younger you, from time to time, played in  
19 bands that did this kind of music?  
20 A. I was -- I wouldn't call it a band  
21 but I accompanied singers who were singing  
22 this kind of music or I was in a group. I  
23 wasn't in a fixed band. But it was just --  
24 Q. Did you ever -- I'm sorry.  
25 A. I'm sorry. It was just an

Page 166

1 "woo" in "Blurred Lines." I mean, it's a  
2 repeated song. Anything that's similar is  
3 similar often.  
4 Q. Well, I guess what I'm getting  
5 at -- I mean, the hi-hat part in "Got To Give  
6 It Up" does not repeat the end of 4 in that  
7 same, you know, repeated way throughout the  
8 song.  
9 So why is that so unusual that  
10 somewhere in "Got To Give It Up" there's one  
11 or two hi-hats on the end of 4? How do you  
12 pick that out as being so unusual?  
13 A. It's unusual that it's in "Blurred  
14 Lines." It's not unusual in "Got To Give It  
15 Up." That exact quality was found in "Blurred  
16 Lines" also.  
17 Q. Having an open high on the end of  
18 4.  
19 A. Yeah. It's such a specific  
20 location.  
21 Q. Okay.  
22 A. And, you know, "Blurred Lines" --  
23 I mean, excuse me -- "Got To Give It Up" is a  
24 much more varied and frankly more  
25 sophisticated song. It's got a lot more

Page 168

1 musicological practice, if there is one, as to  
2 using mashups in this kind of an analysis?  
3 A. You know, I don't -- it takes a  
4 while for something to become a so-called  
5 practice. Mashups are a pretty new form. I  
6 can't answer that.  
7 Q. In the other cases where you did  
8 mashups were you taking a portion of one song  
9 and putting it on the allegedly similar  
10 portion of the other song; or were you doing  
11 what you did here where you take a portion of  
12 one song and put it on a different portion of  
13 another song?  
14 A. I answered that earlier.  
15 Q. You asked me that earlier?  
16 A. No. I answered you earlier with  
17 that question.  
18 Q. Well, would you do me the favor of  
19 answering me again.  
20 A. This is the first time I've done  
21 an official mashup in the present context of  
22 that word. But I've done what you would  
23 consider sort of a precursor to mashups in  
24 superimposing music either by tape or CDs with  
25 one another to illustrate something.

Page 167

1 variation. It's not repetitive in the same  
2 way as "Blurred Lines." It's not as heavily  
3 structured and as predictable.  
4 Q. Have you ever used mashups in any  
5 opinion you've done before this case?  
6 A. I've used the equivalent of  
7 mashups, which is superimposing music upon  
8 other music to show similarities. But I've  
9 never produced a mashup before for a case, no.  
10 Q. When you did it in other cases  
11 were you taking a sound recording of a portion  
12 of one song and playing it on a sound  
13 recording of the other song.  
14 A. Yes. I've done that. But I've  
15 also visually superimposed them, which is  
16 another form of that.  
17 Q. Okay. And in the prior cases --  
18 well, when you visually superimposed them, do  
19 you take the same parts from each song and  
20 superimpose them visually?  
21 A. It depends on what I'm trying to  
22 demonstrate. But I've done both combining  
23 parts and superimposing the same -- the  
24 related parts.  
25 Q. And what is the standard

Page 169

1 Q. Okay. Have you ever done  
2 something where you were superimposing pieces  
3 of music by tape or CD where you took a vocal  
4 part from one song and superimposed it over  
5 the sound recording of the instrumental part  
6 of the other song?  
7 A. I haven't but I've been in cases  
8 where that's been done.  
9 Q. It's been done by you?  
10 A. No. I mean, I wasn't the person  
11 who generated it. But, yes, I've seen it  
12 done.  
13 Q. Was it done under your direction  
14 as part of your report?  
15 A. No. I don't think so.  
16 Q. Okay. So this case is the first  
17 time it's ever been done under your direction  
18 to create an audio mashup like this, right?  
19 A. Well, as I say, because of the  
20 technology changing, I've done super  
21 impositions before. But not an audio level.  
22 More on a visual level.  
23 Q. And by visual level you mean in a  
24 transcription.  
25 A. Right. Showing the notes are the

Page 170

1 same.  
 2 Q. So this is the first time you've  
 3 done it an audio format; is that correct?  
 4 A. No. It's the first time that I've  
 5 superimposed it an audio format. I've done  
 6 lots of audio exhibits in earlier cases where  
 7 I'm showing similar sections superimposed.  
 8 Q. Okay.  
 9 A. But not in the same way that this  
 10 has been done.  
 11 Q. Now, the three mashups here,  
 12 combine -- two of them combine the vocals of  
 13 "Got To Give It Up" over "Blurred Lines," one  
 14 for about a minute and a half, and the other  
 15 for a shorter period, like 20 seconds or  
 16 something, right?  
 17 A. I remember that there's one that's  
 18 a minute and 20 seconds. And I don't remember  
 19 how short the one you're referring to is.  
 20 Q. It's 16 bars, though, so it's  
 21 short, right?  
 22 A. I don't remember the length. I'd  
 23 have to look at my report.  
 24 Q. Okay. I'm not worried about the  
 25 length. You remember it was a short one as

Page 172

1 Q. I was just trying to set a  
 2 framework.  
 3 A. All right.  
 4 Q. All right. What is it that you  
 5 believe those mashups show, if anything, with  
 6 respect to similarity of the two songs?  
 7 MS. ELLIS: Objection, vague.  
 8 A. Sorry. I'm getting distracted.  
 9 MS. ELLIS: Actually, could she  
 10 wait to answer until Mr. King is done?  
 11 MR. MILLER: Sure.  
 12 Q. What is it that you believe the  
 13 mashups show, if anything, in terms of  
 14 similarity of the two songs?  
 15 A. It shows that they blend together  
 16 sonically and that they're very congruent.  
 17 And it's used as a -- really I see it as sort  
 18 of a teaching mechanism to show that.  
 19 Q. What does -- let's just say the  
 20 mashup of the "Blurred Lines" vocal over the  
 21 "Give It Up" instrumental. Let's assume we're  
 22 talking about that one. Let's actually talk  
 23 about that one.  
 24 A. Um-hum.  
 25 Q. In that mashup, what elements of

Page 171

1 opposed to a longer one?  
 2 A. I don't remember that.  
 3 Q. Okay.  
 4 A. It's been a while.  
 5 Q. It has been at least a week or  
 6 two.  
 7 And then the third mashup is the  
 8 opposite. It's the vocal of "Blurred Lines"  
 9 over the instrumentals of "Got To Give It Up,"  
 10 right?  
 11 A. I think that's right.  
 12 Q. Okay. And that one --  
 13 A. But if I could look at my report I  
 14 spelled it out in a chart and I could look at  
 15 the chart.  
 16 Q. If you honestly don't remember  
 17 things well enough to --  
 18 A. Well, I don't remember the order  
 19 so I'd have to look at my chart.  
 20 Q. I'm not going to be talking about  
 21 them in any specificity --  
 22 A. Oh, all right.  
 23 Q. You're not going to need which one  
 24 is which and how long they are.  
 25 A. Okay.

Page 173

1 "Blurred Lines" does it show, if any, are  
 2 similar to elements in "Give It Up"?  
 3 A. I'd like to look at my section in  
 4 my report so I can answer you accurately.  
 5 Q. Yeah, go ahead.  
 6 A. Is that okay?  
 7 Q. Go ahead.  
 8 A. Can you tell me which page you're  
 9 on, please?  
 10 Q. I'm not on any page. I'm not  
 11 looking at your report. I'm just going  
 12 loosely on memory.  
 13 A. Oh, okay. Just a minute then.  
 14 Okay. It must have been in my  
 15 declaration.  
 16 Q. I imagine it's in your -- I  
 17 believe there's a section in your 10/31 report  
 18 towards the end.  
 19 A. I had a chart, though. I thought  
 20 that was in my declaration.  
 21 Q. There is no chart of mashups that  
 22 I'm aware of. You mean a chart just  
 23 identifying what was in it?  
 24 A. Each example, yeah. Here it is.  
 25 Q. Where you are?

Page 174

1 A. I'm on page 37.  
2 Q. Oh, I see. Okay. So that  
3 portion. All right. So --  
4 A. Okay. Now I can answer you  
5 better.  
6 Q. All right. So the question was  
7 what does the mashup example number 1, which  
8 you have in front of you, which has vocals of  
9 "Blurred Lines" over instrumentals of "Got To  
10 Give It Up," what does that show as to any  
11 similarities between elements of "Blurred  
12 Lines" and elements of "Got To Give It Up"?  
13 A. Well, the idea --  
14 MS. ELLIS: Objection.  
15 A. The idea of this was -- so  
16 similarity 6, 7 and 8 on the chart, examples  
17 of the one referred to the base, the keyboard,  
18 and some of the other instrumentation that is  
19 in the accompany section --  
20 Q. Okay.  
21 A. -- of "Got To Give It Up." And  
22 that has an ongoing harmony and phrasing and  
23 all as it continues for I believe it was one  
24 minute and 20 seconds.  
25 And then the part that blending

Page 176

1 Q. And similarity 1 of "Blurred  
2 Lines" is the signature phrase of "Blurred  
3 Lines."  
4 A. That's right, um-hum.  
5 Q. Which is claimed to be similar to  
6 the signature phrase in "Got To Give It Up,"  
7 right?  
8 A. Yes.  
9 Q. Okay. How does audio example  
10 number 1 show that a signature phrase in  
11 "Blurred" lines has any similarity, meaningful  
12 similarity, to the signature phrase in "Got To  
13 Give It Up"?  
14 MS. ELLIS: Objection and vague.  
15 A. Because it -- it does because it  
16 would not blend with the instrumental portion  
17 of "Got To Give It Up" if it weren't similar.  
18 Q. So is it your testimony that if I  
19 took a melody and put it on "Got To Give It  
20 Up" in the same two-measure, four-measure  
21 phrasing -- actually, strike that.  
22 Is it your testimony because the  
23 vocal line in "Blurred Lines" fits over the  
24 "Got To Give It Up" instrumental track, it  
25 necessarily has notes and rhythms in common

Page 175

1 with it in "Blurred Lines" is the vocal parts.  
2 The signature phrase, the hook, et cetera.  
3 The verse parts. And the backup hooks.  
4 And the idea is that they blend  
5 very beautifully and what you'd consider  
6 consonantly, meaning there wasn't a lot of  
7 dissonance to them. And I don't think they  
8 would -- I'm sure they wouldn't blend so well  
9 unless they were quite similar to one another  
10 so -- because they wouldn't mesh like that.  
11 Q. Unless what were quite similar to  
12 each other?  
13 A. The two songs. So you were to  
14 take the vocal lines that were with written  
15 for "Got To Give It Up" instead of from  
16 "Blurred Lines" it, of course, meshed because  
17 that was a single song, but instead replace it  
18 with the vocal lines from "Blurred Lines," it  
19 meshes so well with "Got To Give It Up" that  
20 it demonstrates that in a way they're  
21 interchangeable.  
22 Q. Similarity number 1 is in example  
23 number 1. I'm looking on page 37, right?  
24 Similarity number 1 of "Blurred Lines," right?  
25 A. Yes.

Page 177

1 with the notes and rhythms in the signature  
2 phrase of "Give"?  
3 A. Well, you have to realize that  
4 it's not just the signature phrase. It's the  
5 signature phrase, the hook, et cetera. In  
6 "Blurred Lines" it's five of the similarities  
7 in a row.  
8 Q. I see that here. I'm starting  
9 with similarity 1.  
10 A. Okay.  
11 Q. And I'm asking you why is it that  
12 your audio example tends to show, one way or  
13 the other, that the sequence of notes and  
14 rhythms that constitutes the signature phrase  
15 of "Blurred Lines" is similar in any  
16 meaningful way to the sequence of notes and  
17 rhythms that make up the signature phrase in  
18 "Got To Give It Up"?  
19 MS. ELLIS: Objection, vague.  
20 A. Only because of the constant. The  
21 constant in this case is the instrumental  
22 accompaniment that would normally accompany  
23 the same song works very well with the other  
24 song.  
25 Q. Is it your opinion, as a

musicologist, as you sit here today, that because the melody contained in similarity number 1 in "Blurred Lines," meaning the signature phrase, because that fits in your opinion relatively consonantly over the instrumental track of "Got To Give It Up," therefore, it is necessarily more likely than not that the notes of that signature phrase are substantially similar to the notes of the signature phrase in "Got To Give It Up"?

A. You're looking at it in an isolated way. It's not --

Q. That's correct.

A. Well, it's not a question that -- I can't answer it in that isolated way because that's not how this was designed.

Q. Well, in that isolated way it doesn't show that, right?

A. No, that's not true. It just wouldn't show it enough to persuade me that the songs are substantially similar alone.

Q. Because it doesn't show you that any notes are the same.

A. No. It would be too short.

Q. It would be too short?

A. Yeah. You need consecutive time to pass where this coincides to understand that.

Q. Suppose I create a recording where I play a -- well, I can't do that. Suppose I get a saxophone player to come in -- sorry, I didn't mean to make you lose your professional demeanor.

A. Excuse me.

Q. I get a saxophone player to come in and improvise a sax line over the instrumental track to "Got To Give It Up" and I tell him just whatever you do -- well, I just tell him to improvise a sax line over "Got To Give It Up." So plays a minute and 20 seconds' worth of tooting on his sax over o the chords of "Got To Give It Up."

Does that sax line which fits beautifully with the instrumental track of "Got To Give It Up" necessarily copy any notes of the signature phrase in "Got To Give It Up"?

MS. ELLIS: Incomplete hypothetical and vague.

A. There are a lot of factors that

would have to be in play. It's not just the chords. You could do that easily with just chords. But I'm talking about at least three -- actually a multiple --

Q. Wait, wait, wait. Let me stop you because you didn't hear my hypothetical.

MS. ELLIS: She needs to finish her answer, Seth.

Q. All right. Finish answer and then tell you why you didn't understand the hypothetical.

A. In the instrumental track, for example, of "Got To Give It Up" you're talking about a lot of simultaneous material going at once. It's not just chords.

Sure, I mean, in a lot of music the chords -- the chord pattern is the same and you could superimpose a melody above it. You're talking about a keyboard part going, drums and other kinds of percussion going, a keyboard going, base going, et cetera, et cetera. All of that going at once and still blending with over -- with over a quarter of the length of the other song. It's over a minute.

Q. Okay.

A. That's persuasive.

Q. Okay. And let me ask you my hypothetical now so you understand it.

My hypothetical is you do the exact same mashup of audio example number 1 that you did in this case. You take your "Got To Give It Up" --

A. Excuse me. I'm sorry.

Q. You take your "Got To Give It Up" instrumental track, the same one you used in audio example number 1; bring in Mr. Sax player, tell him improvise a melody over this minute and 20 seconds over the "Got To Give It Up" instrumental track with all these complex parts that you talked about.

Does that one-minute-and-20-second improvisation of the melody by the sax player necessarily copy any series of notes in the signature phrase of "Got To Give It Up"?

MS. ELLIS: Vague. Incomplete hypothetical.

A. I don't know. I'd really have to hear it to analyze it. Certainly it would have certain notes in common. It would have

1 harmonies in common. I don't know. I'd have  
2 to hear it. You know, I can't just --

3 Q. Well, I'm not asking you -- this  
4 hasn't happened. This is a hypothetical.

5 A. I know, but I'm just saying, I  
6 really can't -- I would need to know -- hear  
7 the specific music to tell.

8 Q. Let me ask you a different way.  
9 Isn't it quite possible that the  
10 sax player could come into the studio,  
11 improvise a melody over the instrumental track  
12 of "Got To Give It Up," the very same one you  
13 used here, do a minute 20 seconds of  
14 improvising melodies, and never copy any  
15 meaningful sequence of notes of the signature  
16 phrase of "Give;" isn't that possible?

17 MS. ELLIS: Objection, vague.

18 A. Again, I don't know because I  
19 haven't heard it. But the bottom line is that  
20 this contains all these similarities. You  
21 know, if the sax -- I'd have to hear the  
22 music. It's just impossible for me to guess.

23 Q. So you can't answer my question in  
24 that sense.

25 A. No. No, I can't.

1 Q. Okay. And you can't answer my  
2 question whether the fact that a signature  
3 phrase of "Blurred Lines" fits consonantly in  
4 your opinion over the instrumental track of  
5 "Got To Give It Up" tends to be prove or  
6 disprove that the actual notes of the  
7 signature phrase are substantially similar to  
8 the actual notes of the -- ah, I screwed that  
9 up, didn't I?

10 Isn't the -- the hand claps you  
11 identified, that's commonplace; isn't that  
12 right? You're not saying that there's  
13 anything unusual about having hand claps on 2  
14 and 4 in a pop song, are you?

15 MS. ELLIS: Objection. Misstates  
16 testimony.

17 A. I haven't done prior art research  
18 in this case, but I found two hand claps A and  
19 B and they're both there in the other song.  
20 That's a little more usual than just finding  
21 one pattern.

22 Q. You don't have any knowledge as  
23 you sit here today one way or the other as to  
24 whether those hand clap patterns are  
25 commonplace in popular music.

1 A. I'm sorry. I didn't hear the last  
2 part.

3 Q. Do you have any knowledge as you  
4 sit here today as to whether those hand clap  
5 patterns are commonplace in popular music?

6 MS. ELLIS: Objection, vague.

7 A. No. I'm sure hand claps on 2 and  
8 4 are somewhat common. But I would have to do  
9 more research to find out whether or not they  
10 plus a hand clip on the -- you know, a quarter  
11 note of 2 and 2/8ths on 4 combined are found  
12 in the same composition. That I don't know.

13 Q. Okay. Tell me why you believe the  
14 lyrics of the two songs are substantially  
15 similar.

16 A. I said some lyrics are  
17 substantially similar. Not every single  
18 lyric. I pointed out the ones that were.

19 Q. Okay. So it's not all the lyrics;  
20 it's only the lyrics you've actually quoted in  
21 your report; is that correct?

22 A. Thus far those are the  
23 similarities that I found.

24 Q. Okay. Tell me why you think those  
25 lyrics are similar?

1 A. Well, in some cases they're the  
2 same word. In other cases they're the same  
3 meaning.

4 Q. So which words are the same?

5 A. The same?

6 Q. Yeah.

7 A. "Up," "down," "shake," "round,"  
8 for example. I mean, I'd have to go through  
9 my report. Then there's the section  
10 "liberate" as opposed to "free." There are  
11 other things -- there's one, "you wanted" and  
12 "you wanna" something or other. They're very  
13 close. I'd have to go through my report to  
14 give you more examples.

15 Q. Can you give me a phrase -- you  
16 know, a series of more than one or two words  
17 that appears in both songs?

18 A. The four words that are in  
19 sequence are in four tiny little phrases one  
20 after another. "Up," "down," "shake,"  
21 "round." That's a lot of similarity in a row.  
22 And they're both bridges.

23 Q. Is the lyric "up," "down,"  
24 "shake," "round"?

25 A. No. There are other words in

1 between. But very -- you know,  
 2 single-syllable words in between. Very  
 3 little. I mean, that's the concept of that.  
 4 Q. Are there three words in a row in  
 5 the "Give" lyric that appear in the same  
 6 sequence in the "Blurred Lines" lyric?  
 7 A. Well, other than "hey, hey, hey"?  
 8 Q. Does "hey, hey, hey" appear in  
 9 "Give" in your opinion?  
 10 A. Yes.  
 11 Q. Those three words in a row?  
 12 A. Well, it appears at least twice in  
 13 a row and at times with some intervening  
 14 words.  
 15 Q. Okay. If they're intervening  
 16 words it's not in a row, is it?  
 17 A. I don't know. But at least twice.  
 18 Q. You'll grant me that, won't you?  
 19 Come on.  
 20 A. I think twice is more than once.  
 21 So I'd say at least twice.  
 22 Q. So you got the "hey, hey, heys."  
 23 Is there any other series of three words in a  
 24 row that you believe appears in the lyrics of  
 25 both songs?

1 A. In a row would nothing  
 2 intervening, I'd really have to look. I don't  
 3 -- I'm really not sure. There are some that  
 4 are very close.  
 5 Q. But you can't identify any as you  
 6 sit here today?  
 7 A. Not without going back over my  
 8 report.  
 9 Q. And the lyrics you've identified  
 10 in your report, at least to date, are the  
 11 similarities you've been able to find.  
 12 A. Yes.  
 13 Q. And do you have any background in  
 14 literary analysis or any kind of skill that's  
 15 relevant to analyzing story line and meaning  
 16 and so forth?  
 17 A. Oh, no. But I do have expertise  
 18 in the setting of words to music.  
 19 Q. Okay. But it says in your Web  
 20 site, if I'm remembering correctly, that if  
 21 there's a sort of story line similarity  
 22 between lyrics, you will recommend it being  
 23 sent out to a poetry expert. I don't know if  
 24 that's --  
 25 MS. ELLIS: Objection. The

1 document speaks for itself.  
 2 A. It doesn't say that on my Web site  
 3 but -- but if it's of a literary nature rather  
 4 than a musical nature, yes.  
 5 Q. Okay, fine.  
 6 So you have no training or  
 7 expertise specifically, do you, in looking at  
 8 themes and lyrics and, you know, underlying  
 9 meanings as opposed to just comparing the  
 10 words themselves?  
 11 A. No. I mean, I've opined on music  
 12 involving literary themes in opera, for  
 13 example, and many other musical forms for many  
 14 years and have been hired and accepted as an  
 15 expert in that way. But, no, I'm not a  
 16 literary expert. You're right.  
 17 Q. And you have no formal training in  
 18 that type of analysis, right?  
 19 A. Well, as I say, my training is as  
 20 it relates to music, yes.  
 21 Q. Okay.  
 22 MR. MILLER: I'm going to catch a  
 23 plane, too, unless you have questions.  
 24 MS. ELLIS: No. Can we go off the  
 25 record for a minute and a half and just

1 make sure we don't have anything?  
 2 MR. MILLER: Sure.  
 3 (Discussion held off the record.)  
 4 (Time Noted: 4:13 p.m.)  
 5  
 6  
 7  
 8  
 9  
 10  
 11  
 12  
 13  
 14  
 15  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

\_\_\_\_\_  
 JUDITH FINELL

Subscribed and sworn to before me  
 this \_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_

## General Information

<b>Court</b>	United States District Court for the Central District of California; United States District Court for the Central District of California
<b>Federal Nature of Suit</b>	Property Rights - Copyrights[820]
<b>Docket Number</b>	2:13-cv-06004