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8  
9 Attorney for Defendant  
10 Ira Isaacs  
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9 UNITED STATES DISTRICT COURT  
10 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
11

12	UNITED STATES OF AMERICA,	)	CASE NO. No. CR 07-732 GHK
13	Plaintiff,	)	
14	vs.	)	NOTICE OF MOTION FOR ORDER IN
15	IRA ISAACS,	)	LIMINE OR, IN THE ALTERNATIVE,
16	Defendant	)	FOR AN ORDER REQUIRING
17		)	TRANSLATION INTO ENGLISH OF THE
18		)	MOVIES IN QUESTION; MEMORANDUM
19		)	OF POINTS AND AUTHORITIES
20		)	DATE: February 11, 2008
21		)	TIME: 3:30 P.M.
22		)	PLACE: Courtroom 650

19 TO THE UNITED STATES OF AMERICA, PLAINTIFF AND TO THOMAS P.  
20 O'BRIEN, UNITED STATES ATTORNEY, CRAIG H. MISSAKIAN, ASSISTANT  
21 UNITED STATES ATTORNEY AND TO KENNETH WHITTED, ASSISTANT ATTORNEY  
22 GENERAL:

23 PLEASE TAKE NOTICE that on February 11, 2008 at 3:30 P.M. or  
24 as soon thereafter as counsel can be heard in Courtroom 650 at the  
25 Edward R. Roybal Federal Building, 255 East Temple Street, Los  
26 Angeles, CA 90012 Defendant Ira Isaacs will move the Court for an  
27 order prohibiting the government from introducing any movies that  
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1 are not translated into English.

2 Said motion will be based upon this Notice of Motion, the  
3 following Memorandum of Points & Authorities.

4 RESPECTFULLY SUBMITTED

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s/s  
Roger Jon Diamond  
Attorney for Defendant

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1 then this motion should be deemed withdrawn by the Defendant.

2 In Miller v. California, 413 U.S. 15, 37 L.Ed.2d 491, 93 S.Ct.  
3 2607 (1973), the United States Supreme Court held that to avoid a  
4 violation of the First Amendment material may not be deemed obscene  
5 unless, among other things, the material, "taken as a whole,  
6 appeals to the prurient interests. . . ."

7 Also, the relevant inquiry is whether the material, "taken as  
8 a whole, lacks serious literary, artistic, political, or scientific  
9 value. . . ."

10 In this particular case certain movies are charged to be  
11 legally obscene. The materials, according to the United States  
12 Supreme Court, will have to be considered as a whole. The jury  
13 will not be able to focus on isolated parts. To consider the  
14 movies as a whole the jury will have to know what is being said by  
15 the actors and actresses in the movies. Many of the movies in this  
16 case are only in foreign languages. It is anticipated that the  
17 government will assert that the movies need not be translated into  
18 English. By this motion the Defendant advises the Court and the  
19 government that it will object and does hereby object to any movie  
20 being shown to the jury unless the movie is translated into English  
21 by the government.

22 It is not the Defendant's burden to provide a translation.  
23 The government has the burden of proof. The government can no  
24 more provide a movie in the foreign language without English  
25 translation than it could provide simply half the movie. Clearly  
26 the government could not present half a movie and then impose upon  
27 the Defendant the obligation to present the remainder of the movie.  
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1 It is the government's initial burden to present the entire movie  
2 to the jury. Likewise, the government may not rely upon the  
3 Defendant to provide the translation. It is the government's duty  
4 to present the movie in its entirety in a way that the jury can  
5 understand it.

6 Accordingly, unless the government provides English  
7 translation of the foreign language movies at issue in this case  
8 the defense will object to those movies. The defense will not  
9 provide its own translation. The defense does not want to be in  
10 the position of having its translation questioned or second guessed  
11 by any member of the jury. The government must fulfill its  
12 obligation.

13 When the government seeks to impose restrictions on speech the  
14 government has the burden of proof. See e.g., Lim v. City of Long  
15 Beach, 217 F.3d 1050 (9<sup>th</sup> Cir.2000), cert.den. 531 U.S. 119  
16 (2001).

17 Respectfully submitted,

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19 S/s  
20 ROGER JON DIAMOND  
21 Attorney for Defendant  
22 Ira Isaacs  
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