

1 PARKER C. FOLSE, III
 (WA Bar No. 24895-*Pro Hac Vice*)
 2 pfolse@susmangodfrey.com
 SUSMAN GODFREY, L.L.P.
 3 1201 Third Avenue, Suite 3800
 Seattle, WA 98101
 4 Telephone: (206) 516-3860
 Facsimile: (206) 516-3883

5 *(additional attorneys listed on signature page)*

6 Attorneys for Defendant and Counterclaimant
 7 BURST.COM, INC.

8 MATTHEW D. POWERS (Bar No. 104795)
 matthew.powers@weil.com
 9 NICHOLAS A. BROWN (Bar No. 198210)
 nicholas.brown@weil.com
 10 MICHAEL D. POWELL (Bar No. 202850)
 mike.powell@weil.com
 11 LEERON G. KALAY (Bar No. 233579)
 leeron.kalay@weil.com
 12 WEIL, GOTSHAL & MANGES LLP
 Silicon Valley Office
 13 201 Redwood Shores Parkway
 Redwood Shores, CA 94065
 14 Telephone: (650) 802-3000
 Facsimile: (650) 802-3100

15 Attorneys for Plaintiff and Counterdefendant
 16 APPLE COMPUTER, INC.

17 UNITED STATES DISTRICT COURT
 18 NORTHERN DISTRICT OF CALIFORNIA
 19 SAN FRANCISCO DIVISION

20 APPLE COMPUTER, INC.,
 21 Plaintiff and
 Counterdefendant,

22 v.

23 BURST.COM, INC.,
 24 Defendant and
 25 Counterclaimant.

Case No. 06-CV-00019 MHP

**STIPULATION AND [PROPOSED]
 REVISED SCHEDULING ORDER**

Complaint filed: January 4, 2006
 Trial Date: February 26, 2008

Hon. Marilyn Hall Patel

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 STIPULATED [PROPOSED] REVISED
 SCHEDULING ORDER

Case No. 06-CV-00019 MHP

1 The Court entered the current Scheduling Order on September 26, 2006 (docket entry no.
 2 58). Page 2 of that order states: “The parties further agree that in the event the Court issues a
 3 claim construction ruling more than 60 days after the claim construction hearing [*i.e.*, after April
 4 9, 2007], or in the event of other currently unanticipated scheduling changes, they will meet and
 5 confer regarding the schedule and submit a revised scheduling proposal to the Court.” The
 6 Court's claim construction ruling was issued on May 8, 2007 (docket entry no. 104). Pursuant to
 7 the above-quoted language, the parties have agreed on a revised schedule. The proposed revised
 8 schedule does not change the final pretrial conference or the trial dates. The parties respectfully
 9 request that the Court enter the stipulated revised schedule, as follows:
 10

DATE/DEADLINE	EVENT
July 27, 2007	Fact discovery to be substantially completed (as discussed at Case Management Conference)
August 3, 2007	Mediation deadline
August 10, 2007	Disclosure of expert witnesses, service of reports, and production of documents regarding expert testimony on issues as to which each party bears the burden of proof (FRCP 26(a)(2))
August 31, 2007	Deadline by which all burden-of-proof experts must be produced for deposition
September 14, 2007	Disclosure of expert witnesses, service of reports, and production of documents regarding expert testimony in response to disclosures regarding burden-of-proof experts (FRCP 26(a)(2))
September 21, 2007	Deadline for completing clean-up fact discovery (as discussed at the Case Management Conference)
October 5, 2007	Deadline by which all responsive experts must be produced for deposition
October 5, 2007	Deadline for completing expert discovery
October 12, 2007	Deadline for filing dispositive motions
November 9, 2007	Due date for responses to dispositive motions

DATE/DEADLINE	EVENT
November 21, 2007	Due date for reply briefs in support of dispositive motions
_____, 2007 (approximately 2 weeks after reply briefs on dispositive motions)	Hearing on dispositive motions. NOT LATER THAN DECEMBER 17, 2007 AT 2:00 P.M.
January 8, 2008	(1) File joint final pretrial conference statement and proposed order; (2) File exhibit list and witness list, and exchange exhibits and other trial material; (3) Serve and file requests for voir dire questions, jury instruction, and verdict forms; (4) Serve and file statements designating deposition excerpts, interrogatory answers, and responses to requests for admission to be used at trial;
January 22, 2008	(1) Serve objections to admission of exhibits and deposition testimony (2) Serve and file counterdesignations to deposition designations (3) Serve and file motions in limine
February 5, 2008	(1) File objections to counterdesignations and any other objections requiring action by the Court (2) Serve and file oppositions to motions in limine
February 13, 2008 at 2:30 p.m.	Final pretrial conference
February 26, 2008 at 8:30 a.m.	Trial begins

As reflected in the previously entered Scheduling Order (docket entry no. 58), the parties have agreed as follows regarding written and deposition discovery:

- a. The parties will adhere to the numerical and temporal limits on deposition discovery in Fed. R. Civ. P. 30, except that each side may identify one witness whom it may depose for up to two days of seven hours each (thus giving each party a total of eleven days of depositions). The parties reserve all rights to object

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to particular depositions, including the right to object that the particular witness chosen by the other side for the two-day deposition should not be deposed for two days. The depositions of expert witnesses shall not count against the numerical limitations of Fed. R. Civ. P. 30(a)(2).

- b. Every seven hours or fraction thereof of deposition testimony pursuant to Fed. R. Civ. P. 30(b)(6) shall count as one day of deposition testimony for purposes of Fed. R. Civ. P. 30(a)(2), except that with respect to all depositions taken pursuant to Burst’s Notice of Deposition Under Fed. R. Civ. P. 30(b)(6) to Plaintiff Apple Computer, Inc., dated June 16, 2006, the parties agree that every segment of three and a half (3 ½) hours or less of deposition testimony taken pursuant to Fed. R. Civ. P. 30(b)(6) shall count as one half (1/2) day of deposition testimony for purposes of Fed. R. Civ. P. 30(a)(2).
- c. The parties will adhere to the numerical limitations on interrogatories set forth in Fed. R. Civ. P. 33(a).

Dated: June 8, 2007

Respectfully submitted,

/s/ Parker C. Folse III
PARKER C. FOLSE III (WA Bar No. 24895 - Admitted Pro Hac Vice)
pfolse@susmangodfrey.com
IAN B. CROSBY (WA Bar No. 28461 - Admitted Pro Hac Vice)
icrosby@susmangodfrey.com
FLOYD G. SHORT (WA Bar No. 21632- Admitted Pro Hac Vice)
fshort@susmangodfrey.com
SUSMAN GODFREY, L.L.P.
1201 Third Avenue, Suite 3800
Seattle, Washington 98101-3000
(206) 516-3880 Tel.
(206) 516-3883 Fax
SPENCER HOSIE (CA Bar No. 101777)
shosie@hosielaw.com

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BRUCE WECKER (CA Bar No. 078530)
bwecker@hosiela.com
HOSIE McARTHUR LLP
One Market, 22nd Floor
San Francisco, CA 94105
(415) 247-6000 Tel.
(415) 247-6001 Fax

MICHAEL F. HEIM (TX Bar No. 9380923 -
Admitted Pro Hac Vice)
LESLIE V. PAYNE (TX Bar No. 0784736 -
Admitted Pro Hac Vice)
HEIM, PAYNE & CHORUSH, L.L.P.
600 Travis Street, Suite 6710
Houston, TX 77002
(713) 221-2000 Tel.
(713) 221.2021 Fax

ROBERT J. YORIO (CA Bar No. 93178)
V. RANDALL GARD (CA Bar No. 151677)
COLBY B. SPRINGER (CA Bar No. 214868)
CARR & FERRELL LLP
2200 Geng Road
Palo Alto, CA 94303
(650) 812-3400 Tel.
(650) 812-3444

ATTORNEYS FOR DEFENDANT
BURST.COM, INC.

/s/ Nicholas A. Brown
MATTHEW D. POWERS (Bar No. 104795)
matthew.powers@weil.com
NICHOLAS A. BROWN (Bar No. 198210)
nicholas.brown@weil.com
MICHAEL D. POWELL (Bar No. 202850)
mike.powell@weil.com
LEERON G. KALAY (Bar No. 233579)
leeron.kalay@weil.com
WEIL, GOTSHAL & MANGES LLP
Silicon Valley Office
201 Redwood Shores Parkway
Redwood Shores, CA 94065
Telephone: (650) 802-3000
Facsimile: (650) 802-3100

Attorneys for Plaintiff and Counterdefendant
APPLE COMPUTER, INC.

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PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED THIS ____ day of _____, 2007.

THE HONORABLE MARILYN HALL PATEL
UNITED STATES DISTRICT COURT JUDGE