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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:  
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<b>DATE/DEADLINE</b>	<b>EVENT</b>
<b>July 27, 2007</b>	<b>Fact discovery to be substantially completed (as discussed at Case Management Conference)</b>
<b>August 3, 2007</b>	<b>Mediation deadline</b>
<b>August 10, 2007</b>	<b>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))</b>
<b>August 31, 2007</b>	<b>Deadline by which all burden-of-proof experts must be produced for deposition</b>
<b>September 14, 2007</b>	<b>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))</b>
<b>September 21, 2007</b>	<b>Deadline for completing clean-up fact discovery (as discussed at the Case Management Conference)</b>
<b>October 5, 2007</b>	<b>Deadline by which all responsive experts must be produced for deposition</b>
<b>October 5, 2007</b>	<b>Deadline for completing expert discovery</b>
<b>October 12, 2007</b>	<b>Deadline for filing dispositive motions</b>
<b>November 9, 2007</b>	<b>Due date for responses to dispositive motions</b>

<b>DATE/DEADLINE</b>	<b>EVENT</b>
<b>November 21, 2007</b>	<b>Due date for reply briefs in support of dispositive motions</b>
<b>December 17, 2007 (approximately 2 weeks after reply briefs on dispositive motions)</b>	<b>Hearing on dispositive motions.  NOT LATER THAN DECEMBER 17, 2007 AT 2:00 P.M.</b>
<b>January 8, 2008</b>	<b>(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;</b>
<b>January 22, 2008</b>	<b>(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</b>
<b>February 5, 2008</b>	<b>(1) File objections to counterdesignations and any other objections requiring action by the Court (2) Serve and file oppositions to motions in limine</b>
<b>February 13, 2008 at 2:30 p.m.</b>	<b>Final pretrial conference</b>
<b>February 26, 2008 at 8:30 a.m.</b>	<b>Trial begins</b>

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,

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PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED THIS 21st day of June, 2007.

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THE HONORABLE MARILYN H. PATEL  
UNITED STATES DISTRICT COURT JUDGE

