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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

APPLE COMPUTER,

Plaintiff,

No. C 06-00019 MHP

v.

ORDER

BURST.COM, INC.,

Defendant.

Plaintiff Apple Computer, Inc. (“Apple”) brought this action for declaratory relief against defendant Burst.com (“Burst”), seeking a declaration of invalidity and noninfringement on four United States patents related generally to the sharing, editing and playing of audio and video works through computers, compression, and high-speed transmission.

On January 4, 2007 Apple filed a motion for summary judgment of invalidity based on Kramer and Kepley patents. Subsequently, the court issued its claim construction order, and a hearing was scheduled on the summary judgment motion for July 25, 2007. On July 13, 2007 Apple filed a second motion for summary judgment of invalidity. The second motion raises both claims of anticipation and obviousness, relying in part on the Kramer and Kepley patents. While the parties may make these similar arguments several times over, the court intends to review them only once. In the instant action, the parties should have anticipated that the duplication of efforts, presented by the two motions for summary judgment, was obvious.


UNITED STATES DISTRICT COURT
For the Northern District of California

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The court will consider all arguments on anticipation and obviousness grounds at the same time. Accordingly, the hearing date for Apple's first motion for summary judgment of invalidity is VACATED and shall be heard in conjunction with the second motion for summary judgment on **September 12, 2007, at 2:00 pm.**

IT IS SO ORDERED.

Dated *July 20, 2007*



MARILYN HALL PATEL
United States District Court Judge
Northern District of California