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18 BURST.COM, INC.

19 UNITED STATES DISTRICT COURT
20 NORTHERN DISTRICT OF CALIFORNIA

22 APPLE COMPUTER, INC.,
23 Plaintiff,
24 v.
25 BURST.COM, INC.,
26 Defendant.

Case No. C 06-00019 MHP

**STIPULATION AND [PROPOSED]
ORDER CONTINUING HEARING ON
APPLE'S FIRST AND SECOND
MOTIONS FOR SUMMARY
JUDGMENT OF INVALIDITY**

Date: September 12, 2007
Time: 2:00 p.m.
Hon. Marilyn Hall Patel
Complaint Filed: January 4, 2006

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Pursuant to Civil Local Rule 6-2, Plaintiff Apple Computer, Inc. (“Apple”) and Defendant Burst.com, Inc. (“Burst”) hereby jointly request that the Court continue the hearing date for Apple’s First and Second Motions for Summary Judgment of Invalidity, by approximately one week from September 12, 2007, to September 18, 2007. Apple’s lead counsel, Matthew Powers, is set for trial before Judge Walker in the Northern District of California from September 10 to September 21. The trial is scheduled to skip Tuesdays. Accordingly, Apple and Burst hereby jointly request and stipulate that the Court continue the hearing date until Tuesday, September 18, 2007, or any day after September 21 that is convenient for the Court.

Dated: August 9, 2007

WEIL, GOTSHAL & MANGES LLP

By: _____ /s/
Nicholas A. Brown
Attorneys for Plaintiff and Counterdefendant
APPLE COMPUTER, INC.

Dated: August 9, 2007

HEIM, PAYNE & CHORUSH, L.L.P.

By: _____ by permission
Leslie V. Payne
Attorneys for Defendant and Counterclaimant
BURST.COM, INC.

[PROPOSED] ORDER

Pursuant to the parties’ stipulation, the Court hereby orders that the hearing date for Apple’s First and Second Motions for Summary Judgment of Invalidity in this matter scheduled for September 12, 2007 at 2:00 p.m. is reset to _____ at _____.

Dated:

U.S. District Court Judge