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 9

10 UNITED STATES DISTRICT COURT  
 11 NORTHERN DISTRICT OF CALIFORNIA

13 APPLE COMPUTER, INC.,  
 14 Plaintiff,  
 15 v.  
 16 BURST.COM, INC.,  
 17 Defendant.

Case No. C 06-0019 MHP

**DECLARATION OF NICHOLAS A.  
 BROWN IN SUPPORT OF APPLE  
 COMPUTER, INC.'S REPLY IN  
 SUPPORT OF ITS SECOND MOTION  
 FOR SUMMARY JUDGMENT OF  
 INVALIDITY**

Date: September 18, 2007  
 Time: 2:00 p.m.  
 Honorable Marilyn Hall Patel

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

1 I, Nicholas Brown, declare:

2 1. I am a member of the Bar of this Court and an attorney with the law firm of  
3 Weil, Gotshal & Manges LLP, counsel of record for Apple Computer, Inc. in the above-captioned  
4 matter. I submit this declaration based on personal knowledge and following a reasonable  
5 investigation. If called upon as a witness, I could competently testify to the truth of each  
6 statement herein.

7 2. Attached hereto as **Exhibit A** is a true and correct copy of the transcript of  
8 the February 8, 2007 Claim Construction Hearing.

9 3. Attached hereto as **Exhibit B** is a true and correct copy of the transcript of  
10 the deposition of Sheila Hemami, taken September 4, 2007.

11 4. Attached hereto as **Exhibit C** is a true and correct copy of Amsterdam,  
12 Jonathan, "Data Compression with Huffman Coding," *Byte Magazine*, p. 99 (May 1986)  
13 (APBU00665410-00665417).

14 5. Attached hereto as **Exhibit D** is a true and correct copy of the transcript of  
15 the deposition of Richard Lang, taken July 23, 2003.

16 6. Attached hereto as **Exhibit E** is a true and correct copy of Gardner, Eriq,  
17 "First Bill, Now Steve", *IP Law & Business*, p. 36-45 (April 2006).

18 7. Attached hereto as **Exhibit F** is a true and correct copy of U.S. Patent No.  
19 3,786,445, issued to Ho et al. on January 15, 1974.

20 8. Attached hereto as **Exhibit G** is a true and correct copy of transcript  
21 excerpts from the deposition of Kane Kramer, taken August 7, 2007.

22 9. Attached hereto as **Exhibit H** is a true and correct copy of *Advanceme Inc.*  
23 *v. RapidPay, LLC*, 2007 WL 2350644 (E.D. Tex. Aug. 14, 2007).

24 10. Attached hereto as **Exhibit I** is a true and correct copy of *Asyst Tech. Inc.*,  
25 *v. Empak, Inc.*, 2007 WL 2255220 (N.D. Cal. Aug. 3 2007) (designated as not for citation).

26 11. Attached hereto as **Exhibit J** is a true and correct copy of *Frazier v. Layne*  
27 *Christensen Co.*, 2007 WL 1875909 (Fed. Cir. June 29, 2007) (designated as not for citation)

28 12. Attached hereto as **Exhibit K** is a true and correct copy of *Friskit Inc., v.*

