

Exhibit G

APPLE VS. BURST.COM

KANE KRAMER

AUGUST 7, 2007

1 (Pages 1 to 4)

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1 IN THE UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION

6 APPLE COMPUTER, INC.,
7 Plaintiff and Counterdefendant,
8 vs. Case No. 3:06-CV-00019 MHP
9 BURST.COM, INC.,
10 Defendant and Counterclaimant,

12 AND RELATED COUNTERCLAIMS.

14 DEPOSITION OF KANE KRAMER
15 CONFIDENTIAL - ATTORNEYS' EYES ONLY
16 TUESDAY, AUGUST 7, 2007
17 PAGES 1 to 299

19 REPORTED BY: LOUISE MARIE SOUSOURES, CSR NO. 3573
20 Certified LiveNote Reporter

23 CONFIDENTIAL
24 ATTORNEYS EYES ONLY

1 A P P E A R A N C E S
2 (Continued)

5 THE VIDEOGRAPHER:
6 DAN MOTTAZ VIDEO PRODUCTIONS, LLC
7 BY: STEVE LEFTWICH
8 182 Second Street, Suite 202
9 San Francisco, CA 94105
10 (415) 624-1300

14 ALSO PRESENT: JAYNA WHITT

2

4

1 A P P E A R A N C E S

1 I N D E X

4 FOR PLAINTIFF AND COUNTERDEFENDANT:
5 WEIL, GOTSHAL & MANGES LLP
6 BY: NICHOLAS BROWN,
7 ATTORNEY AT LAW
8 201 Redwood Shores Parkway
9 Redwood Shores, CA 94065
10 (650) 802-3000
11 nicholas.brown@weil.com

15 FOR DEFENDANT AND COUNTERCLAIMANT:
16 HEIM, PAYNE & CHORUSH LLP
17 BY: ERIC J. ENGER,
18 ATTORNEY AT LAW
19 6710 Chase Tower
20 600 Travis
21 Houston, TX 77002
22 (713) 221-2000
23 eenger@hpcllp.com

4 EXAMINATION BY: PAGE
5 MR. ENGER 7
6 MR. BROWN 278

10 EXHIBITS: PAGE
11 362 E-mail dated Wednesday, 20 June 2007 24
12 363 Subpoena in a civil case 28
13 364 U.S. patent No. 4,667,088 57
14 365 Hand-drawn document 162
15 366 Document entitled "IXI-the first MP3 162
16 player"
17 367 Document production Nos. KRAMER 00475 183
18 to 476
19 368 Document production Nos. KRAMER 00346 226
20 to 347
21 369 Document production Nos. KRAMER 00012 229
22 to 170
23 370 Document production Nos. KRAMER 00172 255
24 to 174
25 371 Document production No. KRAMER 00184 268

30 (Pages 117 to 120)

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1 what other device?
 2 A. Well, it could be from a memory store which,
 3 if you like, would be a computer store, which has the
 4 information on it or it could be at a distant
 5 location, it would be the same type of memory store,
 6 but would distribute or deliver the data.
 7 Q. So you would be recording from a memory
 8 store or a computer store and what would you be
 9 recording onto?
 10 A. Onto the -- onto the card.
 11 Q. Does that section that we just discussed,
 12 column 4, lines 6 through 8, refer to any other type
 13 of recording other than recording from a memory store
 14 or computer store to a portable storage card?
 15 A. Those three lines don't, no.
 16 Q. Now, it says that that type of recording
 17 from a memory store or computer store to an external
 18 storage, portable storage card can take a very short
 19 time, correct?
 20 A. Correct, yes.
 21 Q. How long is a very short time?
 22 A. It would be very hard to be descriptive
 23 about the short time because it would totally depend
 24 on the length of the track concerned.
 25 If it was a long playing album, it would

1 Actually in that particular part, it
 2 actually just says a very short time, quickly.
 3 So for example, if someone were buying an
 4 album, they would not have to, say, expect to wait
 5 the 45 minutes of the playing time of the album but
 6 would expect it to be in a matter of minutes, you
 7 know, seconds.
 8 Q. So a very short time means a matter of
 9 minutes or seconds?
 10 A. Well, it wouldn't be a matter of minutes if
 11 you had only had one minute of the music you were
 12 transferring. You would have been very specific
 13 about the amount of time and look at the data
 14 transfer rate and speed of output in order to be able
 15 to assess how long that actually would be.
 16 Q. Does your patent tell you to look at the bit
 17 rates and the transmission length of the song in
 18 order to determine what constitutes a very short
 19 time?
 20 A. No, it doesn't.
 21 Q. So a very short period of time could be one
 22 minute?
 23 MR. BROWN: Objection.
 24 THE WITNESS: It wouldn't -- beg your
 25 pardon.

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1 clearly take longer than a single.
 2 Typically we mention, I think, we mention
 3 somewhere, column 4, line 24, the output will be at a
 4 speed much faster at least one hundred times than
 5 that required for actual sound reproduction.
 6 So typically it could be a hundred times as
 7 fast.
 8 Q. Does very short time mean a hundred times as
 9 fast?
 10 MR. BROWN: Objection.
 11 Go ahead.
 12 THE WITNESS: Okay. It may not do if the
 13 means for delivery of the data could be faster or
 14 slower unit, but that's not the intention. The
 15 intention is at least a hundred times.
 16 Obviously, digital data can be transferred
 17 very fast, so -- we say at least a hundred times.
 18 BY MR. ENGER:
 19 Q. So the very --
 20 A. At the very least, yes.
 21 Q. So a very short time, whenever it talks
 22 about in column 4, lines 6 through 8, is talking
 23 about at least a hundred times faster than required
 24 for actual sound reproduction?
 25 A. No. It doesn't say that.

1 Wouldn't be a short period of time, one
 2 minute. If the music only played for 30 seconds,
 3 that would be double real time.
 4 Only something which is shorter than real
 5 time could be described as shorter than real time.
 6 BY MR. ENGER:
 7 Q. So whenever it says which can take a very
 8 short time, that really means shorter than the amount
 9 of time it would take to play the song?
 10 A. Correct.
 11 Q. Where does it teach you that a very short
 12 time has to be less time than would be required for
 13 actual sound reproduction?
 14 A. Can you repeat that question, please?
 15 MR. ENGER: Could you read back the
 16 question, please?
 17 (The record was read by the Reporter.)
 18 MR. BROWN: Objection.
 19 THE WITNESS: Line 24, the output would be
 20 at a speed much faster, at least a hundred times,
 21 than that required for actual sound reproduction,
 22 column 4, line 24.
 23 BY MR. ENGER:
 24 Q. I thought you testified earlier that the
 25 very short period of time referred to in column 4,

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1 MK4 that was used to transmit digital audio data to a
2 computer?

3 A. Proprietary multi-pin plug.

4 Q. The same multi-pin port in which digital
5 audio was input?

6 A. No, another one but just another plug,
7 another socket and plug.

8 Q. Do you have any of the MK4 prototypes in
9 your possession?

10 A. Unfortunately not.

11 Q. Does anyone have any of the MK4 prototypes
12 in their possession?

13 A. Nobody has any of the prototypes in their
14 possession, unfortunately.

15 Q. What happened to the -- all the prototypes
16 including the MK4 prototype?

17 A. They were all delivered to a firm of
18 solicitors for safekeeping to the benefit of the
19 shareholders of the company.

20 The solicitors moved offices after four
21 years and threw them away without contacting me.

22 Q. How fast was the digital audio sent from the
23 bubble memory through the multi-pin output port to an
24 external computer?

25 A. How fast was it sent from the bubble memory

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1 to the outside computer? It was very -- it was
2 quick. And again, there was an article which has got
3 the interface speed in it.

4 And I can't remember what that -- there's a
5 lot of zeroes involved, I remember that, I can't
6 remember the speed, amount of kilohertz.

7 Q. Was the article published?

8 A. Yes.

9 Q. In what publication?

10 A. I can't recall, but I'm sure I will be able
11 to produce it. We may have it here now.

12 It's not one of these, I can see that.

13 Q. Does the article document transmitting from
14 the MK4 to an external computer over the multi-pin
15 port?

16 A. I don't think it goes into that kind of
17 detail, no.

18 What it does is it gives me the optical
19 interface, it refers to the optical interface speed
20 which when using optical at the current time, the
21 transceiver optical speed which actually was very
22 fast at the time, but nevertheless that was its
23 limitation as opposed to if it was going through hard
24 wired means which had the potential to be faster.

25 In other words, the optical interface,

1 according to its capability, speed of the optical
2 interface could sort of squeeze, slow it down -- it
3 would be its limitation.

4 Q. Was the functionality you've just described
5 where you transmit compressed digital audio
6 information from the MK4 to an external computer via
7 the multi-pin output port on the back of the MK4 ever
8 publicly displayed or shown to anyone?

9 A. I think the answer's yes, but just to
10 confirm, could you please repeat the question?

11 (The record was read by the Reporter.)

12 THE WITNESS: Okay. No. It would have been
13 shown to people, but not in a sort of in a big public
14 way.

15 BY MR. ENGER:

16 Q. Was the MK4 ever sold to anyone?

17 A. No.

18 Q. Was it ever offered for sale to anyone?

19 A. No.

20 Q. What publications was the MK4 described in?

21 A. Well, many of these publications I hadn't
22 seen since the day they came out and have only
23 recently been found, some of them not even by me.

24 I had a couple of assistants help me search
25 out the information and anything that looked like

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1 anything to do with this project got thrown into the
2 box. Much of this information in here, I haven't
3 read in 20 years. I can't recall exactly which
4 article was which, but I can remember, you know,
5 articles about particular aspects of the thing.

6 Q. Tell me about the MK5 prototype and what
7 functionality it had that was different from the MK4
8 or any of the other previous MK prototypes.

9 A. Okay. The MK5 was our first prototype --
10 our first preproduction prototype or our only
11 preproduction prototype.

12 That in every respect was a finished
13 product. All the circuit boards inside had now been
14 produced with company name on it and everything was
15 sort of finished, if you like.

16 And it had much, much more sophisticated
17 software and editing software. You could slip one
18 track in relation to another, you could synchronize
19 it to a time code so you could synchronize it with
20 video.

21 So if you were video editing, for example,
22 you could provide your video editing with sort of
23 solid state digital sound tracks.

24 It took a multitude of cards. You could
25 treat the cards as an array so it could either

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1 take -- sort of treat them as one continuous sort
2 of -- you could play back from the three cards as if
3 it was one. You could use it all as one piece of
4 memory or could split it up into more tracks.

5 And slightly more sophisticated, as I say,
6 you could slip tracks to each other, do
7 multi-function edits, punch in and punch out at
8 different edit points and you could transfer
9 information from one card to another digitally so
10 that you were bypassing the analog so you could just
11 literally put one card in, put another card in, dump
12 information from one to the other and put it out.

13 Q. What documentation do you have that
14 discusses the editing functionality of the MK5?

15 A. I have the company accounts that were lodged
16 with company's house which are public record
17 describes the activities and the business of the
18 company and the year.

19 Also I have a business plan which
20 describes -- which was distributed and we obtained 60
21 shareholders from it.

22 Q. This is the 1984 business plan or a
23 different business plan?

24 A. It would be the 1984 business plan would be
25 describing that.

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1 Q. When did you come up with the MK5?

2 A. Well, they're all built between sort of '82
3 and '84.

4 Q. When was the MK5 first built?

5 A. I think I'd have to refer to our minutes of
6 the meetings of the company, which accurately
7 describes exactly what part we were at and exactly
8 what process.

9 It's very well minuted during all that
10 period, but, you know, from memory, I can't be
11 that -- I can't remember that specifically, you know,
12 it's 22 years ago.

13 Q. Was the MK5 created prior to the 1984
14 business plan?

15 A. As I say, I can't recall the date without
16 checking the records, but there is accurate records
17 of the exact time. I believe it may have been around
18 then, but from the point you actually start building
19 the prototype to the point that prototype is actually
20 ready to present to people, having a box on the table
21 which has certain functionality and writing software
22 and growing the functionality, you know, we didn't
23 decide to make it on a Monday and obviously it was
24 ready on a Tuesday.

25 It was over a period of time.

1 That progress of the development of the
2 project is minuted in the company minutes.

3 Q. What input ports did the MK5 had?

4 A. It had all of the ones mentioned previously.

5 Q. Was it able to receive both analog audio at
6 real time speeds through the canon jack -- through
7 the canon and the jack?

8 A. Correct, yes.

9 Q. And it was able to receive digital
10 information through the multi-pin input port?

11 A. Yes, and output, yeah.

12 Q. Did it have the ability to compress analog
13 audio information into digital form?

14 A. Yes, it did.

15 Q. Did it have internal storage capabilities?

16 A. Internal when the cartridge was plugged into
17 it, yes.

18 Q. If the cartridge was unplugged from the
19 machine, did it have storage capability?

20 A. Well, you didn't have a player if you
21 unplugged it, but yes, if you took it out, it
22 couldn't -- in the same way if you unplug the memory
23 in a -- any device, once you take the memory out, it
24 can't remember.

25 So obviously it was an integral part of the

1 system. It wasn't a complete system without the
2 memory in. Once the memory was in, you had a
3 complete system.

4 Q. So the only memory for the MK5 was found in
5 these external cards?

6 A. Well, they were internal, they were plugged
7 in.

8 Q. They were removable?

9 A. Removable, yes.

10 Q. What was the storage capability of each
11 card?

12 A. I'm pretty certain it was three and a half
13 minutes.

14 Q. So whenever all three cards were plugged in,
15 you would have ten minutes or so of audio?

16 A. Yes.

17 Q. And then was the compressed digital audio
18 output through the multi-pin port to an external
19 computer?

20 A. Was the -- sorry, can you please repeat
21 that?

22 Q. Was the compressed digital audio found on
23 the bubble memory cards then output through the
24 multi-pin output port to an external computer similar
25 to the functionality described with the MK4?

1 A. By the -- not exactly. By MK5, had to have
 2 been a number of MK5s, had more than one.
 3 You could then have plugged -- excuse me,
 4 the digital output port from one machine into another
 5 machine and backwards the other way to create an
 6 array of machines that would behave as if they were
 7 one to increase their overall ability and tracks and
 8 timing.
 9 Q. How many MK5s were produced?
 10 A. One.
 11 Q. So it was not possible to transfer digital
 12 audio music from the multi-pin output port of one MK5
 13 to another MK5 because only one existed?
 14 A. Yes, it was, because you could output from
 15 one card the information from the digital output port
 16 and plug and wire it back into itself and input into
 17 another card of the device or you could do it
 18 internally but that's how we knew it could work.
 19 Q. You could transmit it from one MK5 back to
 20 the same MK5?
 21 A. Yeah. You could do it internally or you
 22 could do it with a loop was the way of proving it.
 23 You could take your top card and put it down to the
 24 bottom, for example.
 25 Q. Since there was only one MK5, you don't

1 know -- you've never tested whether you could
 2 transfer from one MK5 to another MK5?
 3 A. Yes, we could do that because if you output
 4 the data from card number one through the digital
 5 output data and bring it back in through an input
 6 port and send it to card number 3, you know it's
 7 working.
 8 Q. Was the circumstance you described, where
 9 you send from one MK1 -- I'm sorry, from one MK5 to
 10 another MK5 ever tested?
 11 A. I don't recall whether or not we tried it
 12 with MK4 or not. I just don't recall.
 13 Q. There was only one MK5 so you couldn't
 14 transmit from one MK5 to a second MK5, correct?
 15 A. The MK5 actually behaved, could behave as
 16 three independent units within the one box.
 17 So when you were transmitting from one card,
 18 it acted and behaved completely independently from
 19 how it was coming out of that system from how it
 20 would -- so if you've got a card and all of your
 21 configuration and system to operate that card and
 22 then you've got a second card and you've got a third
 23 card slot, you could -- they would be treated
 24 independently unless you made them work as one.
 25 So we didn't need to build another prototype

1 in order to prove that one part of the system could
 2 output its information and take it back in into
 3 another part of the system.
 4 Q. So you could simulate sending information
 5 from a MK5 to another external device, but since
 6 there was only one MK5, it was physically impossible
 7 to actually transmit data from one MK5 to another
 8 MK5?
 9 A. We did -- you asked before, and you just
 10 reminded me, you asked before about did we transmit
 11 data to and from a computer and we did because we
 12 were doing tests with a view to music downloading at
 13 the time.
 14 Q. When did those tests occur whenever you
 15 transmitted information from a MK5 to an external
 16 computer?
 17 A. In the region of about 1986.
 18 Q. Did anyone observe you performing these
 19 tests?
 20 A. I would think quite a number of people would
 21 have seen us demonstrating it, yes.
 22 Q. Who would have seen these demonstrations?
 23 A. All of our shareholders, for example.
 24 Q. And this occurred in the United Kingdom?
 25 A. That's where we built the prototype, yeah.

1 Q. Did you ever demonstrate the functionality
 2 where you could transfer data from MK5 to an external
 3 computer in the United States?
 4 A. No.
 5 Q. Did you ever sell a MK5?
 6 A. We took orders.
 7 Q. Did you ever sell a MK5?
 8 MR. BROWN: Objection.
 9 THE WITNESS: Yes, but we didn't deliver.
 10 BY MR. ENGER:
 11 Q. So you had a contract but you never
 12 transferred the MK5 to any -- any other person's
 13 possession?
 14 A. Correct.
 15 Q. Did you ever offer the MK5 for sale?
 16 A. Yes.
 17 Q. When did you offer the MK5 for sale?
 18 A. Again, the exact dates I would have -- are
 19 well-documented, but again, I think it was
 20 approximately 1986.
 21 Q. Are there any sales invoices or the like
 22 that would show these orders for the MK5?
 23 A. There are or there were, but not in my
 24 possession.
 25 They have never been in my possession.

70 (Pages 277 to 280)

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1 computer information.
 2 BY MR. ENGER:
 3 Q. Referring to column 6, lines 31 to 33?
 4 A. That's a part of it. I'm going to read a
 5 bit further on.
 6 I can't see it, but I know that it's in our
 7 British patent and it's been published.
 8 So I think there's some differences in some
 9 of the patents that were granted when going through
 10 the sort of process of grant and various objections
 11 that might be made.
 12 I'm -- I can't see it in here.
 13 Q. With reference to this '088 patent, your
 14 American patent, it doesn't specifically talk about
 15 video, does it?
 16 A. I can't see a reference to the word video in
 17 here, other than this reference to synchronizing with
 18 video.
 19 Q. Synchronizing audio with video?
 20 A. Synchronizing audio with video where it
 21 would be clocked and run in synchronicity with a
 22 video player, for example, for doing sound tracks or
 23 something like that for a film.
 24 Q. But your '088 patent doesn't teach receiving
 25 video, compressing it, storing it and transmitting it

1 the most radical system yet.
 2 Q. Is the system, the IXI system pictured in
 3 the picture there, one of the prototypes you
 4 described earlier?
 5 MR. ENGER: Objection, leading.
 6 THE WITNESS: Yes.
 7 BY MR. BROWN:
 8 Q. Which prototype is it?
 9 A. It's the MK5, preproduction prototype.
 10 Q. How can you tell it's the MK5?
 11 A. It's the only one which had the screen on
 12 it, the larger screen on the left-hand side.
 13 Q. Was the MK5 that's pictured there capable of
 14 transmitting compressed audio information from one of
 15 the cards in it to another faster than real time?
 16 MR. ENGER: Objection, leading.
 17 THE WITNESS: Yes, it was.
 18 BY MR. BROWN:
 19 Q. Was the MK5 system that's pictured in this
 20 article capable of transmitting from one MK5 unit to
 21 another MK5 unit faster than real time?
 22 MR. ENGER: Objection, leading, calls for
 23 speculation and improper foundation.
 24 THE WITNESS: I think I -- I explained
 25 earlier that the MK5 system could transfer data from

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1 away faster than real time, does it?
 2 A. Well, apparently this -- it would appear
 3 that this -- this granted patent is more limited than
 4 the British patent.
 5 Q. So the answer is no?
 6 A. It would appear to be, unless I've missed
 7 it, but I don't imagine I've missed and you've missed
 8 it.
 9 MR. ENGER: Pass the witness.
 10 MR. BROWN: What number are we at?
 11 THE REPORTER: 373.
 12 (Exhibit No. 373 was marked.)
 13 EXAMINATION BY MR. BROWN:
 14 Q. Mr. Kramer, we've marked as Exhibit 373 a
 15 copy of what appears to be a news article.
 16 Can you tell me what Exhibit 373 is?
 17 A. It's an article which appeared in the Sunday
 18 Times newspaper in the innovation section.
 19 Q. Can you tell me what date it appeared in
 20 that paper?
 21 A. 14th of September, 1986.
 22 Q. And can you tell me what the article is?
 23 A. It's basically an article showing James and
 24 I with IXI on our shoulders and basically talks about
 25 the system and how two British entrepreneurs unveils

1 one card to another or by the means that we were able
 2 to test would have been able to have transmitted data
 3 to and from another identical unit.
 4 BY MR. BROWN:
 5 Q. The data that you're referring to, can you
 6 explain what kind of data it could transfer?
 7 A. It could transfer digital data from one
 8 system to another at high speed.
 9 Q. When you say high speed, was that faster
 10 than real time?
 11 A. Yes, very much faster than real time, at
 12 least a hundred times faster than real time.
 13 Q. And was the digital data compressed?
 14 A. Yes, it was.
 15 Q. Was it -- did it represent audio
 16 information?
 17 A. Yes, it did.
 18 Q. Is the system that's pictured in this
 19 article, the MK5 prototype, what you showed to United
 20 Artists and Universal Studios?
 21 A. Yes, it is.
 22 Q. You testified earlier about the trip you
 23 made to the United States where you met with
 24 Universal Studios and United Artists amongst others.
 25 Do you remember what year it was that you

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1 I, LOUISE MARIE SOUSOURES, duly authorized to
2 administer oaths pursuant to Section 2093(b) of the
3 California Code of Civil Procedure, do hereby
4 certify: That the witness in the foregoing deposition
5 was by me duly sworn to testify the truth in the
6 within-entitled cause; that said deposition was taken
7 at the time and place therein cited; that the
8 testimony of the said witness was reported by me and
9 was hereafter transcribed under my direction into
10 typewriting; that the foregoing is a complete and
11 accurate record of said testimony; and that the
12 witness was given an opportunity to read and correct
13 said deposition and to subscribe the same.

14 Should the signature of the witness not be
15 affixed to the deposition, the witness shall not have
16 availed himself or herself of the opportunity to sign
17 or the signature has been waived.

18 I further certify that I am not of counsel,
19 nor attorney for any of the parties in the foregoing
20 deposition and caption named, nor in any way
21 interested in the outcome of the cause named in said
22 caption.

23 DATED: August 21, 2007

24 Louise Marie Sousoures
25