

1 PARKER C. FOLSE III (WA Bar No. 24895 – *Admitted Pro Hac Vice*)
 pfolse@susmangodfrey.com
 2 IAN B. CROSBY (WA Bar No. 28461 – *Admitted Pro Hac Vice*)
 icrosby@susmangodfrey.com
 3 FLOYD G. SHORT (WA Bar No. 21632 – *Admitted Pro Hac Vice*)
 fshort@susmangodfrey.com
 4 JOHN M. NEUKOM (WA Bar No. 36986 – *Admitted Pro Hac Vice*)
 jneukom@susmangodfrey.com
 5 SUSMAN GODFREY, L.L.P.
 1201 Third Avenue, Suite 3800
 6 Seattle, Washington 98101-3000
 7 (206) 516-3880 Tel
 (206) 516-3883 Fax
 8

9 SPENCER HOSIE (CA Bar No. 101777)
 shosie@hosielaw.com
 10 BRUCE WECKER (CA Bar No. 078530)
 bwecker@hosielaw.com
 11 HOSIE McARTHUR LLP
 One Market, 22nd Floor
 12 San Francisco, CA 94105
 (415) 247-6000 Tel.
 13 (415) 247-6001 Fax

14 *(additional attorneys listed on signature page)*

15 Attorneys for Defendant
16 BURST.COM, INC.

17
 18 UNITED STATES DISTRICT COURT
 19 FOR THE NORTHERN DISTRICT OF CALIFORNIA (SAN FRANCISCO)

20	APPLE COMPUTER, INC.,	§	
21		§	
22	Plaintiff/Counterdefendant,	§	
23		§	Case No. 3:06-CV-00019 MHP
24	v.	§	
25	BURST.COM, INC.,	§	BURST’S REPLY TO APPLE’S
26		§	COUNTERCLAIM REGARDING
27	Defendant/Counterclaimant.	§	U.S. PATENT NO. 5,057,932
28		§	JURY TRIAL DEMANDED

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2 Defendant Burst.com, Inc. (“Burst”) replies to the counterclaim for declaratory
3 judgment on U.S. Patent No. 5,057,932 (the “‘932 patent”) asserted by Plaintiff Apple
4 Computer, Inc. (“Apple”) in Apple’s “Answer to Burst.com, Inc.’s Amended
5 Counterclaim and Counterclaim for Declaratory Judgment” (Docket No. 52), as follows:

6 32. In paragraph 32, Apple incorporates by reference the preceding
7 paragraphs 1 through 31, which set forth Apple’s admissions, denials, and affirmative
8 defenses in reply to the counterclaim asserted in Burst’s “Amended Answer and
9 Counterclaim” (Docket No. 42). Insofar as Apple’s admissions, denials, and affirmative
10 defenses are not allegations in support of Apple’s counterclaim, Burst believes that
11 paragraph 32 warrants no reply. In the alternative, to the extent that the admissions,
12 denials, and affirmative defenses set forth in paragraphs 1-32 constitute “allegations” in
13 support of Apple’s counterclaim, Burst replies by re-alleging and adopting by reference
14 the entirety of Burst’s Counterclaim, Prayer for Relief, and Demand for Jury Trial, and
15 by denying all of Apple’s affirmative defenses.
16
17

18 33. Burst admits that Apple counterclaims against Burst for
19 declaratory judgment, and that declaratory judgment is a remedy contemplated in the
20 patent laws of the United States and the Federal Rules of Civil Procedure, including Title
21 35 of the United States Code; 28 U.S.C. §§ 1331, 1338(a), 2201, 2202; and Fed. R. Civ.
22 P. 13. Burst denies that Apple is entitled to the remedy sought.
23

24 34. Denied.

25 35. Denied.
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1 36. Burst denies that Apple is entitled to any relief from Burst and in
2 particular to any of the relief requested in paragraphs 1 through 5 of Apple's Prayer for
3 Relief.

4
5 Dated: June 7, 2006

Respectfully submitted,

6 /s/ Floyd G. Short

PARKER C. FOLSE III (WA Bar No. 24895-
7 *Admitted Pro Hac Vice*)

pfolse@susmangodfrey.com

8 IAN B. CROSBY (WA Bar No. 28461-
9 *Admitted Pro Hac Vice*)

icrosby@susmangodfrey.com

10 FLOYD G. SHORT (WA Bar No. 21632-
11 *Admitted Pro Hac Vice*)

fshort@susmangodfrey.com

12 JOHN M. NEUKOM (WA Bar. No. 36986 –
13 *Admitted Pro Hac Vice*)

SUSMAN GODFREY, L.L.P.

14 1201 Third Avenue, Suite 3800

Seattle, Washington 98101-3000

15 (206) 516-3880 Tel.

(206) 516-3883 Fax

16
17 SPENCER HOSIE (CA Bar No. 101777)

shosie@hosielaw.com

18 BRUCE WECKER (CA Bar No. 078530)

bwecker@hosielaw.com

19 HOSIE McARTHUR LLP

One Market, 22nd Floor

20 San Francisco, CA 94105

21 (415) 247-6000 Tel.

(415) 247-6001 Fax

22
23 MICHAEL F. HEIM (TX Bar No. 9380923-
24 *Admitted Pro Hac Vice*)

LESLIE V. PAYNE (TX Bar No. 0784736-
25 *Admitted Pro Hac Vice*)

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

26 600 Travis Street, Suite 6710

Houston, TX 77002

27 (713) 221-2000 Tel.

(713) 221.2021 Fax

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ROBERT J. YORIO (CA Bar No. 93178)
V. RANDALL GARD (CA Bar No. 151677)
COLBY B. SPRINGER (CA Bar No. 214868)
CARR & FERRELL LLP
2200 Geng Road
Palo Alto, CA 94303
(650) 812-3400 Tel.
(650) 812-3444 Fax

ATTORNEYS FOR DEFENDANT
BURST.COM, INC.

CERTIFICATE OF SERVICE

1
2 I hereby certify that on the date written above, that I electronically filed the foregoing
3 document with the Clerk of the Court using the CM/ECF system. The Court or the CM/ECF
4 system will send notification of such filings to all CM/ECF participants. I further certify that
5 a true and correct copy of this document was sent via U.S. first-class mail, postage pre-paid
6 to all non-CM/ECF participants.
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8
9 /s/ Floyd G. Short
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