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APPLE COMPUTER, INC.

Case 3:06-cv-00019-MHP Document 60 Filed 10/06/2006 Page 1 of 4

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

APPLE COMPUTER, INC.,

Plaintiff,

v.

BURST.COM, INC.,

Defendant.

Case No. 3:06-CV-00019 MHP

**DECLARATION OF LOU
BRUCCULERI RE: BRIAN BERSHAD**

1 I, Lou Brucculeri, declare:

2 1. I am a member of the State Bar of Texas and a partner at the law firm of
3 Wong, Cabello, Lutsch, Rutherford & Brucculeri, LLP. I have personal knowledge of the facts
4 stated in this Declaration, and if called upon, could and would testify competently thereto.

5 2. I was counsel for Apple Computer, Inc. ("Apple") in Gobeli Research Ltd.
6 v. Apple Computer, Inc. and Sun Microsystems, Inc., United States District Court for the Eastern
7 District of Texas, Marshall Division, Civil Action No. 2-04-CV-149 ("Gobeli Litigation"). Apple
8 retained Dr. Brian Bershad in about January, 2005, to act as a consultant for Wong Cabello in
9 conjunction with the Gobeli Litigation. Dr. Bershad performed consulting services under my
10 supervision for Apple and Wong Cabello through December, 2005.

11 3. As a condition of his work for Apple as a consultant, Dr. Bershad agreed
12 that all conversations with counsel about the case were confidential, and that they would remain
13 confidential after the conclusion of the litigation. Dr. Bershad did not testify in the Gobeli
14 Litigation. All disclosures made to Dr. Bershad in the context of the Gobeli Litigation concerning
15 confidential Apple technology and Apple litigation positions were made under confidential
16 circumstances, and must remain confidential. I understand that Apple considers the details of
17 these conversations to be protected under the work product privilege.

18 4. I had more than 10 conversations with Dr. Bershad during the Gobeli
19 Litigation. Some or all of these conversations with Dr. Bershad concerned Apple's claim
20 construction and invalidity strategies and potential positions, and how those strategies or potential
21 positions related to Apple's accused products. I repeatedly bounced various ideas off of Dr.
22 Bershad. During these conversations, it was necessary to disclose to Dr. Bershad confidential
23 details about the functionality of Apple products. Again, I understand that Apple considers the
24 details of these conversations to be protected under the work product privilege.

25 5. The Gobeli Litigation involved technology related to operating system
26 interrupts and interrupt handlers, including particularly interrupts generated "external to the
27 computer." This issue in the case included how USB and Firewire worked, and how Apple's
28 products used USB and Firewire interfaces, and how these interfaces interacted with the operating

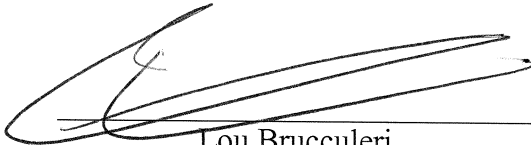
1 system through the interrupt service. The infringement contentions in the case specifically
2 alleged that Apple's products infringed through USB and Firewire functionality including the use
3 of storage devices connected through USB and FireWire. The iPod was used in the case as an
4 example of a device connected through USB and/or FireWire.

5 6. My conversations with Dr. Bershad included discussion about the
6 Input/Output systems in Apple's products. These conversations involved disclosure of Apple
7 confidential information and potential claim construction positions related to these technologies.

8 7. Attached as Exhibit A is a true and correct copy of the payments made to
9 Dr. Bershad by Wong Cabello, with the last payment being made on January 7, 2006.

10 Executed on October 2, 2006, at Houston, Texas.

11 I declare under penalty of perjury under the laws of the United States of America
12 that the foregoing is true and correct.

13
14 
15 Lou Brucculeri

Payment Listing

ALL DATES

Vendor	Entered	Due	Reference	Explanation	Acct	Che	G/L	Acct:	Amount (-Disc)	Payment	Balance
				Payment Date							
621	Brian Bershad								Acct: domestic associate		
	Re: consultant for Gobeli v. Apple										
Apr	1/2005	May 6/2005	050605a	March 2005 Consultant Ser					1500.00		
				May 6/2005	6	5039	5210	- Client Di	1500.00	1500.00	0.00
May	1/2005	May 30/2005	050605b	April 2005 Consultant Ser					1500.00		
				May 30/2005	6	5115	5210	- Client Di	1500.00	1500.00	0.00
Jun	1/2005	Jun 30/2005	061305c	May 2005 Consultant Servi					3500.00		
				Jun 30/2005	6	5291	5210	- Client Di	3500.00	3500.00	0.00
Jul	1/2005	Jul 30/2005	072205e	June Consulting Services					1500.00		
				Jul 30/2005	6	5437	5210	- Client Di	1500.00	1500.00	0.00
Aug	1/2005	Aug 31/2005	083105j	materials review					4000.00		
				Aug 31/2005	6	5680	5210	- Client Di	4000.00	4000.00	0.00
Sep	1/2005	Sep 30/2005	091405e	August 2005 professional					7000.00		
				Sep 30/2005	6	5802	5210	- Client Di	7000.00	7000.00	0.00
Oct	1/2005	Oct 31/2005	103105a						1500.00		
				Oct 31/2005	6	5934	5210	- Client Di	1500.00	1500.00	0.00
Nov	1/2005	Nov 30/2005	113005e	professional consulting s					1500.00		
				Nov 30/2005	6	6163	5210	- Client Di	1500.00	1500.00	0.00
Dec	1/2005	Dec 27/2005	122105k	November 2005 consulting					1500.00		
				Dec 27/2005	6	6271	5210	- Client Di	1500.00	1500.00	0.00
Jan	7/2006	Jan 31/2006	013006d	December 2005 consulting					1500.00		
				Jan 31/2006	6	6444	5210	- Client Di	1500.00	1500.00	0.00
				Total:					25000.00	25000.00	0.00

*** Payment Listing - G/L Account Summary ***

G/L Account	Debit	Credit
1010 - Operating - Compass		25000.00
5210 - Client Disb Clearin	25000.00	
Total:	25000.00	25000.00

REPORT SELECTIONS

Report:	Payment Listing		
Layout Template:	All		
Requested by:	mjerding		
Finished:	Thursday, September 07, 2006 at 04:38:33 PM		
Date Range:	ALL DATES	G/L Account:	All
Payment Date Range:	ALL DATES	Account:	All
Vendor:	621	Check:	All
Include Vendors:	All	Unpaid Invoices:	Exclude
Ver:	7.63d		