

Eight Mile Style, LLC et al. v. Apple Computer Inc., et al.
Case No. 2:07-CV-13164

EXHIBIT 1

**Declaration of Melinda LeMoine In Support of Defendants
Aftermath Records' and Apple Inc.'s Motion to Strike
Declaration of Patrick Sullivan and Plaintiffs' "Statement of
Material Facts" and Conditional Motion to Strike Plaintiffs'
Late-Produced Documents**

UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EIGHT MILE STYLE, LLC and
MARTIN AFFILIATED, LLC,

Plaintiffs

vs.

Case No. 2:07-CV-13164
Honorable Anna Diggs Taylor
Magistrate Judge Donald A. Scheer

APPLE COMPUTER, INC. and
AFTERMATH RECORDS d/b/a
AFTERMATH ENTERTAINMENT,

Defendants.

**DECLARATION OF MELINDA E. LEMOINE IN SUPPORT OF DEFENDANTS
AFTERMATH RECORDS' AND APPLE INC.'S MOTION TO STRIKE
DECLARATION OF PATRICK SULLIVAN AND PLAINTIFFS' "STATEMENT OF
MATERIAL FACTS" AND CONDITIONAL MOTION TO STRIKE PLAINTIFFS'
LATE-PRODUCED DOCUMENTS**

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DECLARATION OF MELINDA LEMOINE

I, Melinda LeMoine, declare as follows:

1. I am an attorney with the law firm of Munger, Tolles & Olson LLP, which represents Defendants Apple Inc. and Aftermath Records d/b/a Aftermath Entertainment in this matter. I am familiar with the documents and the court filings in this litigation.. Except as otherwise indicated, I have personal knowledge of the facts set forth herein. If called as a witness in this action, I could and would testify competently to the contents of this declaration.

2. Attached as Exhibit A is a true and correct copy of excerpts from the deposition transcripts of Patrick Sullivan, taken in this case on September 18, 2008 and October 1, 2008.

3. Attached as Exhibit B is a true and correct copy of an e-mail between Ramona De Salvo, an attorney at Plaintiffs' counsel's firm, and Patrick Sullivan, dated August 27, 2008, which Plaintiffs produced in this action.

4. Attached as Exhibit C is a true and correct copy of an e-mail between Ramona De Salvo, an attorney at Plaintiffs' counsel's firm, and Patrick Sullivan, dated August 20, 2008, which Plaintiffs produced in this action.

5. Attached as Exhibit D through G are true and correct copies of Plaintiff Eight Mile Style LLC's and Martin Affiliated LLC's Responses to Defendants' First Set of Interrogatories and to Defendants' First Set of Requests for Production of Documents, respectively.

6. Attached as Exhibits H through K are true and correct copies of Plaintiff Eight Mile Style LLC's and Martin Affiliated LLC's Responses to Defendants Second Set of Interrogatories and to Defendants' Second Set of Requests for Production in this case

7. Plaintiffs have produced more than 240 pages—almost 25% of their total production in this case—after the June 2, 2008 discovery cut-off date. These late productions

include (a) a collection of licenses produced on June 4, 2008; (b) a collection of agreements produced on August 28, 2008, the same day that Plaintiffs filed their Opposition to Defendants' Revised Motion for Summary Judgment relying upon them; (c) a collection of copyright registrations produced on September 15, 2008 disclosing Ensign Music Publishing and Famous Music for the first time as co-claimants for several of the compositions at issue in this case; and (d) on October 6, 2008, Plaintiffs finally produced a long-sought document disclosing that another music publisher and administrator, Music Resources, Inc./Kobalt Music Publishing America, appears to hold exclusive administration rights to the compositions at issue in this case.

8. Attached as Exhibit 2 is a true and correct copy of *Anderson v. United States*, 39 Fed. Appx. 132, 2002 WL 857742 (6th Cir. May 3, 2002).

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

Executed this 15th day of October, 2008 at Los Angeles, California.

/s Melinda E. LeMoine
Melinda LeMoine