

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

EXHIBIT 1-A

**Excerpts of transcript pages from the
depositions of Patrick Sullivan taken
on September 18, 2008 and October 1, 2008**

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

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EIGHT MILE STYLE, LLC and)

MARTIN AFFILIATED, LLC,)

Plaintiffs,)

vs.)Case No. 2:07-cv-13164

APPLE COMPUTER, INC. and)Hon. Anna Diggs Taylor

AFTERMATH RECORDS d/b/a)

AFTERMATH ENTERTAINMENT,)

Defendants.)

-----x

September 18, 2008

10:12 a.m.

Deposition of PATRICK SULLIVAN,
held at the law offices of Jenner & Block, 919
Third Avenue, New York, New York, pursuant to
subpoena, before Anita T. Shemin, CSR and
Notary Public within and for the State of
New York.

1 Patrick F. Sullivan

2 not going to allow you to do that. I
3 have a right to ask you to clarify it so
4 it is not vague and ambiguous.

5 I am asking you whether you mean to
6 say does the license on its face say it
7 covers DPD and physical. Is that what
8 you are meaning to say rather than being
9 vague and ambiguous in your questioning?

10 BY MR. KLAUS:

11 Q I am asking you, Mr. Sullivan, do you
12 know whether EMI Music -- let me go back to
13 Universal. Do you know whether Universal Music
14 obtains licenses from music publishers where the
15 rights granted include both physical and DPD
16 rights --

17 MR. BUSCH: Same objection.

18 Q -- in the same license? Do you know one
19 way or the other whether they have such
20 agreements?

21 A In my industry experience, no.

22 Q What is your industry experience of
23 knowing what licenses Universal Music has from
24 music publishers?

25 A I know from working at the Harry Fox

1 Patrick F. Sullivan

2 Agency, they would license directly through Harry
3 Fox and the non-Fox members, and they licensed
4 thousands of songs for DPDs.

5 Q We will come back -- set that aside. We
6 will come back to Harry Fox, but set aside Harry
7 Fox.

8 Do you have any understanding of the
9 licenses -- do you have any understanding of what
10 types of licenses Universal Music obtains from
11 music publishers --

12 MR. BUSCH: Same objections.

13 Q -- in your industry experience?

14 A The only thing I have is purported
15 licenses that they claim in this case are
16 licenses.

17 Q Besides those licenses that you have
18 seen in this case and your experience at Harry
19 Fox, do you have any understanding what licenses
20 Universal obtained from music publishers?

21 A From industry experience.

22 Q What is your industry experience of the
23 licenses that Universal Music obtains?

24 A In conversations speaking to publishers
25 I work with, friends when they request licenses,

1 Patrick F. Sullivan

2 Universal, EMI Records, Warner, type of licenses
3 they request, so --

4 Q Can you recall anything more specific
5 than that?

6 A No.

7 Q Okay. EMI Music, do you know -- EMI
8 Music is not one of the music majors, correct?

9 A It depends. Record side or publishing
10 side?

11 Q Major music label, EMI is one of them,
12 right?

13 A One of my clients.

14 Q On the record side, they are one of your
15 clients?

16 A Yes.

17 Q Do you have any understanding of the
18 types of licenses that EMI music obtains from
19 music publishers?

20 A Again, in my industry experience, yes.

21 Q What is that experience based on?

22 A Talking to publishers that issue
23 licenses to EMI Records.

24 Q Do you know one way or the other whether
25 EMI Music has licenses from publishers that

1 Patrick F. Sullivan

2 covered both mechanical and DPD rights?

3 MR. BUSCH: Same objection. You
4 are purposely being ambiguous and vague
5 in your question about the word cover.
6 Are you saying that they are licenses
7 that say on their face that it is DPD
8 and physical? You refuse to ask him
9 that question. I understand why, but I
10 am not going to allow you to create a
11 phony record.

12 Q I am using it as you do on Page 8 in
13 your bullet point, Mr. Sullivan. I am asking you
14 based on the way you use it there.

15 A Which bullet point?

16 Q The first bullet point, in fact, under
17 "Typical terms of a privately negotiated license."

18 Do you know one way or another whether
19 EMI Music has any agreements with any music
20 publishers that covered both, that cover
21 mechanical and DPD rights?

22 MR. BUSCH: Same objection. You
23 are also purposely excluding the first
24 sentence, which puts the sentence that
25 you are using in context, which says

1 Patrick F. Sullivan

2 "The license, whether it be mechanical
3 or DPD, is only applicable for that
4 specific use."

5 So once again, I ask you to clarify
6 whether you are asking him whether there
7 could be a license that can say on its
8 face that it is for digital and for
9 mechanical, but you refuse to ask that
10 question.

11 BY MR. KLAUS:

12 Q Let me ask you that question. Have you
13 ever seen an agreement that covers both digital
14 and physical uses?

15 A Not that I have seen.

16 Q Okay. So with that, your understanding
17 you have testified to, isn't it correct that they
18 are separate -- your understanding is they are
19 always separate?

20 A In all of the publishers I have dealt
21 with, they are separate licenses.

22 Q Thank you.

23 Let me ask you the question with respect
24 to EMI Music. Do you know one way or another
25 whether EMI Music has any agreement with any music

1 Patrick F. Sullivan

2 publishers where the license is applicable for
3 both mechanical and DPD rights?

4 A I wouldn't be privy to that information.

5 Q But you know what Sony BMG is, right?

6 A Tell me what it is.

7 Q Tell me what it is. Let me know.

8 Let me ask you this --

9 A I am well aware of Sony BMG.

10 Q Sony BMG is one of the four music
11 majors, correct?

12 A Correct.

13 Q Do you know whether Sony BMG has
14 licenses with music publishers that are applicable
15 wherein the same license is applicable both to
16 mechanical and DPD? Do you know one way or
17 another?

18 MR. BUSCH: Same objection.

19 A I am not privy to Sony BMG licensing,
20 although the publishers that I do work with do
21 issue licenses to them. I am not sure they cover
22 DPD and mechanical licenses, but I doubt it.

23 Q But you don't know one way or the other?

24 A I am not privy to that information.

25 Q The Warner Music Group, they are the

1 Patrick F. Sullivan

2 last of the music majors, right? Do you know
3 whether Warner Music has licenses with music
4 publishers that are applicable to both mechanicals
5 and DPDs?

6 A I am not privy to that information, so I
7 do not know.

8 Q All right. The third bullet point on
9 Page 8, do you see that where it says "The
10 physical license will often state the number of
11 units to be manufactured"?

12 A There is multiple bullet points.

13 Q I am reading down the list of typical
14 terms of a privately negotiated license.

15 A Yes.

16 Q Do you see you say "The physical license
17 will often state the number of units to be
18 manufactured"? Do you see that?

19 A Correct.

20 Q Okay. Which music publishers, to your
21 knowledge, insist on specifying the number of
22 units?

23 A Harry Fox Agency, the world's largest
24 mechanical rights licensing agent, specifies very
25 clearly on their website.

Patrick F. Sullivan

Q Besides Fox?

A Fox is 65 percent of the market.

Q I fully appreciate that, but let me ask you -- we will get into detail after lunch about Harry Fox, I promise.

A I am looking forward to that.

Q But I want to -- I want to ask you besides Harry Fox --

A Yes.

Q -- which publishers insist on specifying the number of units?

A I can't tell you the publishers' names, but quite a few in the industry practice of licensing will state not only 2,500 units will ask for advances as well.

Q Can you recall the names?

A I can't recall any. I would have to look -- I would have to look at licenses.

Q The next one is the license term?

A Yes.

Q Do you see that?

A Yes.

Q "DPD licenses will often have a term of three to five years"?

1 Patrick F. Sullivan

2 A Yes.

3 Q Which publishers, to your knowledge,
4 insist on having terms with a DPD license?

5 A Not to name confidential information on
6 publishers, but the majority have a term of three
7 years that I have come across in my industry
8 experience.

9 Q Which ones have a term of three to five
10 years?

11 A I would have to look at the contracts,
12 but after licensing and doing it for so long, it
13 is around three years.

14 Q But you can't tell me any publisher?

15 A I would have to look, and it is
16 confidential information between my previous
17 clients, so --

18 Q All right. But do you have access to
19 that information?

20 A No. No.

21 Q So is it the case that without looking
22 at the records of your prior employer, you
23 couldn't answer that question?

24 A For specifics -- well, define that
25 question a little broader.

1 Patrick F. Sullivan

2 Q Let me make sure we are clear here. I
3 am asking you if you could tell me which music
4 publishers require a term of three to five years
5 in their contracts. Are we on the same page so
6 far?

7 A I understand.

8 Q Okay. And I asked you if you could name
9 who those music publishers are who do that, and
10 your answer is?

11 A I would be disclosing confidential
12 information between my prior client, the Orchard,
13 and eMusic and the publishers.

14 Q To make sure we are clear, as we sit
15 here, do you have a recollection of who those
16 former clients are?

17 A No.

18 Q Is the only way you could refresh your
19 recollection on that to go and look at records
20 that are no longer in your possession?

21 A Yes. Yes.

22 Q Okay. Besides the work that you have
23 done in connection with your former employer that
24 you have no way -- it sounds like you have no way
25 of recalling who they are, can you tell me any

1 Patrick F. Sullivan

2 other music publishers you are aware of who insist
3 on a term of three to five years?

4 A Not that I recall. I would have to look
5 at the contracts.

6 Q Do you know whether any of the music
7 majors -- the four music majors we discussed
8 earlier, do you know whether any of them enter
9 into agreements with music publishers where there
10 is a term of three to five years?

11 A I wouldn't be privy to that information,
12 but my experience, they have to -- they would have
13 to.

14 Q Why do you say they would have to?

15 A Because the publisher controls that
16 right, and they can dictate and negotiate that
17 term, and in my experience, three to five years is
18 what publishers look for.

19 Q It sounds like they negotiated that term
20 with eMusic and Orchard, correct?

21 A No. The Orchard would take on major
22 cases responsibility after the fact. The licenses
23 were negotiated prior to being distributed through
24 eMusic or the Orchard.

25 Q But those are licenses that were

1 Patrick F. Sullivan

2 negotiated between --

3 A The record company.

4 Q -- independent record companies,
5 correct?

6 A I don't know who you call independent
7 anymore. Those independents are now majors, and
8 the majors -- I don't know. I don't know if you
9 can sit here and tell me they are majors anymore,
10 but the independent major record companies.

11 Q Are you aware of Universal Music ever
12 entering into the license for a composition right
13 for a limited term?

14 MR. BUSCH: We know of one.

15 A He beat me to it.

16 Q He always does.

17 A I am aware with this case, yes.

18 Q You are aware?

19 A Well --

20 Q The --

21 A I am aware with -- Universal Music Group
22 has -- yes, I am aware of the Orchard. We did
23 distribute Universal Record artists as well. That
24 artist would have entered into a DPD license which
25 we didn't obtain, Universal would have obtained.

Patrick F. Sullivan

1
2 Q And that is the back catalog material?

3 A Actually, a front line artist. In that
4 case, it was a front line.

5 Q Who was the artist?

6 A I have got to remember. A pretty
7 prominent artist. It is a Hip Hop artist. I
8 can't recall the name, but it was one -- it was a
9 pretty prominent Hip Hop artist that went through
10 the Orchard at my time.

11 Q Distributed on the Universal label?

12 A Yes, Universal distributed label.

13 Q And Universal had an agreement with the
14 music publisher?

15 A They would have -- they stated in our
16 agreement they had the rights to distribute that
17 musical composition through some sort of license,
18 but we weren't privy to that.

19 Q Do you know whether Universal Music's
20 license with the music publisher for that Hip Hop
21 artist that you distributed had a term?

22 A I wasn't privy to that information.

23 Q Are you aware of any other information
24 where Universal Music has ever entered into a
25 license for DPDs that has a limited term?

1 Patrick F. Sullivan

2 A Could you rephrase that? Is that with
3 the Orchard and eMusic or outside?

4 Q Anywhere in the world, are you aware of
5 Universal Music ever entering into a DPD license
6 that contained a term?

7 A I think you have to ask Universal that.

8 Q Are you aware of that?

9 A Other than seeking publishers that issue
10 licenses that have terms of three years, I am not
11 aware of directly what they have done. Based upon
12 my experience, they would be licensing Universal
13 the same terms.

14 Q Has any huge music publisher ever told
15 you that they have an agreement with Universal
16 Music that has a limited term for DPD rights?

17 A No. I never asked that question.

18 Q Let me ask you with respect to Warner
19 Music Group.

20 A Yes.

21 Q Do you know whether Warner Music Group
22 has ever entered into a license with DPD that has
23 a term?

24 A I would not be privy to that
25 information.

1 Patrick F. Sullivan

2 Q Do you know whether Sony BMG ever
3 entered into a license that has a music term?

4 A Repeat that question.

5 Q Sure.

6 Are you aware whether Sony BMG has ever
7 entered into a license with a music publisher that
8 has a term?

9 A I wouldn't be privy to that.

10 Q The same question with respect to EMI,
11 do you know whether they have ever entered into an
12 agreement with a music publisher that has a term?

13 A Excuse me, I wouldn't be privy to that
14 information.

15 Q Let me ask you, if you would, a couple
16 of last questions on these typical terms of a
17 privately negotiated license.

18 Do you see the next to the last bullet
19 point in that second set of bullet points, it says
20 that for physical licenses, royalties are paid
21 based on units sold, not based on units made,
22 manufactured and distributed"? Do you see that?

23 A Yes.

24 Q Has that been true in your experience?

25 A It varies.

1 Patrick F. Sullivan

2 Q Do you think it is common or uncommon
3 for royalties to be paid on units sold and not
4 made or manufactured for physical licenses?

5 A It depends on the label.

6 Q Is it true that free goods and
7 promotional units are not royalty bearing?

8 A Oh, it depends on the label.

9 Q Is it -- let me -- is it the case that
10 free goods and promotional units often are not
11 royalty bearing?

12 A In some of the agreements that we enter
13 into, they are not royalty bearing, and in some,
14 they are.

15 Q You characterize it as often, they are
16 not?

17 A I would say 50/50.

18 Q Are you a lawyer?

19 A No, I am not an attorney. I am not a
20 lawyer.

21 Q Have you ever attended law school?

22 A No.

23 Q Ever taken any legal courses?

24 A Could you define legal course?

25 Q Any class that covered the subject of

Patrick F. Sullivan

1
2 law?

3 A Yes.

4 Q What class is that?

5 A I think the legal issues of music
6 industry.

7 Q Where?

8 A Ethical issues in the music industry,
9 contract law.

10 Q When did you take that?

11 A All during my tenure at New York
12 University.

13 Q As -- was that as an undergraduate?

14 A A Master's degree.

15 Q Okay. As part of your work, have you
16 studied legal texts or treatises?

17 A Yes.

18 Q Which ones?

19 A I am sorry?

20 Q Textbooks, treatises, scholarly works?

21 A I have read Nimmer on Copyright Law, I
22 have read the Copyright Law Section 115 and pretty
23 much all of the statute of copy law.

24 Q Do you consider yourself an expert on
25 the law?

1 Patrick F. Sullivan

2 A No.

3 Q What is RightsFlow?

4 A RightsFlow is an LLC New York based
5 company, professional services and outsource
6 licensing music company, and we are an agent that
7 act on behalf of over 800 record companies to
8 obtain DPD licenses on their behalf.

9 The company services EMI Music for our
10 professional services arm; Musak, which is the
11 largest retail background and service music in the
12 United States; Lime Wire, Constellation Wine, Wine
13 Italia. We serve quite a bit of companies,
14 everyone from Audible Magic to Fox Interaction,
15 which owns MySpace.

16 Q Do you do exclusively DPD licensing?

17 A No.

18 What do you mean by exclusive?

19 Q Does any part of your work consist of
20 obtaining license rights for physical distribution
21 of product?

22 A In the past, yes. For RightsFlow today,
23 no, but we are in that business offering -- we are
24 offering that.

25 Q So you will obtain mechanical licenses

1 Patrick F. Sullivan

2 12th?

3 A I don't recall.

4 Q Okay. I would ask you to take a look
5 at --

6 MR. KLAUS: Mark this as Exhibit
7 240.

8 (Opposition to Summary Judgment
9 marked Exhibit 240 for identification.)

10 BY MR. KLAUS:

11 Q Exhibit 240, is it a true and correct
12 copy of your Declaration in Opposition to the
13 Summary Judgment motion, sir?

14 A Yes.

15 Q Did you draft this Declaration?

16 A This was done by Ramona DeSalvo.

17 Q Did she send you any drafts of this
18 Declaration, or did she just send you the final
19 copy?

20 A I believe we might have had something on
21 the phone. I don't recall.

22 Q Do you recall ever receiving an e-mail
23 from her with a copy of this before this was put
24 in front of you for signature?

25 A Yes.

1 Patrick F. Sullivan

2 this case are denominated Eminem compositions
3 change your understanding as to whether Eminem
4 wrote compositions or not?

5 A State that again.

6 MR. KLAUS: Withdraw it.

7 Exhibit 242.

8 A Is the question that you are asking --

9 MR. BUSCH: He withdraw the
10 question. There is no question pending.
11 How are you feeling?

12 THE WITNESS: Okay.

13 MR. BUSCH: Are your okay?

14 THE WITNESS: Yes.

15 (Exhibit 2 to the Declaration of
16 Mr. Sullivan marked Exhibit 242 for
17 identification.)

18 BY MR. KLAUS:

19 Q Is this Exhibit 242 the exhibit that you
20 attached as Exhibit 2 to your Declaration in this
21 case, sir?

22 A Yes.

23 Q Did you prepare Exhibit 242?

24 A No.

25 Q Who prepared it?

1 Patrick F. Sullivan

2 A Ramona, I believe.

3 Q Did you have any input into Exhibit 242?

4 A After looking at the agreements, yes.

5 Q What in Exhibit 242 did you tell
6 Ms. DeSalvo to change or do differently after
7 having looked at the agreements?

8 MR. BUSCH: That is a different
9 question. Did you have input meaning
10 did he review? Just note my objection.
11 Just go ahead.

12 A After reviewing the licenses that -- the
13 mechanical licenses that were sent forth to me, we
14 identified -- as we stated here, there is no
15 mention of DPD, so we went through each one of
16 those.

17 Q Okay. Do you recall making any changes
18 to the chart that Ms. DeSalvo sent you? Did you
19 ask her to make any changes to that chart?

20 A We went closely through each one.

21 Q And you didn't find any mistakes in what
22 she had done?

23 A Not to my knowledge, no.

24 Q All right.

25 MR. KLAUS: Let me mark this as

Deposition of Patrick F. Sullivan
September 18, 2008
Eight Mile Style, LLC v. Apple Computer, Inc

I wish to make the following changes, for the following reasons:

Page 13, Line 11: Change “phone record” to “phonorecord”
Reason: Transcription error

Page 15, Lines 3-4: Change “phono record” to “phonorecord”
Reason: Transcription error

Page 30, Line 22: Change “Levinson” to “Levinsohn”
Reason: Transcription error

Page 32, Line 22: Change “DPD licensing” to “DPD licensing department”
Reason: Transcription error or misspoke

Page 33, Line 11: Change “Levinson” to “Levinsohn”
Reason: Transcription error

Page 35, Line 23: Change “Levinson” to “Levinsohn”
Reason: Transcription error

Page 43, Line 20: Change “Mark” to “Marc”
Reason: Transcription error

Page 46, Line 5: Change “Levinson” to “Levinsohn”
Reason: Transcription error

Page 51, Line 21: Change “Levinson” to “Levinsohn”
Reason: Transcription error

Page 55, Line 9: Change “Levinson” to “Levinsohn”
Reason: Transcription error

Page 75, Line 2: Change “Cobalt” to “Kobalt”
Reason: Transcription error or misspoke

Page 75, Line 5: Change “C-O-B-A-L-T” to “K-O-B-A-L-T”
Reason: Transcription error or misspoke

Page 75, Line 21: Change “Cobalt” to “Kobalt”
Reason: Transcription error or misspoke

Page 75, Line 22: Change “representation” to “administrator”
Reason: Transcription error or misspoke

Page 85, Line 22: Change “Levinson” to “Levinsohn”
Reason: Transcription error

Page 90, Line 19: Change “licensee and the licensee” to “licensee and the licensor”
Reason: Transcription error or misspoke

Page 95, Line 10: Change “lengthy” to “at length”
Reason: Transcription error or misspoke

Page 108, Line 25: Change “Cobalt” to “Kobalt”
Reason: Transcription error or misspoke

Page 109, Line 3: Change “every thousand licenses of DPD” to “every license of DPD”
Reason: Transcription error or misspoke

Page 120, Line 12: Change “is” to “are”
Reason: Transcription error or misspoke

Page 131, Line 7: Change “act” to “acts”
Reason: Transcription error or misspoke

Page 131, Line 9: Change “for” to “with”
Reason: Transcription error or misspoke

Page 131, Line 10: Change “Musak” to “Muzak”
Reason: Transcription error

Page 131, Line 12: Change “Lime Wire” to “LimeWire”
Reason: Transcription error

Page 131, Lines 12-13: Change “Wine Italia” to “One Italia”
Reason: Transcription error

Page 131, Line 14: Change “Fox Interaction” to “Fox Interactive”
Reason: Transcription error

Page 139, Line 19: Change “every online music of that” to “every form of online music service that”
Reason: Transcription error or misspoke

Page 142, Line 13: Change “extensor” to “Accenture”
Reason: Transcription error

Page 142, Line 14: Change “there, outsource” to “their outsourced”
Reason: Transcription error or misspoken

Page 142, Line 23: Change “publishers’ video games” to “from publishers for video games,”
Reason: Transcription error or misspoken

Page 142, Line 25: Change “outsourcing” to “outsourced”
Reason: Transcription error or misspoken

Page 143, Line 25: Change “label contently, we distributed major” to “label content? We distributed major”
Reason: Transcription error or misspoken

Page 144, Line 10: Change “We refer to them they were distributed” to “We referred to them as ‘distributed.’”
Reason: Transcription error or misspoken

Page 144, Line 14: Change “once” to “one of”
Reason: Transcription error or misspoken

Page 151, Line 8: Change “records” to “record”
Reason: Transcription error or misspoken

Page 151, Line 10: Change “John Lennon” to “John Legend”
Reason: Transcription error or misspoken

Page 152, Line 22: Change “came in fixed it” to “came in and fixed it”
Reason: Transcription error or misspoken

Page 154, Line 14: Change “believe that full Universal” to “believe that the full Universal”
Reason: Transcription error or misspoken

Page 156, Line 14: Change “to” to “and”
Reason: Transcription error or misspoken

Page 156, Lines 15-16: Change “I disagreed” to “we agreed”
Reason: Transcription error or misspoken

Page 159, Line 19: Change “be” to “me”
Reason: Transcription error or misspoken

Page 164, Line 20: Change “have” to “have one”
Reason: Transcription error or misspoken

Page 165, Line 14: Change “CE0” to “CEO”
Reason: Transcription error or misspoken

Page 174, Line 16: Change “is” to “was”
Reason: Transcription error or misspoken

Page 174, Line 17: Change “streaming teetered and portable” to “streaming, tethered and portable”
Reason: Transcription error or misspoken

Page 174, Line 18: Change “distributions” to “distribution”
Reason: Transcription error or misspoken

Page 176, Lines 20-21: Change “streaming tethered portable from” to “streaming, tethered and portable from”
Reason: Transcription error or misspoken

Page 192, Line 14: Change “aftermath” to “Aftermath”
Reason: Transcription error or misspoken

Page 192, Line 16: Change “with in the industry.” to “within the industry?”
Reason: Transcription error or misspoken

Page 192, Line 22: Change “clause” to “clauses”
Reason: Transcription error or misspoken

Page 192, Line 23: Change “publicly” to “generally”
Reason: Transcription error or misspoken

Page 194, Line 18: Change “owned, but a major” to “owned by a major”
Reason: Transcription error or misspoken

Page 196, Line 14: Change “publishers” to “publisher”
Reason: Transcription error or misspoken

Page 200, Line 23: Change “Levinson” to “Levinsohn”
Reason: Transcription error

Page 203, Line 10: Change “of” to “or”
Reason: Transcription error or misspoken

Page 216, Lines 7-8: Change “According to the DPRA, it would only apply to the rate” to “According to the DPRA, controlled composition clauses are inapplicable to DPDs”
Reason: The question was confusing, since counsel asked whether a different rate made the clause “ineffective.” As I said numerous times in my deposition, controlled composition clauses are inapplicable to DPDs entirely. The question is not the

effectiveness or ineffectiveness of the clause but rather the applicability of the clause to DPDs. For all the reasons I articulated throughout my two days of testimony, controlled composition clauses are inapplicable to DPDs.

Page 219, Line 13: Change “licenses” to “licensees”
Reason: Transcription error or misspoke

Page 221, Line 8 through Page 222, Line 13: Counsel for plaintiffs, Richard Busch, believed there was a typographical error in a sentence in the exhibit about which I was being examined and attempted to clarify by way of explanation what I intended to say. This attempted correction was itself incorrect. I subsequently clarified my testimony on this issue at my second day of deposition at Page 519, Line 3 through Page 521, Line 24.

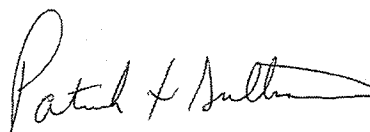
Page 235, Line 16: Change “languages” to “language”
Reason: Transcription error or misspoke

Page 241, Line 15: Change “Levinson” to “Levinsohn”
Reason: Transcription error

Page 242, Line 16: Change “Levinson” to “Levinsohn”
Reason: Transcription error

I have reviewed the deposition transcript as well as the above corrections, and I request that the reporter make the above listed corrections to the official transcript.

Date: October 13, 2008



Patrick Sullivan

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DISTRICT

EIGHT MILE STYLE, LLC and)
MARTIN AFFILIATED, LLC,)
Plaintiffs,) Case No.
vs.) 2:07-CV-13164
APPLE COMPUTER, INC. and) Volume 2
AFTERMATH RECORDS d/b/a) (Pages 271-542)
AFTERMATH ENTERTAINMENT,)
Defendants.)
-----)

CONTAINS ATTORNEYS' EYES ONLY INFORMATION

VIDEOTAPED DEPOSITION OF:

PATRICK SULLIVAN

WEDNESDAY, OCTOBER 1, 2008

11:09 A.M.

REPORTED BY:

SUSAN NELSON

C.S.R. No. 3202

15:14:14 1 "unauthenticated"?

15:14:16 2 A. Yes.

15:14:16 3 Q. What does that mean?

15:14:18 4 A. Not authentic.

15:14:19 5 Q. What does that mean?

15:14:21 6 MR. BUSCH: If you know. Don't speculate.

15:14:22 7 THE WITNESS: Yeah, don't -- no, I -- yeah,
15:14:23 8 that --

15:14:23 9 MR. BUSCH: That -- if someone else wrote
15:14:24 10 that --

15:14:24 11 THE WITNESS: I don't write this. Someone
15:14:25 12 else wrote this, so.

15:14:26 13 BY MR. KLAUS:

15:14:26 14 Q. It's your Exhibit 2. What does it --

15 15 A. I --

15:14:28 16 Q. What does that -- what is that --

15:14:28 17 A. I -- I didn't write -- I can't speculate on
15:14:29 18 what it means, so.

15:14:30 19 Q. We'd have to have Miss DeSalvo to ask what
15:14:32 20 that means?

15:14:33 21 MR. BUSCH: I think you know what auth- --
15:14:37 22 "unauthenticated" means, Mr. Klaus. Do you think we
15:14:38 23 need Miss DeSalvo to come testify about what the word
15:14:39 24 "unauthenticated" means, or "produced late"?

15:14:41 25 BY MR. KLAUS:

15:14:41 1 Q. How does -- how does unau- -- how does
15:14:44 2 whether or not that agreement was authenticated, does
15:14:47 3 that have any effect on any --

4 A. I --

15:14:48 5 Q. -- opinion you've offered?

15:14:49 6 MR. BUSCH: Object to form.

15:14:50 7 THE WITNESS: I can't answer that question.

15:14:51 8 BY MR. KLAUS:

15:14:51 9 Q. Does it have any effect on any opinion
15:14:53 10 you've offered, "yes" or "no"?

15:14:54 11 A. I can't answer that.

15:14:55 12 Q. Why not?

15:14:56 13 A. I didn't write that.

15:14:57 14 Q. Okay. You have no idea with that means, do
15:14:59 15 you?

15:15:00 16 A. I can't speculate, so.

15:15:03 17 Q. Do you see where it says "produced late"?

18 A. Yes.

15:15:07 19 Q. What does that mean?

15:15:10 20 A. I can't -- I can't authenticate that and I
15:15:12 21 can't verify it. I didn't write it, so.

15:15:14 22 Q. The next column over says inapplicable, D-12
15:15:18 23 album, Devil's Night.

15:15:20 24 Do you see that?

15:15:20 25 A. Yes.