

EXHIBIT A-5

August 20, 2008 Letter to Defendants

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

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August 20, 2008

VIA EMAIL AND Federal Express

Kelly Klaus
Munger, Tolles & Olson LLP
355 South Grand Avenue
Thirty-Fifth Floor
Los Angeles, California 90071

Re: Eight Mile Style/Martin Affiliated v. Apple / Aftermath Records

Dear Kelly:

I am writing in response to your letter of August 19, 2008, in which you contend that plaintiffs have failed to produce certain documents relating to their ownership of the Eminem compositions. Plaintiffs have responded to defendants' document requests and interrogatories in full and, subject to our objections, produced the documents thereby requested, including those that establish plaintiffs' ownership of the Eminem compositions.

Defendants' contention that plaintiffs have failed to produce documents demonstrating their claim of ownership of the Eminem compositions is incorrect. Plaintiffs have produced copyright registrations for the compositions at issue. (*See* Doc. No. 1, with attachments). Production of a valid copyright registration certificate constitutes *prima facie* evidence with respect to the elements of copyright ownership. 17 U.S.C. § 410(c); *Hi-Tech Video Prods., Inc. v. Capital Cities/ABC, Inc.*, 58 F.3d 1093, 1095 (6th Cir. 1995). Plaintiffs are the original copyright claimants to the composition copyrights in the Eminem compositions; therefore, no chain of title evidence is required. 17 U.S.C. § 410(c); *Hi-Tech Video*, 58 F.3d at 1095; 4 NIMMER ON COPYRIGHT § 13.01[A] (2006) (plaintiff's chain of title by assignment is presumed upon copyright registration).

Defendants' written discovery did not request documents constituting the full "chain of title" for each composition at issue, nor did defendants ever ask for or even mention such documents in our numerous meet and confer conferences. Instead, defendants merely asked plaintiffs to provide information as to any other owners of the Eminem compositions, and

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Kelly Klaus, Esq.

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plaintiffs provided this information in the Revised Schedule 1 to our Responses to defendants' First Set of Interrogatories.

Plaintiffs have met their burden of proving ownership of the compositions at issue by producing the copyright registration certificates attached to their Complaint, claiming ownership by written assignment. As third parties, defendants have no standing to challenge the validity of these assignments. *See In Re Napster*, 191 F.Supp.2d 1087, 1097 (N.D. Ca. 2002) ("[T]he cases hold that a third party does not have standing to challenge the presumption of ownership when plaintiffs claim ownership by assignment."). This makes the "chain of title" documents that defendants request irrelevant.

Nonetheless, plaintiffs are considering these and the remaining requests in defendants' August 19, 2008 letter. Plaintiffs will respond with a written response to each category of documents requested, and with documents, to the extent we are willing to produce them, shortly.

Sincerely,

 with permission
Richard S. Busch

cc: Daniel Quick, Esq.
Howard Hertz, Esq.