

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

**EXHIBIT 3**

**Declaration of Melinda E. LeMoine**

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.

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**DECLARATION OF MELINDA E. LEMOINE IN SUPPORT OF DEFENDANTS'  
REPLY BRIEF IN SUPPORT OF MOTION TO STRIKE**

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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 the Declaration of Patrick Sullivan, which is dated August 28, 2008. This Declaration was filed with Plaintiffs' Opposition to Defendants' Revised Motion for Summary Judgment at C.R. 74-58.
3. Attached as Exhibit B is a true and correct copy of the Expert Report by Patrick Sullivan dated August 12, 2008, which was submitted as an exhibit to the Declaration of Patrick Sullivan and filed with Plaintiffs' Opposition to Defendants' Revised Motion for Summary Judgment at C.R. 74-59.
4. Attached as Exhibit C is a true and correct copy of an email exchange dated July 18, 2008 between Howard Hertz, counsel for Plaintiffs, and Daniel Quick, counsel for Defendants, in which Mr. Hertz reports that he has sought additional pages from the Court's clerk for Plaintiffs' Opposition and was told that each side would have 28 pages total.
5. Attached as Exhibit D is a true and correct copy of an email from Marc Guilford to Patrick Sullivan dated August 12, 2008 and time-stamped 4:03 P.M, attaching "some of the third-party recording agreements" that are the subject of the attorney-drafted declaration and exhibits attached to Plaintiffs' Opposition to the Revised Motion.
6. Attached as Exhibit E is a true and correct copy of an email from Patrick Sullivan dated August 12, 2008 and time-stamped 5:11 P.M, attaching his "Expert Report."

7. Defendants served two sets of formal discovery requests in this case. Defendants' First Set of Interrogatories and Requests for Production were served on February 20, 2008. Defendants' Second Set of Interrogatories and Requests for Production were served on May 1, 2008. These sets of discovery requests asked for ownership information and information related to other music publishers or administrators with any role in the licensing of the compositions at issue.

8. Defendants sent a letter requesting to meet and confer on Defendants' First Set of Requests for Production and Interrogatories on April 4, 2008. A true and correct copy of that letter is attached as Exhibit F. That letter specifically demands ownership information in its discussion of RFP Nos. 13, 14 and 18 and in the discussion of Interrogatory No. 2. Further, the letter states that Defendants have requested in Nos. 6, 7-10 *all* documents that relate to any of Plaintiffs allegations—favorable or unfavorable.

9. Attached as Exhibit G and Exhibit H are true and correct copies of responses to Mr. Klaus's letter of April 4 sent by Plaintiffs' counsel Richard Busch. Exhibit G is a true and correct copy of an email sent from Mr. Busch on April 18, in which he agrees to provide ownership information for the compositions at issue in this case. Exhibit H is a true and correct copy of a letter sent by Mr. Busch on April 21, in which he again confirms that he will provide ownership information for the compositions at issue in this case.

10. Attached as Exhibit I and J are true and correct copies of correspondence sent from Mr. Klaus to Mr. Busch on October 2, 2008 and October 23, 2008, respectively. These letters address Plaintiffs' failure to produce the promised ownership information until well after the close of discovery, and seek additional discovery relating to late-disclosed entities with interests in the compositions. Plaintiffs responded in part to Exhibit I by providing an excerpt of a heavily redacted agreement. Plaintiffs have never responded to Exhibit J.

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 6th day of November, 2008 at Los Angeles, California.

/s Melinda E. LeMoine  
Melinda LeMoine