

EXHIBIT 1

PLAINTIFFS' NOTICE OF FILING SUPPLEMENTARY MATERIAL IN SUPPORT OF THEIR OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

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

DEPOSITION OF PETER PATERNO

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UNITED STATES DISTRICT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EIGHT MILE STYLE, LLC,)
ET AL.,)
)
 PLAINTIFFS,)
)
 VS.) CASE NO. 2:07-CV-13164
)
 APPLE COMPUTER, INC.,)
)
 DEFENDANT.)
_____)

DEPOSITION OF PETER PATERNO, TAKEN
ON BEHALF OF THE PLAINTIFFS, AT
10250 CONSTELLATION BOULEVARD, 19TH
FLOOR, LOS ANGELES, CALIFORNIA,
COMMENCING AT 2:16 P.M., THURSDAY,
NOVEMBER 20, 2008, BEFORE SAMANTHA
AVENAIM, CSR NUMBER 10627.

DEPOSITION OF PETER PATERNO

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1 APPEARANCES OF COUNSEL:

2

3 FOR THE PLAINTIFFS:

4 KING & BALLOW
5 BY: RICHARD S. BUSCH, ESQ.
6 315 UNION STREET
7 SUITE 1100
8 NASHVILLE, TENNESSEE 37201
9 615.259.3456
10 RBUSCH@KINGBALLOW.COM

11 - AND -

12 GLASER, WEIL, JACOBS,
13 FINK & SHAPIRO, L.L.P.
14 BY: MARK L. BLOCK, ESQ.
15 10250 CONSTELLATION BOULEVARD
16 19TH FLOOR
17 LOS ANGELES, CALIFORNIA 90067
18 310.553.3000
19 MBLOCK@CHRISGLASE.COM
20 (NOT PRESENT)

21

22 FOR THE DEFENDANTS:

23 MUNGER, TOLLES & OLSON
24 BY: GLENN POMERANTZ, ESQ.
25 355 SOUTH GRAND AVENUE
35TH FLOOR
LOS ANGELES, CALIFORNIA 90071
213.683.9132
GLENN.POMERANTZ@MTO.COM

26 - AND -

27 UNIVERSAL MUSIC GROUP
28 BY: SCOTT H. BAUMAN, ESQ.
29 2220 COLORADO AVENUE
30 SANTA MONICA, CALIFORNIA 90404
31 310.865.8095
32 SCOTTBAUMAN@UMUSIC.COM

33

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DEPOSITION OF PETER PATERNO

1 APPEARANCES (CONTINUED) :

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3 ALSO PRESENT :

10:26:25

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CHUCK GOSWITZ, LEGAL VIDEO SERVICES

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DEPOSITION OF PETER PATERNO

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1 LOS ANGELES, CALIFORNIA, THURSDAY
2 NOVEMBER 20, 2008
3 2:16 P.M.
4 14:16:30
5 THE VIDEOGRAPHER: AND GOOD 14:16:38
6 AFTERNOON. MY NAME IS CHUCK GOSWITZ. I'M THE 14:16:41
7 VIDEOTAPE OPERATOR TODAY. MY BUSINESS ADDRESS IS 14:16:43
8 2702 CASTLE HEIGHTS PLACE IN LOS ANGELES, 14:16:46
9 CALIFORNIA. 14:16:47
10 THE NAME OF MY EMPLOYER IS LEGAL 14:16:50
11 VIDEO SERVICES. TODAY'S DATE IS THURSDAY, 14:16:53
12 NOVEMBER 20TH, 2008, AND THE TIME IS 2:16 P.M. 14:16:57
13 THE LOCATION OF THIS DEPOSITION IS 14:17:01
14 10250 CONSTELLATION BOULEVARD, 19TH FLOOR, IN 14:17:05
15 LOS ANGELES, CALIFORNIA. 14:17:06
16 THE CASE CAPTION IS "F.B.T. 14:17:10
17 PRODUCTIONS VERSUS AFTERMATH." THE NAME OF THE 14:17:13
18 DEPONENT IS PETER PATERNO. 14:17:19
19 WOULD COUNSEL AND ALL PRESENT 14:17:20
20 PLEASE IDENTIFY THEMSELVES AND STATE WHOM THEY 14:17:20
21 REPRESENT. 14:17:20
22 MR. BUSCH: RICHARD BUSCH ON BEHALF 14:17:23
23 OF THE PLAINTIFFS. 14:17:23
24 MR. POMERANTZ: GLENN POMERANTZ ON 14:17:23
25 BEHALF OF THE DEFENDANTS.

DEPOSITION OF PETER PATERNO

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1 THAT WAS NOT THE RIGHT CAPTION. 14:17:26
2 THIS DEPOSITION IS BEING TAKEN ONLY IN THE EIGHT 14:17:29
3 MILE CASE, NOT IN THE F.B.T. CASE. SO I WOULD 14:17:34
4 REQUEST THAT THE CAPTION BE THE EIGHT MILE. I 14:17:36
5 TAKE IT, YOU AGREE WITH THAT? 14:17:38
6 MR. BUSCH: I GUESS SO. 14:17:41
7 THE VIDEOGRAPHER: ALL RIGHT. 14:17:42
8 WOULD THE COURT REPORTER PLEASE ADMINISTER THE
9 OATH.
10
11 PETER PATERNO,
12 CALLED AS A DEPONENT AND SWORN IN BY
13 THE DEPOSITION OFFICER, WAS EXAMINED
14 AND TESTIFIED AS FOLLOWS:
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16 DEPOSITION OFFICER: WILL YOU RAISE
17 YOUR RIGHT HAND, PLEASE.
18 DO YOU SOLEMNLY AFFIRM THAT THE
19 TESTIMONY YOU ARE ABOUT TO GIVE IN THE FOLLOWING
20 DEPOSITION WILL BE THE TRUTH, THE WHOLE TRUTH, AND
21 NOTHING BUT THE TRUTH, SO HELP YOU GOD?
22 THE DEPONENT: I DO. 14:17:53
23 MR. BUSCH: I WOULD LIKE IT TO 14:17:54
24 APPLY TO BOTH, BUT I ASSUME YOU WOULD OBJECT TO 14:17:56
25 THAT.

DEPOSITION OF PETER PATERNO

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1 Q. YES, SIR. 15:37:08

2 A. I DON'T KNOW. I HAVE NEVER LOOKED 15:37:09

3 AT A SEPARATE DIGITAL DOWNLOAD LICENSE. 15:37:11

4 Q. OKAY. DO YOU KNOW PERSONALLY THE 15:37:26

5 NAME OF LEO FERANTE? 15:37:28

6 A. NO. 15:37:28

7 Q. OKAY. DO YOU KNOW -- DO YOU KNOW 15:37:30

8 WHETHER WHAT MR. -- WHETHER WHAT IS REPRESENTED 15:37:34

9 HERE AS BEING THE TESTIMONY OF LEO FERANTE IS 15:37:38

10 CORRECT? 15:37:38

11 A. HOW WOULD I KNOW THAT? 15:37:40

12 Q. IN OTHER WORDS, YOU DON'T KNOW 15:37:44

13 WHETHER UNIVERSAL HAS A -- HAS A PRACTICE OF 15:37:48

14 SENDING SEPARATE LICENSE AND LICENSE REQUEST 15:37:51

15 LETTERS INSTEAD OF ADVICE LETTERS WHEN CONTROLLED 15:37:59

16 COMPOSITION LANGUAGE IS AMBIGUOUS? 15:38:01

17 A. THAT'S NOT WHAT YOU ASKED. YOU 15:38:04

18 ASKED ME IF THIS WAS THE TESTIMONY OF LEO 15:38:06

19 FERRANTE. 15:38:07

20 Q. NO, NO. WHAT I ASKED YOU WAS 15:38:08

21 DOESN'T MATTER. 15:38:09

22 WHAT I MEANT TO ASK YOU, BUT I 15:38:10

23 DIDN'T ASK IT CLEARLY ENOUGH WAS: DO YOU KNOW 15:38:12

24 WHETHER IT WAS REPRESENTED TO BE THE TESTIMONY OF 15:38:15

25 MR. FERANTE?

DEPOSITION OF PETER PATERNO

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1 A. IS THERE A PRACTICE? 15:38:16

2 Q. IS THERE A PRACTICE. 15:38:17

3 MR. POMERANTZ: OBJECTION; LACK OF 15:38:19

4 FOUNDATION. 15:38:19

5 THE DEPONENT: I BELIEVE THAT TO BE 15:38:20

6 THEIR PRACTICE. 15:38:21

7 BY MR. BUSCH: 15:38:21

8 Q. OKAY. AND HOW DO YOU KNOW THAT? 15:38:22

9 A. I DON'T KNOW FOR CERTAIN. 15:38:24

10 Q. WHAT IS YOUR BELIEF BASED UPON? 15:38:26

11 A. I'VE BEEN DOING THIS A LONG TIME, 15:38:29

12 AND IT'S MY UNDERSTANDING THAT'S HOW IT WORKS. I 15:38:32

13 HAVEN'T ISSUED, RECEIVED, REVIEWED OR LOOKED AT A 15:38:36

14 MECHANICAL LICENSE IN A REALLY LONG TIME. 15:38:38

15 Q. OKAY. AND YOU WORK WITH UNIVERSAL; 15:38:41

16 IS THAT CORRECT? 15:38:43

17 MR. POMERANTZ: WHAT DO YOU MEAN 15:38:44

18 "WORK WITH" ? 15:38:44

19 BY MR. BUSCH: 15:38:45

20 Q. YOU HAVE CAUSE TO WORK WITH 15:38:48

21 UNIVERSAL LAWYERS AND ATTORNEYS IN THE UNIVERSAL 15:38:51

22 MUSIC DEPARTMENT? 15:38:52

23 A. GENERALLY, YES, ON THE OPPOSITE 15:38:55

24 SIDE OF THEM, YES. WE NEGOTIATE WITH THEM. 15:38:57

25 Q. YOU'RE ALSO ON THEIR SIDE IN

DEPOSITION OF PETER PATERNO

1 STATE OF CALIFORNIA)
) SS
2 COUNTY OF LOS ANGELES)

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DEPONENT'S DECLARATION

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I CERTIFY UNDER PENALTY OF PERJURY THAT THE

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FOREGOING IS TRUE AND CORRECT.

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EXECUTED AT _____ ON _____.

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(SIGNATURE OF DEPONENT)

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DEPOSITION OF PETER PATERNO

1 STATE OF CALIFORNIA)
) SS
2 COUNTY OF LOS ANGELES)

3

4 I, SAMANTHA MARGARET AVENAIM, CERTIFIED
5 SHORTHAND REPORTER, CERTIFICATE NUMBER 10627, FOR
6 THE STATE OF CALIFORNIA, HEREBY CERTIFY:

7 THE FOREGOING PROCEEDINGS WERE TAKEN BEFORE
8 ME AT THE TIME AND PLACE THEREIN SET FORTH, AT
9 WHICH TIME THE DEPONENT WAS PLACED UNDER OATH BY
10 ME;

11 THE TESTIMONY OF THE DEPONENT AND ALL
12 OBJECTIONS MADE AT THE TIME OF THE EXAMINATION
13 WERE RECORDED STENOGRAPHICALLY BY ME AND WERE
14 THEREAFTER TRANSCRIBED;

15 THE FOREGOING TRANSCRIPT IS A TRUE AND
16 CORRECT TRANSCRIPT OF MY SHORTHAND NOTES SO TAKEN;

17 I FURTHER CERTIFY THAT I AM NEITHER COUNSEL
18 FOR NOR RELATED TO ANY PARTY TO SAID ACTION, NOR
19 IN ANY WAY INTERESTED IN THE OUTCOME THEREOF.

20 IN WITNESS WHEREOF, I HAVE HEREUNTO
21 SUBSCRIBED MY NAME THIS 24TH DAY OF NOVEMBER,
22 2008.

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