

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

EXHIBIT 5

**Email from Marc Guilford to Melinda LeMoine et al.,
dated August 3, 2009**

From: Marc Guilford [mguilford@KingBallow.com]
Sent: Monday, August 03, 2009 5:50 PM
To: LeMoine, Melinda; Richard Busch
Cc: Pomerantz, Glenn; Klaus, Kelly; hhertz@hertzschram.com
Subject: RE: Outstanding issues
Attachments: 8M - 001397 - 001405.pdf

Mindy,

As I mentioned in our call today, I am attaching Plaintiffs' document production of the audit documents.

You also asked me to put my responses to Defendants' July 24 letter in writing:

As to the first issue you raise in your letter, we are claiming as damages everything that is included in Mr. Cohen's report, including profits from iPod sales.

As to your second request, I informed you that Joel has already seen the full report. However, he will destroy his copy of the current report if he has not done so already and we will provide him with a new copy of Mr. Cohen's report with the numbers you object to redacted. You told me that the "totals" are not objectionable - for example, the total damages Plaintiffs are seeking - but that the "totals for each category of costs" are of concern to Defendants, and we will redact those. Thus, for example, the dollar amounts on pages 4 and 5 of his expert report would be redacted, but those on page 6 (Mr. Cohen's calculations of Apple's profit contribution margin under different assumptions) would not be.

Finally, I advised you that Plaintiffs will move to amend the complaint to assert claims of direct, contributory and vicarious infringement against Aftermath and asked you if Defendants would oppose our motion. I also asked that if Defendants are planning to oppose it, they explain what prejudice you believe you would suffer from the amendment, and you told me you would get back to us.

Thank you,

Marc R. Guilford
King & Ballow
315 Union Street, Suite 1100
Nashville, TN 37201
Phone: 615.726.5431
Fax: 615.248.2860

From: LeMoine, Melinda [mailto:Melinda.LeMoine@mta.com]
Sent: Monday, August 03, 2009 11:58 AM
To: Richard Busch; Marc Guilford
Cc: Pomerantz, Glenn; Klaus, Kelly
Subject: Outstanding issues

Richard and Marc:

Hope you two had a nice weekend. Would you please give me an ETA on the audit documents and a response to our letter raising the two issues re: Cohen's report? Can I expect your answers and some documents today?

Thank you,

Mindy

8/19/2009