

DECLARATION OF MARC R. GUILFORD

EXHIBIT F

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

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

EIGHT MILE STYLE, LLC and
MARTIN AFFILIATED, LLC,

Plaintiffs,

vs.

Case No. 2:07-cv-13164
Hon. Anna Diggs Taylor
Magistrate Judge Donald A. Scheer

APPLE COMPUTER, INC. and
AFTERMATH RECORDS d/b/a
AFTERMATH ENTERTAINMENT,

Defendants.

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**PLAINTIFFS EIGHT MILE STYLE, LLC'S AND MARTIN AFFILIATED,
LLC'S RESPONSES TO DEFENDANTS' FOURTH SET OF INTEROGATORIES**

Plaintiffs Eight Mile Style, LLC ("Eight Mile") and Martin Affiliated, LLC ("Martin") (collectively, "Plaintiffs") provide the following objections and responses to the Fourth Set of Interrogatories ("Interrogatories") propounded by Defendants Apple Inc. (named as Apple Computer, Inc.) and Aftermath Records d/b/a Aftermath Entertainment.

GENERAL OBJECTIONS

The following General Objections apply to and are incorporated in each and every response to each and every Interrogatory, whether or not such General Objections are expressly incorporated by reference in such response.

1. Plaintiffs object to the Interrogatories to the extent they collectively or

individually seek information subject to or protected by the attorney-client privilege, the attorney work product privilege or any other privilege or protection from disclosure. Plaintiffs hereby invoke all such privileges to the extent implicated by each Interrogatory and exclude privileged and protected information from their responses to the Interrogatories. Any disclosure of information protected by those privileges is inadvertent, and is not intended to waive any privilege or protection.

2. Plaintiffs object to the Interrogatories to the extent they purport to impose on Plaintiffs any obligation that is different from or greater than any imposed by the Federal Rules of Civil Procedure, the Local Rules of the United States District Court for the Eastern District of Michigan, or any other applicable law or rule.

3. Plaintiffs object to the Interrogatories as duplicative, unduly burdensome, and harassing to the extent they seek information that is equally available to Defendants, or information that could be derived or ascertained by Defendants with substantially the same effort that would be required of Plaintiffs from review of the documents produced in this case.

4. Plaintiffs object to the Interrogatories to the extent they seek information that is not in Plaintiffs' possession, custody, or control, or that is publicly available.

5. In responding to the Interrogatories, Plaintiffs do not waive, or intend to waive, any privilege or objection, including, but not limited to, any objections to the competency, relevance, materiality, or admissibility of any of the information disclosed in response to the Interrogatories. No objection or response made in these responses and objections shall be deemed to constitute a representation by Plaintiffs as to the existence or non-existence of the information requested.

6. Plaintiffs object to the Interrogatories as vague, ambiguous, overly broad and

unduly burdensome to the extent any Interrogatory require Plaintiffs to provide information that is different from or at a different time than as required under Federal Rule of Civil Procedure 26(a)(2).

7. Plaintiffs object to the Interrogatories as vague, ambiguous, overly broad and unduly burdensome to the extent any Interrogatory commands or require Plaintiffs to provide responses or documents in any manner or to any extent that is different that the scope provided by Rules 33 and 34 of the Federal Rules of Civil Procedure.

8. Plaintiffs object to Interrogatories containing the defined term “Eminem” as vague, ambiguous, overly broad and unduly burdensome to the extent the term includes any person(s), or entity or entities other than the individual Marshall B. Mathers III professionally known as Eminem.

9. Plaintiffs object to Interrogatories containing the defined term “Eight Mile Style, LLC” as vague, ambiguous, overly broad and unduly burdensome to the extent the term includes any entity other than plaintiff Eight Mile Style, LLC.

10. Plaintiffs object to Interrogatories containing the defined term “Martin Affiliated, LLC” as vague, ambiguous, overly broad and unduly burdensome to the extent the term includes any entity other than plaintiff Martin Affiliated, LLC.

11. Plaintiffs object to Interrogatories containing the defined terms “You,” “Your,” or “Plaintiffs” as vague, ambiguous, overly broad and unduly burdensome to the extent the term includes any entities other than plaintiffs Eight Mile Style, LLC and/or Martin Affiliated, LLC.

12. Plaintiffs object to Interrogatories containing the defined term “MRI” as vague, ambiguous, overly broad and unduly burdensome to the extent the term includes any entity other than Music Resources, Inc.

13. Plaintiffs object to Interrogatories containing the defined term “Kobalt” as vague, ambiguous, overly broad and unduly burdensome to the extent the term includes any entity other than Kobalt Music Publishing America, Inc.

14. Plaintiffs object to Interrogatories containing the defined term “Ensign” as vague, ambiguous, overly broad and unduly burdensome to the extent the term includes any entity other than Ensign Music Corporation.

OBJECTIONS AND RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 30

If You contend that any of the claimed infringement in the Eight Mile Style Litigation was “willful,” describe all facts supporting that contention.

RESPONSE TO INTERROGATORY NO. 30:

Plaintiffs object to Interrogatory No. 30 on the grounds that it is outside the scope of permissible discovery, and is overbroad.

Subject to and without waiver of the foregoing General and Specific Objections, in summary, Plaintiffs state that both Defendants were aware of the need to obtain licenses for the reproduction of the Eminem Compositions to offer to users as permanent downloads and failed to obtain such licenses from Eight Mile. Defendant Aftermath’s knowledge of this requirement is illustrated by, among other things, their business practice of obtaining such licenses and making requests for such licenses from Eight Mile. Defendants were aware that those requests had been denied. Furthermore, Defendants explicitly acknowledged the license requirement in the agreements between UMG Recordings, Inc. and Apple pertaining to Apple’s iTunes service. Defendants further knew that Eight Mile objected to and refused to grant such licenses, as evidenced by Universal’s repeated requests addressed to Eight Mile for digital phonorecord

delivery licenses for the Eminem Compositions that were denied. Defendants' knowledge of the need to obtain licenses is also illustrated by the one license Plaintiffs did issue, for "Lose Yourself," which was issued only after negotiations over its terms. Defendants were also placed on notice of the infringement by letter, and by this lawsuit, but did not remedy the infringement. Plaintiffs also refer Defendants to the Declaration of Tim Hernandez, and the deposition testimony of Pat Blair, Chad Gary, Leo Ferrante, and Todd Douglas. Plaintiffs also refer Defendants to their response to Interrogatory Nos. 9, 12 and Plaintiffs' objections thereto.

INTERROGATORY NO. 31

Identify and describe all damages, including "actual damages," You claim to be entitled to as a result of the claimed infringement in the Eight Mile Style Litigation.

RESPONSE TO INTERROGATORY NO. 31:

Plaintiffs incorporate their General Objections above. Plaintiffs also object to the extent this interrogatory calls for an expert conclusion.

Subject to and without waiver of the foregoing General and Specific Objections, it is difficult to determine the extent of "actual damages," as opposed to Defendants' profits, because of the lack of transparency and accounting in connection with the exploitation of the Eminem Compositions by way of permanent download. Nonetheless, Plaintiffs direct Defendants to the expert report of Gary Cohen and its supporting documentation. The burden of deriving the requested information is substantially the same for Defendants as for Plaintiffs, and Plaintiffs therefore refer Defendants to the documents specified. *See* Fed. R. Civ. Proc. 33(d). Plaintiffs also refer Defendants to their response to Interrogatory No. 4 and Plaintiffs' objections thereto.

INTERROGATORY NO. 32

Describe all the communications You have had regarding the Eight Mile Style Litigation with Eminem.

RESPONSE TO INTERROGATORY NO. 32:

Plaintiffs incorporate their General Objections above. Plaintiffs further object to this Interrogatory as overly broad and not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiver of the foregoing General and Specific Objections, Plaintiffs state they do not recall any communications with Eminem regarding the Eight Mile Style Litigation. To the extent this interrogatory encompasses Eminem's representatives, Plaintiffs state they have had periodic communications with Theo Sedlmayr updating him on the status of this case.

INTERROGATORY NO. 33

Describe all the communications You have had regarding the Eight Mile Style Litigation with any member of the musical group known as D12 or any members' agent(s), attorney(s), manager(s) or representative(s).

RESPONSE TO INTERROGATORY NO. 33:

Plaintiffs incorporate their General Objections above. Plaintiffs further object to this Interrogatory as overly broad and not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiver of the foregoing General and Specific Objections, Plaintiffs do not recall any communications regarding the Eight Mile Style Litigation with any

member of the musical group known as D12 or any members' agent(s), attorney(s), manager(s) or representative(s).

INTERROGATORY NO. 34

Describe all the communications You have had regarding the Eight Mile Style Litigation with Curtis Jackson p/k/a 50 Cent or his agent(s), attorney(s), managers or representative(s).

RESPONSE TO INTERROGATORY NO. 34:

Plaintiffs incorporate their General Objections above. Plaintiffs further object to this Interrogatory as overly broad and not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiver of the foregoing General and Specific Objections, Plaintiffs do not recall any communications regarding the Eight Mile Style Litigation with Curtis Jackson p/k/a 50 Cent. Plaintiffs further state they have had periodic communications with Mr. Jackson's representative Theo Sedlmayr updating him on the status of this case.

INTERROGATORY NO. 35

Describe all the communications You have had regarding the Eight Mile Style Litigation with Christopher Lloyd p/k/a Lloyd Banks or his agent(s), attorney(s), managers or representative(s).

RESPONSE TO INTERROGATORY NO. 35:

Plaintiffs incorporate their General Objections above. Plaintiffs further object to this Interrogatory as overly broad and not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiver of the foregoing General and Specific Objections, Plaintiffs do not recall any communications regarding the Eight Mile Style Litigation with Christopher Lloyd p/k/a Lloyd Banks. Plaintiffs further state they have had periodic communications with Mr. Banks' Theo Sedlmayr updating him on the status of this case.

INTERROGATORY NO. 36

Describe all of the communications You have had regarding the Eight Mile Style Litigation with Andre Rommel Young p/k/a Dr. Dre or his agent(s), attorney(s) managers or representative(s).

RESPONSE TO INTERROGATORY NO. 36:

Plaintiffs incorporate their General Objections above. Plaintiffs further object to this Interrogatory as overly broad and not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiver of the foregoing General and Specific Objections, Plaintiffs do not recall any communications regarding the Eight Mile Style Litigation with Andre Rommel Young p/k/a Dr. Dre or his agent(s), attorney(s) managers or representative(s).

INTERROGATORY NO. 37

Describe all of the communications You have had regarding the Eight Mile Style Litigation with Obie Trice or his agent(s), attorney(s), managers or representative(s).

RESPONSE TO INTERROGATORY NO. 37:

Plaintiffs incorporate their General Objections above. Plaintiffs further object to this Interrogatory as overly broad and not reasonably calculated to lead to the discovery of admissible

evidence.

Subject to and without waiver of the foregoing General and Specific Objections, Plaintiffs do not recall any communications regarding the Eight Mile Style Litigation with Obie Trice or his agent(s), attorney(s) managers or representative(s).

INTERROGATORY NO. 38

Describe all of the communications You have had regarding the Eight Mile Style Litigation with MRI.

RESPONSE TO INTERROGATORY NO. 38:

Plaintiffs incorporate their General Objections above. Plaintiffs further object to this Interrogatory as overly broad and not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiver of the foregoing General and Specific Objections, Plaintiffs direct Defendants to the documents produced in response to document requests from Defendants Bates labeled 8M - 1224 through 8M - 1394. The burden of deriving the requested information is substantially the same for Defendants as for Plaintiffs, and Plaintiffs therefore refer Defendants to the documents specified above. *See* Fed. R. Civ. Proc. 33(d). Plaintiffs further state they had additional communications with MRI on the same topics as the communications evidenced in the produced documents and regarding MRI's response to subpoena from Defendants. Finally, subject to objection, Plaintiffs understand that MRI may be producing documents responsive to this request.

INTERROGATORY NO. 39

Describe all of the communications You have had regarding the Eight Mile Style Litigation with Kobalt.

RESPONSE TO INTERROGATORY NO. 39:

Plaintiffs incorporate their General Objections above. Plaintiffs further object to this Interrogatory as overly broad and not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiver of the foregoing General and Specific Objections, Plaintiffs direct Defendants to the documents produced in response to document requests from Defendants Bates labeled 8M - 1224 through 8M - 1394 and the documents produced by Kobalt. The burden of deriving the requested information is substantially the same for Defendants as for Plaintiffs, and Plaintiffs therefore refer Defendants to the documents specified above. *See* Fed. R. Civ. Proc. 33(d). Plaintiffs further state they had additional communications with Kobalt on the same topics as the communications evidenced in the produced documents and regarding Kobalt's response to subpoena from Defendants. Finally, subject to objection, Plaintiffs understand that Kobalt may have producing documents responsive to this request.

INTERROGATORY NO. 40

Describe all of the communications You have had regarding the Eight Mile Style Litigation with Ensign.

RESPONSE TO INTERROGATORY NO. 40:

Plaintiffs incorporate their General Objections above. Plaintiffs further object to this Interrogatory as overly broad and not reasonably calculated to lead to the discovery of admissible

evidence.

Subject to and without waiver of the foregoing General and Specific Objections, Plaintiffs do not recall any communications regarding the Eight Mile Style Litigation with Ensign.

DATED: July 13, 2009

Respectfully submitted,

KING & BALLOW



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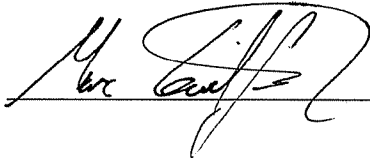
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was served via Federal Express, postage pre-paid, and via e-mail, to the following:

Counsel	On behalf of:
<p>Daniel D. Quick, Esq. Dickinson Wright PLLC 38525 Woodward Ave Suite 2000 Bloomfield Hills, MI 48304 (t): (248) 433-7200 (e): dquick@dickinsonwright.com</p> <p>Melinda LeMoine Munger, Tolles & Olson LLP 355 South Grand Ave Suite 3500 Los Angeles, CA 90071-1560 (t): (213) 683-9171 (e): melinda.lemoine@mto.com</p>	<p>Apple Inc. and Aftermath Records d/b/a Aftermath Entertainment</p>

this 13th day of July 2009.



A handwritten signature in black ink, appearing to read 'Melinda LeMoine', is written over a horizontal line.