

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

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

Defendants.

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**DECLARATION OF RICHARD S. BUSCH IN SUPPORT OF
PLAINTIFFS' MOTION TO RESET TRIAL DATES**

I, Richard S. Busch, make the following statements upon personal knowledge:

1. I am lead counsel for Plaintiffs Eight Mile Style LLC (“Eight Mile”) and Martin Affiliated LLC (“Martin”) (collectively, “Plaintiffs”) in the above captioned matter. My application to appear and participate in this action *pro hac vice* has been approved by the Court.

2. This Court has set trial for this matter on October 14, 2008, and the pretrial conference on September 18, 2008.

3. I am also lead counsel for the plaintiffs in the case of *Bridgeport Music Inc. v. Robert Hill Music, et al.*, Case No. 3:05-00377, in the Middle District of Tennessee (hereinafter, the “*Bridgeport*” case).

4. On January 22, 2008, counsel for Defendant Robert Hill Music in the *Bridgeport* case filed a motion to continue the trial from May 13, 2008, to the earliest available date after August 31, 2008. (*See* Exhibit A hereto.) The grounds for the motion were that the former principal who operated and controlled Robert Hill Music was scheduled to be released from federal prison in August 2008. (*Id.*) In the motion, Robert Hill Music noted that due to the trial schedule in the case of *F.B.T. Productions, LLC, et al. v. Aftermath Records et. al.*, CV 07-3314, in the Central District of California (hereinafter, the “*F.B.T.*” case, *see* paragraph 9 *infra*), along with a subsequent trial schedule in the case before this Court, Bridgeport requested any resetting occur in mid-July to early August. (*Id.*) The court granted Robert Hill’s motion on January 23, 2008, continuing trial to August 26, 2008, with the pretrial conference on August 18, 2008. (*See* Exhibit B hereto.)

5. Bridgeport immediately filed a motion advising the court of the August 18, 2008 pretrial conference and the September 2, 2008 trial date set in the *F.B.T.* case, as well as the September 18, 2008 pretrial conference and October 14, 2008 trial date set by this Court, and requested trial be reset to an available date after November 5, 2008. (*See* Exhibit C hereto.)

6. On January 24, 2008, the court granted in part and denied in part Bridgeport's motion. (*See* Exhibit D hereto.) The court found a proposed trial date in November 2008 would be unacceptable, and reset trial to August 19, 2008 beginning at 9.00 a.m. in Nashville. (*Id.*)

7. The parties have attempted mediation in the *Bridgeport* case, which was unsuccessful. There are no pending motions for summary judgment that would dispose of the *Bridgeport* case. Therefore, I believe it is likely that case will proceed to trial.

8. Trial in the *Bridgeport* case is estimated to take as much as ten days, which would mean a concluding date of September 3, 2008.

9. I am also lead counsel for the plaintiffs in the case of *F.B.T. Productions, LLC, et. al. v. Aftermath Records et. al.*, CV 07-3314, in the Central District of California, which is currently set for trial on September 2, 2008, and the pretrial conference is set for August 18, 2008. (*See* Exhibit E hereto.) Counsel for the defendants in the *F.B.T.* case also represents the Defendants in the case before this Court.


10. Due to the conflict with the *Bridgeport* case, plaintiffs in the *F.B.T.* case are filing (contemporaneously with this motion) a motion to reset the trial date in that case from September 2, 2008 to a date on or after September 9, 2008. (*See* Exhibit F hereto.) One of the grounds for defendants' opposition to this motion is the mandatory

pretrial conference in this case set for September 18, 2008. (*Id.*) Defendants also asserted that since trial in this case is set for October 14, 2008, under the proposed revised schedule in the *F.B.T.* case there would be no meaningful opportunity for counsel (who are the same in both cases) to transition from one trial site to another and to prepare for trial, and the same back-to-back trial schedule will be disruptive and inconvenient for the witnesses. (*Id.*)

11. Resetting trial by two weeks in this case would permit the parties to have the same amount of time following the conclusion of the *F.B.T.* trial to prepare for trial in this case as had originally been anticipated.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 28 day of February, 2008.


Richard S. Busch