

**DECLARATION OF RICHARD S. BUSCH IN SUPPORT OF PLAINTIFFS'
MOTION TO EXCLUDE LATE PRODUCED DOCUMENTS**

EXHIBIT 1-B: Emails from plaintiffs to defendants

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

From: Richard Busch
Sent: Friday, May 30, 2008 1:59 PM
To: 'Glenn.Pomerantz@mto.com'
Subject: Re: Ostroff depo

I would also like to know what subject matter Ostroff will testify about, and why he is a witness, which we have asked for in interrogatory requests and you were required to do in initial disclosures, but did not.

----- Original Message -----

From: Richard Busch
To: 'Glenn.Pomerantz@mto.com' <Glenn.Pomerantz@mto.com>
Sent: Fri May 30 13:53:33 2008
Subject: Re: Ostroff depo

It does not. I have another deposition on that date.

----- Original Message -----

From: Pomerantz, Glenn <Glenn.Pomerantz@mto.com>
To: Richard Busch
Sent: Fri May 30 13:49:51 2008
Subject: Ostroff depo

Michael Ostroff is available for deposition in Los Angeles on June 13. Please confirm that that date works for you.

From: Marc Guilford
Sent: Friday, May 30, 2008 7:24 PM
To: Pomerantz, Glenn; 'LeMoine, Melinda'; Encinas, Kimberly
Cc: Richard Busch; Ramona DeSalvo; hhertz@hertzschram.com
Subject: Eight Mile Style v. Apple -- subject matter of potential Ostroff testimony

Glenn,

Richard has asked you to advise us what subject matters you may call Mr. Ostroff to testify concerning. Rule 26 (a)(1)(A)(i) requires each party to provide the subjects of information that any individual the disclosing party may use to support its claims or defenses has knowledge of. Whatever defendants' view regarding their obligation to provide initial disclosures, plaintiffs firmly believe defendants have a continuing obligation in this manner.

Further, the representations plaintiffs have made concerning who we will or will not call as witnesses at trial may be affected by the subject matters Mr. Osteroff may testify concerning, as well as by the substance of his knowledge.

Thank you,

Marc R. Guilford
King & Ballou
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Nashville, TN 37201
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