

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

EXHIBIT 22-C

**Excerpts of transcript pages from the deposition
of Cynthia Oliver taken on July 17, 2008**

DEPOSITION OF CYNTHIA OLIVER

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

EIGHT MILE STYLE, LLC,)
ET AL.,)
)
PLAINTIFFS,)
) CASE NO.
VS.) 2:07-CV-1Q3164
)
APPLE COMPUTER, INC., AND)
AFTERMATH RECORDS D/B/A)
AFTERMATH ENTERTAINMENT,)
)
DEFENDANTS.)
_____)

30(B)(6) DEPOSITION OF CYNTHIA OLIVER,
TAKEN ON BEHALF OF THE PLAINTIFFS, AT
10250 CONSTELLATION BOULEVARD, 19TH
FLOOR, LOS ANGELES, CALIFORNIA,
COMMENCING AT 11:10 A.M., THURSDAY,
JULY 17, 2008, BEFORE GALE M. LUCAS,
RPR, RMR, CRR, CLR, CSR NUMBER 7899.

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12:37:07 1 THE DEPONENT: I KNOW WHAT I WAS
12:37:09 2 TOLD BY MR. GARY AND MR. DOUGLAS.

12:37:09 3 BY MR. BUSCH:

12:37:13 4 Q. WERE YOU TOLD -- WAS THAT ISSUE OR
12:37:15 5 TOPIC ADDRESSED WITH THEM, THE CIRCUMSTANCES UNDER
12:37:17 6 WHICH AN ADVICE LETTER WOULD BE SENT OUT VERSUS A
12:37:18 7 REQUEST FOR A LICENSE?

12:37:23 8 A. I ASKED THEM IF THEY KNEW IF U.M.G.
12:37:27 9 HAD EVER REQUESTED MECHANICAL LICENSES, EVEN
12:37:30 10 THOUGH THE ARTIST MAY HAVE HAD A CONTROLLED
12:37:30 11 COMPOSITION CLAUSE.

12:37:32 12 Q. AND THE ANSWER WAS YES, THERE ARE
12:37:34 13 OCCASIONS WHERE THAT OCCURS?

12:37:38 14 A. THEY SAID YES, IT DOES OCCUR.

12:37:40 15 Q. NOW, MY QUESTION IS DIFFERENT.

12:37:40 16 MY QUESTION IS: DO YOU KNOW
12:37:46 17 WHETHER THE PRACTICE IS, WHERE A CONTROLLED
12:37:47 18 COMPOSITION CLAUSE EXISTS AND UNIVERSAL BELIEVES
12:37:51 19 THAT IT HAS THE RIGHT TO EXPLOIT A COMPOSITION BY
12:37:53 20 VIRTUE OF THAT CONTROLLED COMPOSITION CLAUSE,
12:37:56 21 WHETHER THE GENERAL PRACTICE IS TO SEND OUT AN
12:37:58 22 ADVICE LETTER RATHER THAN A REQUEST FOR A LICENSE?

12:38:01 23 MR. KLAUS: OBJECTION; VAGUE AND
12:38:01 24 AMBIGUOUS. IT ASSUMES FACTS NOT IN EVIDENCE.

25 ///

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12:39:01 1 THE EXPLOITATION VERSUS THE OCCASIONS WHERE A
12:39:02 2 REQUEST FOR A LICENSE WOULD GO OUT?

12:39:07 3 A. I ASKED THEM IF THEY KNEW WHY
12:39:10 4 U.M.G. MIGHT ISSUE A MECHANICAL LICENSE, EVEN IF
12:39:11 5 THERE WAS --

12:39:13 6 Q. YOU NEED TO ANSWER MY QUESTION
12:39:16 7 DIRECTLY, OR WE'RE GOING TO BE HERE ALL DAY,
12:39:17 8 MS. OLIVER.

12:39:19 9 MY QUESTION, FOR THE FOURTH TIME
12:39:23 10 NOW, IS: DID YOU DISCUSS WITH THEM, YES OR NO,
12:39:26 11 WHY THERE WOULD BE OCCASIONS WHERE AN ADVICE
12:39:31 12 LETTER MIGHT GO OUT TO A PUBLISHER WHO UNIVERSAL
12:39:33 13 BELIEVES IS CONTROLLED BY A -- CONTROLLED -- LET
12:39:34 14 ME REPHRASE THE QUESTION.

12:39:37 15 DID YOU DISCUSS WITH MR. GARY OR
12:39:40 16 MR. DOUGLAS WHETHER THERE WERE OCCASIONS WHERE AN
12:39:43 17 ADVICE LETTER WOULD GO OUT TO A PUBLISHER WHO
12:39:46 18 UNIVERSAL BELIEVED WAS COVERED BY A CONTROLLED
12:39:49 19 COMPOSITION CLAUSE VERSUS A REQUEST FOR A LICENSE?
12:39:51 20 DID YOU DISCUSS THAT TOPIC WITH THEM?

12:39:52 21 MR. KLAUS: OBJECTION. IT'S BEEN
12:39:53 22 ASKED AND ANSWERED SEVERAL TIMES NOW.

12:39:55 23 THERE'S NO NEED FOR -- THERE'S NO
12:39:58 24 NEED FOR MR. BUSCH TO ARGUE WITH YOU. IF YOU HAVE
25 SOMETHING DIFFERENT TO SAY, YOU CAN SAY IT.

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12:40:01 1 BY MR. BUSCH:

12:40:03 2 Q. DO YOU HAVE -- DID YOU DISCUSS THE
12:40:04 3 ISSUE OF AN ADVICE LETTER? YES OR NO?

12:40:04 4 MR. KLAUS: SHE SAID SHE DID.

12:40:07 5 (THE DEPONENT NODDED.)

12:40:09 6 MR. KLAUS: SHE SAID SHE DID,

12:40:09 7 RICHARD.

12:40:10 8 WHY ARE YOU -- WHY -- SHE SAID IT
12:40:12 9 HAPPENED ON OCCASION. WHY DO YOU CONTINUE -- WHY
12:40:15 10 DON'T YOU ASK HER WHY?

12:40:17 11 MR. BUSCH: NO. WHAT SHE SAID
12:40:20 12 HAPPENED ON OCCASION WAS A REQUEST FOR A LICENSE.

12:40:22 13 WHAT I'M ASKING IS: DID YOU
12:40:25 14 DISCUSS WHETHER THERE WERE ALSO OCCASIONS THAT AN
12:40:27 15 ADVICE LETTER WOULD GO OUT RATHER THAN A REQUEST
12:40:28 16 FOR A LICENSE?

12:40:30 17 MR. KLAUS: I THINK IT'S BEEN ASKED
12:40:34 18 AND ANSWERED. I THOUGHT SHE SAID THAT IT DID FIVE
12:40:34 19 QUESTIONS AGO.

12:40:34 20 THE DEPONENT: AND THAT'S CORRECT.

12:40:37 21 BY MR. BUSCH:

12:40:38 22 Q. OKAY. AND DID YOU DISCUSS WITH
12:40:40 23 THEM WHY THERE WOULD BE OCCASIONS THAT AN ADVICE
12:40:43 24 LETTER VERSUS A REQUEST FOR A LICENSE WOULD GO
25 OUT?

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12:40:47 1 A. YES.

12:40:48 2 Q. OKAY. AND WHAT DID THEY SAY?

12:40:53 3 A. THEY SAID THAT -- AND I THINK -- AS
12:40:56 4 I RECALL, MR. DOUGLAS HAD MORE INFORMATION IN THIS
12:40:59 5 REGARD THAN MR. GARY.

12:41:02 6 AND WHAT WE DISCUSSED WAS THAT AT
12:41:06 7 ONE TIME, THERE REALLY WASN'T A PRACTICE OF
12:41:11 8 ISSUING ADVICE LETTERS; THAT THE GENERAL -- THAT
12:41:14 9 OPERATING PROCEDURE -- ALTHOUGH THERE WAS NO
12:41:16 10 POLICY IN THIS REGARD, OPERATING PROCEDURE WAS
12:41:19 11 THAT THEY WOULD ISSUE A MECHANICAL LICENSE, EVEN
12:41:22 12 THOUGH THERE MIGHT BE A CONTROLLED COMP CLAUSE IN
12:41:25 13 THE ARTIST'S CONTRACT, BECAUSE OFTENTIMES
12:41:27 14 PUBLISHERS DID NOT WANT TO ACCEPT ADVICE LETTERS,
12:41:30 15 AND THEY WOULD COME BACK AND REQUEST A LICENSE.

12:41:33 16 OR, FOR EXAMPLE, IF YOU WERE
12:41:35 17 ISSUING THE LICENSE TO HARRY FOX, YOU CANNOT --
12:41:38 18 THEY WILL NOT ACCEPT AN ADVICE LETTER. SO THE
12:41:40 19 PUBLISHER WOULD REQUEST SPECIFICALLY A LICENSE.

12:41:44 20 THEREFORE, IT WAS SOMETIMES EASIER
12:41:48 21 FOR THE LICENSING MANAGERS, AND AS I RECALL TODD
12:41:50 22 SAYING, TO JUST ISSUE A MECHANICAL LICENSE,
12:41:54 23 BECAUSE IN THEIR DEALINGS WITH PUBLISHERS, OFTEN
12:41:56 24 THEY DID NOT WANT AN ADVICE LETTER.

25 Q. AND THIS IS WHAT MR. DOUGLAS TOLD

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12:44:31 1 ADVICE LETTERS -- I'M SORRY -- ANOTHER REASON THAT
12:44:35 2 REQUESTS FOR LICENSES RATHER THAN ADVICE LETTERS
12:44:42 3 WOULD BE SENT TO PUBLISHERS WAS WHERE THE -- WAS
12:44:44 4 BECAUSE -- TERRIBLE QUESTION. LET ME JUST START
12:44:45 5 ALL OVER AGAIN IF I COULD.

12:44:49 6 DID MR. GARY OR MR. DOUGLAS TELL
12:44:55 7 YOU THAT ANOTHER REASON A REQUEST FOR A LICENSE
12:44:59 8 RATHER THAN AN ADVICE LETTER WOULD BE SENT BY
12:45:02 9 UNIVERSAL WOULD BE WHERE UNIVERSAL WAS UNCLEAR
12:45:05 10 WHETHER THE CONTROLLED COMPOSITION CLAUSE AT ISSUE
12:45:11 11 COVERED THE EXPLOITATION OF THE LICENSE?

12:45:13 12 MR. KLAUS: OBJECTION; VAGUE AND
12:45:14 13 AMBIGUOUS.

12:45:15 14 THE DEPONENT: I DO NOT RECALL THAT
12:45:20 15 WE DISCUSSED THAT SPECIFICALLY. IT WAS MORE THE
12:45:25 16 CASE -- MY IMPRESSION WAS THAT IT WAS MORE THE
12:45:28 17 CASE IN THEIR INDIVIDUAL DEALINGS WITH PUBLISHERS
12:45:31 18 WHAT WORKED BEST IN DEALING WITH THAT PUBLISHER.

12:45:32 19 MR. BUSCH: OKAY. I MOVE TO STRIKE
12:45:32 20 AS NONRESPONSIVE.

12:45:33 21 BY MR. BUSCH:

12:45:35 22 Q. I'M GOING TO ASK THE QUESTION.

12:45:36 23 YOU SAID --

12:45:38 24 MR. KLAUS: I OPPOSE SINCE IT WAS
25 COMPLETELY RESPONSIVE, BUT GO AHEAD AND ASK YOUR

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12:45:40 1 NEXT QUESTION.

12:45:42 2 BY MR. BUSCH:

12:45:43 3 Q. OKAY. I'M GOING TO ASK THE
12:45:44 4 QUESTION AGAIN.

12:45:46 5 YOU SAID YOU DID NOT DISCUSS THAT
12:45:49 6 SPECIFICALLY, AND YOU SAID IT WAS MORE OF YOUR
12:45:52 7 IMPRESSION FROM YOUR CONVERSATION, THAT IT WAS
12:45:53 8 WHAT YOU SAID.

12:45:55 9 BUT DID YOU DISCUSS WITH THEM AT
12:45:59 10 ALL WHETHER THERE WERE OCCASIONS WHERE A REQUEST
12:46:02 11 FOR A LICENSE WOULD BE SENT OUT RATHER THAN AN
12:46:06 12 ADVICE LETTER IF UNIVERSAL HAD A QUESTION OR DOUBT
12:46:09 13 ABOUT WHETHER THE CONTROLLED COMPOSITION CLAUSE
12:46:12 14 COVERED THE EXPLOITATION SOUGHT IN THE LICENSE?

12:46:14 15 A. THAT WAS NOT ONE OF THE REASONS
12:46:19 16 THAT THAT -- ONE OF THE RESPONSES THAT I RECEIVED.
12:46:20 17 NO, IT WAS NOT.

12:46:21 18 Q. OKAY. IT WAS NOT A RESPONSE YOU
12:46:24 19 RECEIVED FROM MR. DOUGLAS OR MR. GARY; CORRECT?

12:46:24 20 A. THAT'S CORRECT.

12:46:34 21 Q. OKAY. WHAT SUBJECTS DID YOU SPEAK
12:46:36 22 TO MR. HOFFMAN ABOUT? YOU HAD IDENTIFIED
12:46:39 23 MR. HOFFMAN AS SOMEBODY ELSE YOU SPOKE TO. DID
12:46:42 24 YOU RECEIVE ANY INFORMATION FROM MR. HOFFMAN ON
25 ANY OF THESE TOPICS?