

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

EXHIBIT 22-E

**Excerpts of transcript pages from the deposition
of Patricia Blair taken on May 29, 2008**

DEPOSITION OF PATRICIA BLAIR

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11:50:36 1 PATRICIA BLAIR,
11:50:36 2 CALLED AS A DEPONENT AND SWORN IN BY
11:50:36 3 THE DEPOSITION OFFICER, WAS EXAMINED
11:50:36 4 AND TESTIFIED AS FOLLOWS:
11:50:36 5
11:50:36 6 DEPOSITION OFFICER: PLEASE RAISE YOUR
11:50:36 7 RIGHT HAND.
11:50:36 8 DO YOU AFFIRM, UNDER PENALTY OF PERJURY,
11:50:36 9 THAT THE TESTIMONY YOU ARE ABOUT TO GIVE IN THE
11:50:36 10 FOLLOWING DEPOSITION PROCEEDING SHALL BE THE TRUTH, THE
11:50:36 11 WHOLE TRUTH, AND NOTHING BUT THE TRUTH?
11:50:36 12 THE DEPONENT: YES, I DO.
11:50:36 13 DEPOSITION OFFICER: THANK YOU.
11:50:36 14
11:50:47 15 MR. BUSCH: MR. POMERANTZ, BEFORE WE
11:50:48 16 BEGIN THE DEPOSITION, YOU AND I HAVE AGREED TO DISCUSS A
11:50:51 17 FEW OPEN ITEMS ON THE RECORD SO THAT WE DON'T HAVE TO
11:50:54 18 EXCHANGE CORRESPONDENCE FOLLOWING THE DEPOSITION TODAY
11:50:58 19 OR THIS WEEK. SO IF YOU WANT TO GO AHEAD AND RAISE
11:51:03 20 WHATEVER ISSUES, AND WE CAN TALK ABOUT THOSE.
11:51:05 21 MR. POMERANTZ: SURE. OKAY. THE
11:51:06 22 PARTIES HAVE AGREED THAT NEITHER SIDE WILL CALL ANY OF
11:51:12 23 THE REPRESENTATIVES OF EMINEM IN THE EIGHT MILE MATTER
11:51:16 24 AS TRIAL WITNESSES AND, THEREFORE, WILL NOT TAKE THEIR
11:51:19 25 DEPOSITIONS. BY REPRESENTATIVES, I'M INCLUDING

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11:51:23 1 MR. ROSENBERG, MR. STIFFELMAN, MR. SEDLMAYR AND
11:51:27 2 MR. MATHERS HIMSELF.

11:51:31 3 MR. BUSCH: AND JUST SO THAT WE'RE
11:51:32 4 CLEAR, MR. LEVINSOHN MIGHT BE UNDERSTOOD IN SOME WAY TO
11:51:36 5 BE A REPRESENTATIVE, SO I DID WANT TO CLARIFY THAT WE
11:51:39 6 ARE PLANNING TO CALL MR. LEVINSOHN.

11:51:41 7 MR. POMERANTZ: AND WITH RESPECT TO
11:51:42 8 MR. LEVINSOHN, WE HAVE AGREED THAT WE CAN TAKE HIS
11:51:45 9 DEPOSITION AT ANY -- AT A MUTUALLY AGREEABLE DATE PRIOR
11:51:50 10 TO JULY 1, NOTWITHSTANDING THE JUNE 2 DISCOVERY CUTOFF
11:51:55 11 DATE.

11:51:55 12 MR. BUSCH: I'M GOING ON A VACATION
11:51:57 13 JUNE 28TH, SO THAT IS CORRECT, EXCEPT ON JUNE 28TH OR
11:52:01 14 29TH AND 30TH, WE WON'T BE DOING DEPOSITIONS.

11:52:05 15 MR. POMERANTZ: FINE. FINE. THEN THOSE
11:52:06 16 AREN'T MUTUALLY ACCEPTABLE DATES.

11:52:09 17 AS TO ANY OTHER DEPOSITIONS THAT WILL
11:52:11 18 TAKE PLACE AFTER JUNE 2, BUT PRIOR TO JUNE 28, THE
11:52:17 19 PARTIES, I THINK, HAVE AGREED THAT THE FOLLOWING
11:52:19 20 DEPOSITIONS CAN BE TAKEN DURING THAT PERIOD OF TIME IF
11:52:23 21 EITHER SIDE WANTS THEM. ONE WOULD BE MR. OSTROFF
11:52:27 22 (PHONETIC), WHO WE JUST DISCLOSED TO YOU AS BEING
11:52:31 23 ANOTHER WITNESS THAT WE RESERVE THE RIGHT TO CALL AT
11:52:34 24 TRIAL IN THE EIGHT MILE CASE.

11:52:37 25 ANOTHER WOULD BE MS. NIEVES, IF WE --

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11:52:43 1 UNLESS WE TELL YOU THAT WE ARE NOT RESERVING THE RIGHT
11:52:45 2 TO CALL HER, YOU CAN TAKE HER DEPOSITION DURING THAT
11:52:47 3 PERIOD. ANOTHER WOULD BE -- WE HAVE TWO 30(B)(6)
11:52:56 4 NOTICES OUT -- YOU HAVE TWO 30(B)(6) NOTICES OUT IN THE
11:53:00 5 EIGHT MILE CASE. WE'RE GOING TO BE OBJECTING TO THOSE.
11:53:03 6 THE PARTIES WILL THEN MEET AND CONFER.
11:53:06 7 AND IF WE EITHER AGREE TO A DEPOSITION OR THE COURT
11:53:11 8 ORDERS US TO PUT A WITNESS UP FOR A DEPOSITION, THOSE
11:53:15 9 DEPOSITIONS CAN TAKE PLACE AFTER JUNE 2 AND BEFORE
11:53:19 10 JUNE 28, UNLESS THE COURT OTHERWISE PUSHES THEM BACK
11:53:23 11 FURTHER. BUT WE AGREE ON THAT.
11:53:25 12 MR. BUSCH: AND EDDIE CUE.
11:53:27 13 MR. POMERANTZ: WITH MR. CUE, YOU HAVE
11:53:29 14 REQUESTED HIS DEPOSITION. WE MAY OBJECT TO THAT
11:53:33 15 DEPOSITION, BUT WE WON'T OBJECT TO IT AS BEING UNTIMELY.
11:53:37 16 MR. BUSCH: OR IN EXCESS OF TEN
11:53:39 17 DEPOSITIONS.
11:53:41 18 MR. POMERANTZ: OR IN EXCESS OF TEN
11:53:42 19 DEPOSITIONS. WE RESERVE OTHER OBJECTIONS. WE'LL MEET
11:53:45 20 AND CONFER ON THAT. BUT, AGAIN, TO THE EXTENT THAT
11:53:48 21 DEPOSITION HAS TO GO FORWARD, IT WOULD GO FORWARD -- IT
11:53:52 22 CAN GO FORWARD AFTER THE JUNE 2 DISCOVERY CUTOFF DATE,
11:53:56 23 BUT PRIOR TO JUNE 28TH.
11:53:58 24 MR. BUSCH: ACTUALLY, NO. WITH THAT ONE
11:54:00 25 I'VE TOLD YOU THAT WE NEED MR. CUE -- JUST SO THE RECORD

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11:54:03 1 IS CLEAR, WE HAVE NOT TAKEN ANY DEPOSITIONS OF APPLE AT
11:54:06 2 ALL IN THIS CASE. AND WE HAVE ACTUALLY NOT RECEIVED ANY
11:54:09 3 DOCUMENTS FROM APPLE EITHER. SO WE NEED BOTH DOCUMENTS
11:54:13 4 AND DEPOSITION TESTIMONY IN ORDER TO RESPOND TO YOUR
11:54:17 5 MOTION FOR SUMMARY JUDGMENT.

11:54:19 6 OUR RESPONSE IS DUE JUNE 17TH. SO WITH
11:54:21 7 RESPECT TO APPLE, THE 30(B)(6) FOR APPLE, AS WELL AS FOR
11:54:25 8 EDDIE CUE, WE HAVE AGREED, I THOUGHT, THAT YOU WOULD
11:54:29 9 MAKE THEM AVAILABLE IN SUFFICIENT TIME BEFORE JUNE 17TH
11:54:33 10 FOR US TO BE ABLE TO TAKE THAT TESTIMONY, GET THE
11:54:35 11 TRANSCRIPT AND WORK IT INTO OUR SUMMARY JUDGMENT
11:54:38 12 RESPONSE, WHICH IS WHAT YOU SAID ON THE PHONE YESTERDAY.

11:54:40 13 MR. POMERANTZ: NO. WELL, THEN -- YOU
11:54:41 14 KNOW, I THINK YOU MISUNDERSTOOD ME.

11:54:44 15 I HAVEN'T YET AGREED ON MR. CUE OR ON A
11:54:47 16 30(B)(6). I'VE AGREED TO DISCUSS THOSE WITH YOU. BUT
11:54:50 17 WHAT I -- WHAT I SAID WAS THAT TO THE EXTENT THOSE
11:54:53 18 DEPOSITIONS DO TAKE PLACE, WE WILL NOT OBJECT ON THE
11:55:01 19 GROUNDS THAT THEY HAPPENED AFTER JUNE 2ND. AND TO THE
11:55:03 20 EXTENT YOU NEED THEM FOR THE SUMMARY JUDGMENT
11:55:07 21 OPPOSITION, WE WILL -- IF THOSE DEPOSITIONS HAVE TO GO
11:55:09 22 FORWARD, WE WILL ENDEAVOR TO GET THEM DONE SUFFICIENTLY
11:55:13 23 IN ADVANCE OF YOUR OPPOSITION DATE SO THAT YOU CAN USE
11:55:15 24 THEM IN YOUR OPPOSITION.

11:55:17 25 MR. BUSCH: OKAY. FINE. FAIR ENOUGH.

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11:55:18 1 BUT WE NEED TO EITHER AGREE TO EDDIE CUE AND THE
11:55:21 2 30(B)(6) THIS WEEK, MEANING TODAY OR TOMORROW, OR WE
11:55:24 3 HAVE TO GET THIS BEFORE THE COURT IMMEDIATELY.

11:55:26 4 MR. POMERANTZ: THAT'S FINE. THAT'S
11:55:27 5 FINE.

11:55:32 6 MR. BUSCH: I THINK THAT IS EVERYTHING
11:55:35 7 THAT WE HAVE DISCUSSED.

11:55:38 8 WE ARE GOING TO ALSO DISCUSS, AFTER THE
11:55:39 9 DEPOSITION, OUR MOTION TO COMPEL DOCUMENTS FROM APPLE.
11:55:42 10 AND THE -- SEE IF WE CAN REACH AGREEMENT ON WHAT
11:55:46 11 CATEGORIES YOU WILL PRODUCE.

11:55:48 12 MR. POMERANTZ: THAT'S RIGHT. AND I
11:55:49 13 GUESS WE HAVE AGREED THAT BUT FOR WHAT WE JUST SAID,
11:55:52 14 THERE WILL NOT BE ANY ADDITIONAL DEPOSITIONS TAKEN IN
11:55:57 15 THE EIGHT MILE CASE.

11:55:58 16 MR. BUSCH: NO, THERE IS ONE MORE THING.
11:56:00 17 THE OTHER THING IS THAT YOU HAVE ASKED
11:56:02 18 US TO CONFIRM THAT CERTAIN EMPLOYEES OF JOEL MARTIN
11:56:06 19 WOULD NOT BE WITNESSES IN THIS CASE, AND PUNCH ANDREWS,
11:56:11 20 WE HAD -- WE'VE TOLD YOU ABOUT PUNCH ANDREWS BEFORE.

11:56:15 21 BUT AS FAR AS JOEL'S WITNESSES ARE
11:56:17 22 CONCERNED -- JOEL'S EMPLOYEES ARE CONCERNED, YOU ASKED
11:56:20 23 US TO CONFIRM THAT THEY WOULD NOT BE WITNESSES IN THIS
11:56:22 24 CASE. AND OUR RESPONSE TO YOU WAS THAT WE WOULD MAKE
11:56:26 25 THAT DECISION AFTER WE HEARD WHAT MS. BLAIR HAS TO SAY.

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11:56:30 1 MR. POMERANTZ: AND SO -- YEAH. I'M
11:56:30 2 GLAD YOU REMINDED ME OF THAT.

11:56:33 3 WHAT WE HAVE AGREED TO IS THAT YOU WILL
11:56:35 4 NOT CALL HOWARD HERTZ AS A TRIAL WITNESS IN THE EIGHT
11:56:38 5 MILE CASE AND, THEREFORE, WE WILL NOT TAKE HIS
11:56:39 6 DEPOSITION; CORRECT?

11:56:42 7 MR. BUSCH: I BELIEVE THAT IS CORRECT.

11:56:43 8 MR. POMERANTZ: AND THEN WITH RESPECT TO
11:56:44 9 THE TWO EMPLOYEES OF MR. MARTIN THAT WE REFERRED TO,
11:56:46 10 WHICH I FORGET THEIR LAST NAMES, BUT THEIR FIRST NAMES
11:56:49 11 ARE MELISSA AND SARAH, YOU WILL LET US KNOW IMMEDIATELY
11:56:53 12 FOLLOWING THIS DEPOSITION WHETHER YOU'RE RESERVING YOUR
11:56:55 13 RIGHT TO CALL THEM AS TRIAL WITNESSES IN THE EIGHT MILE
11:56:57 14 CASE. AND IF YOU ARE, YOU WILL MAKE THEM AVAILABLE FOR
11:57:00 15 DEPOSITION SOMETIME BETWEEN NOW AND JUNE 28.

11:57:03 16 MR. BUSCH: CORRECT.

11:57:05 17 MR. POMERANTZ: AND I THINK NOW, WITH
11:57:09 18 THOSE CLARIFICATIONS, WE'VE AGREED THAT THERE WON'T BE
11:57:13 19 ANY OTHER DEPOSITIONS -- OH, ONE OTHER EXCEPTION, YOUR
11:57:16 20 PUNCH ANDREWS -- WE WILL -- IF WE WANT TO TAKE HIS
11:57:20 21 DEPOSITION BETWEEN NOW AND JUNE 28TH, YOU WILL WORK WITH
11:57:23 22 US TO TRY TO GET HIS DEPOSITION TAKEN DURING THAT
11:57:26 23 PERIOD.

11:57:27 24 MR. BUSCH: YES.

11:57:27 25 AND THERE'S ONE OTHER -- ONE OTHER

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11:57:27 1 THING. YOUR PROCESS SERVER KEEPS HARASSING
11:57:30 2 MR. LEVINSOHN. I'VE TOLD YOU THAT WE WOULD ACCEPT
11:57:33 3 SERVICES AND MAKE HIM AVAILABLE, SO PLEASE TELL THEM TO
11:57:35 4 STOP TRYING TO SERVE HIM.

11:57:37 5 MR. POMERANTZ: I WILL DO SO.

11:57:38 6 AND THERE WAS A GENTLEMAN ON YOUR --
11:57:43 7 THAT YOU HAD IDENTIFIED IN RESPONSE TO AN INTERROGATORY
11:57:45 8 RESPONSE WHO IS A COLLEAGUE OF MR. LEVINSOHN'S, IN
11:57:49 9 MR. LEVINSOHN'S OFFICE. I BELIEVE HIS LAST NAME IS
11:57:52 10 SKENA (PHONETIC).

11:57:54 11 MR. BUSCH: SOMETHING LIKE THAT.

11:57:55 12 MR. POMERANTZ: YOU HAVE AGREED THAT YOU
11:57:56 13 WILL NOT CALL HIM AS A WITNESS AT TRIAL OF THE EIGHT
11:57:59 14 MILE CASE AND, THEREFORE, WE WILL NOT TAKE HIS
11:58:01 15 DEPOSITION.

11:58:01 16 MR. BUSCH: ONE THING THAT I WANT TO --
11:58:01 17 SOME RESERVATION THERE. I ACTUALLY DON'T KNOW OFF THE
11:58:04 18 TOP OF MY HEAD WHY HE WAS IDENTIFIED AND WHAT MARK HAD
11:58:07 19 IN MIND IN IDENTIFYING HIM.

11:58:09 20 I THINK THAT'S RIGHT. BUT EITHER DURING
11:58:12 21 A BREAK OR AFTER THIS DEPOSITION TODAY, I WILL CALL
11:58:14 22 MARK, FIND OUT WHY HE WAS IDENTIFIED AND SEE IF THAT IS,
11:58:17 23 IN FACT, THE CASE. IF FOR SOME REASON MARK THINKS IT IS
11:58:21 24 IMPORTANT TO HAVE HIM TESTIFY, THEN WE'LL MAKE HIM
11:58:23 25 AVAILABLE AT THE SAME TIME YOU DEPOSE MARK.

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11:58:26 1 MR. POMERANTZ: THAT'S FINE.

11:58:27 2 ALL RIGHT. I THINK THAT COVERS

11:58:29 3 EVERYTHING. WE CAN GET ON WITH THE DEPOSITION.

11:58:31 4 MR. BUSCH: ALL RIGHT. YES. OKAY.

11:58:35 5 DID YOU SWEAR THE WITNESS IN?

11:58:37 6 DEPOSITION OFFICER: I ALREADY DID.

11:58:37 7 MR. BUSCH: OKAY.

11:58:37 8

11:58:37 9 EXAMINATION

11:58:37 10 BY MR. BUSCH:

11:58:38 11 Q. MS. BLAIR, WOULD YOU PLEASE STATE YOUR

11:58:39 12 NAME FOR THE RECORD.

11:58:41 13 A. CAN I SAY ONE THING BEFOREHAND?

11:58:43 14 Q. YES.

11:58:44 15 A. I HAVE A HEARING PROBLEM, SO THERE MAY

11:58:45 16 BE TIMES WHEN I DON'T HEAR SOMETHING CLEARLY. I JUST

11:58:48 17 WANTED TO SAY THAT FOR THE RECORD.

11:58:50 18 Q. THAT'S FINE.

11:58:51 19 A. I MAY ASK YOU TO REPEAT OR --

11:58:52 20 Q. THOSE ARE SOME INSTRUCTIONS THAT I'M

11:58:54 21 GOING TO GIVE YOU --

11:58:55 22 A. OH, OKAY.

11:58:56 23 Q. AND THAT WILL BE FINE.

11:58:57 24 THE VIDEOGRAPHER: YOUR MICROPHONE,

11:58:59 25 MA'AM.