

1 TOWNSEND AND TOWNSEND AND CREW LLP
 JAMES G. GILLILAND, JR. (State Bar No. 107988)
 2 MEHRNAZ BOROUMAND SMITH (State Bar No. 197271)
 MEGAN M. CHUNG (State Bar No. 232044)
 3 JEB OBLAK (State Bar No. 241384)
 Two Embarcadero Center, 8th Floor
 4 San Francisco, California 94111
 Telephone: (415) 576-0200
 5 Facsimile: (415) 576-0300
 Email: jggilliland@townsend.com; mboroumand@townsend.com;
 6 mmchung@townsend.com; jboblak@townsend.com

7 Attorneys for Plaintiff
 APPLE INC.

9 ROBERT J. YORIO (State Bar No. 93178)
 COLBY B. SPRINGER (State Bar No. 214868)
 10 CHRISTINE S. WATSON (State Bar No. 218006)
 CARR & FERRELL LLP
 11 2200 Geng Road
 Palo Alto, California 94303
 12 Telephone: (650) 812-3400
 Facsimile: (650) 812-3444
 13 Email: ryorio@carrferrell.com; cspringer@carrferrell.com
 cwatson@carrferrell.com

14 Attorneys for Defendant
 15 PSYSTAR CORPORATION

16 UNITED STATES DISTRICT COURT
 17 NORTHERN DISTRICT OF CALIFORNIA
 18 SAN FRANCISCO DIVISION

20 APPLE INC., a California Corporation,
 21 Plaintiff,
 22 v.
 23 PSYSTAR CORPORATION,
 24 Defendant.

Case No. CV 08-3251 WHA

**STIPULATION CONSENTING TO
 APPLE INC.'S FILING OF
 AMENDED COMPLAINT AND
~~PROPOSED~~ ORDER VACATING
 HEARING ON APPLE INC.'S
 MOTION FOR LEAVE TO AMEND**

Date: January 8, 2009
 Time: 8:00 a.m.
 Courtroom: 9, 19th Floor
 Honorable William Alsup

1 WHEREAS on November 7, 2008, this Court issued a Case Management Order setting
2 November 30, 2008 as the last day for the parties to seek leave to amend the pleadings to add claims
3 or parties;

4 WHEREAS Plaintiff Apple Inc. ("Apple") filed a Motion for Leave to File Its Amended
5 Complaint on November 26, 2008 (see Doc. Nos. 35-36), after having met and conferred with
6 Defendant's counsel;

7 WHEREAS Defendant Psystar Corporation ("Psystar") has now had additional time to review
8 Apple's Amended Complaint and its Motion for Leave to File the Amended Complaint;

9 WHEREAS Psystar has now consented to Apple's filing of its Amended Complaint without
10 the need for a motion seeking leave of the Court;

11 THEREFORE, pursuant to Federal Rule of Civil Procedure 15(a)(2), Psystar consents to Apple
12 filing its Amended Complaint and the parties hereby stipulate that the Amended Complaint will be
13 filed separately today. The parties also respectfully request that the Court vacate the hearing set for
14 January 8, 2009 in relation to Apple's Motion For Leave to File Amended Complaint.

15
16 DATED: December 2, 2008

Respectfully submitted,

17 TOWNSEND AND TOWNSEND AND CREW LLP

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19 By: /s/ James G. Gilliland, Jr.
20 JAMES G. GILLILAND, JR.
21 Attorneys for Plaintiff
APPLE INC.

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23 DATED: December 2, 2008

CARR & FERRELL LLP

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25 By: /s/ Colby B. Springer
26 COLBY B. SPRINGER
27 Attorneys for Defendant
PSYSTAR CORPORATION

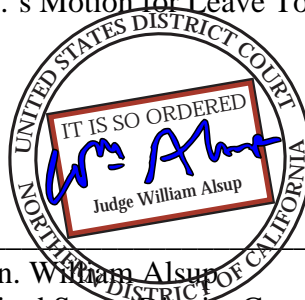
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ORDER

Pursuant to the stipulation, this Court GRANTS the parties' request and VACATES the January 8, 2009 hearing scheduled on Apple Inc.'s Motion for Leave To File Amended Complaint.

IT IS SO ORDERED.

DATED: December 4, 2008



Hon. William Alsup
United States District Court Judge

SIGNATURE ATTESTATION

Pursuant to General Order No. 45(X)(B), I hereby attest that I have obtained the concurrence in the filing of this document from all the signatories for whom a signature is indicated by a “conformed” signature (/s/) within this e-filed document and I have on file records to support this concurrence for subsequent production for the court if so ordered or for inspection upon request.

Dated: December 2, 2008

/s/ James G. Gilliland, Jr.
JAMES G. GILLILAND, JR.
Attorneys for Plaintiff and Counter-Defendant
APPLE INC.

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