

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

8 Attorneys for Plaintiff and Counterdefendant
 9 APPLE INC.

10 UNITED STATES DISTRICT COURT
 11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 12 SAN FRANCISCO DIVISION

13 APPLE INC., a California corporation,

14 Plaintiff,

15 v.

16 PSYSTAR CORPORATION, a Florida
 17 corporation, and DOES 1-10, inclusive,

18 Defendants.

19 AND RELATED COUNTERCLAIMS

Case No. CV 08-03251 WHA

**NOTICE OF ENTRY OF ORDER
 GRANTING MOTION BY APPLE INC.
 FOR RELIEF FROM STAY PURSUANT
 TO 11 U.S.C. §362(d)**

21 In accordance with this Court’s June 1, 2009 Order Staying Case (Docket Entry 70),
 22 plaintiff and counterdefendant Apple Inc. (“Apple”) hereby gives notice to the Court that the
 23 automatic stay has been lifted by the United States Bankruptcy Court for the Southern District of
 24 Florida (“Bankruptcy Court”). Apple’s Motion for Relief From Stay was granted in full provided
 25 that Apple must seek further relief from the Bankruptcy Court before executing any money
 26 judgment resulting from this case. See Exhibit A (Bankruptcy Court’s June 19, 2009 Order
 27 Granting Motion by Apple Inc. For Relief From Stay Pursuant to 11 U.S.C. § 362(d)).

28 //

townsend.

1 Apple respectfully requests that the Court lift the stay issued on June 1, 2009 and schedule a case
2 management conference to address scheduling and filing deadlines.

3 DATED: June 25, 2009

Respectfully submitted,

TOWNSEND AND TOWNSEND AND CREW LLP

6 By: /s/ Mehrnaz Boroumand Smith

MEHRNAZ BOROUMAND SMITH

Attorneys for Plaintiff and Counterdefendant
APPLE INC.

9
10 62091128 v1

townsend.

EXHIBIT A



ORDERED in the Southern District of Florida on June 19, 2009.

Robert A. Mark, Judge
United States Bankruptcy Court

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
(MIAMI DIVISION)
www.flsb.uscourts.gov

In re:

Case No. 09-19921 BKC-RAM
Chapter 11 Case

Psystar Corporation,

Debtor.

**ORDER GRANTING MOTION BY APPLE INC.
FOR RELIEF FROM STAY PURSUANT TO 11 U.S.C. § 362(d)**

THIS MATTER came before the Court on June 17, 2009, at 3:00 p.m. upon the Motion by Apple Inc. ("Apple") for Relief From Stay Pursuant to 11 U.S.C. §362(d) [D.E. 25](the "Motion) and the Debtor's Response to Apple's Motion to Terminate the Automatic Stay [D.E. 36] (the "Response"). The Court has considered the argument of counsel for (i) the Debtor, (ii) Apple, (iii) the Office of the United States Trustee, and (iv) Mr. Rodolfo Pedraza, the President of the Debtor who also alleges to be a creditor of the Debtor. The Court has also considered the proffers of evidence by the Debtor and Apple and has considered and taken judicial notice of the pleadings, orders and the docket sheet in the case of *Apple Inc. v. Psystar Corporation* (Case No. CV 08-03251 WHA (Alsup, J.) currently pending in the United States District Court for the

Northern District of California (the "Infringement Action"), which are annexed as exhibits to the declarations in support of the Motion and the Response.

For the reasons stated on the record at the hearing (which constitute this Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052), the Court finds and rules that cause exists pursuant to 11 U.S.C. §362(d) for granting the relief sought by Apple in the Motion. Accordingly, the Court ORDERS AND ADJUDGES as follows:

1) The Motion is GRANTED.

2) The automatic stay imposed by 11 U.S.C. §362 (a) is lifted to allow the Infringement Action to proceed for all purposes through final judgment; provided that Apple must seek further relief from this Court before executing any money judgment obtained in the Infringement Action against the Debtor's estate.

###

Submitted by:
Paul Steven Singerman, Esq.
BERGER SINGERMAN, P.A.
200 S. Biscayne Blvd., Suite 1000
Miami, FL 33131
Tel. (305) 755-9500
Fax (305) 714-4340
singerman@bergersingerman.com

Copies to:
Paul Steven Singerman, Esq.
(Attorney Singerman shall serve a copy of this Order upon all interested parties upon receipt and file a certificate of service.)

CERTIFICATE OF SERVICE

I, Martha A. Van Cleef, declare I am employed in the City and County of San Francisco, California in the office of a member of the bar of this court at whose direction this service was made. I am over the age of eighteen and not a party to this action. My business address is Townsend and Townsend and Crew LLP, Two Embarcadero Center, Eighth Floor, San Francisco, California, 94111.

I served the following document exactly entitled:

NOTICE OF ENTRY OF ORDER GRANTING MOTION BY APPLE INC. FOR RELIEF FROM STAY PURSUANT TO 11 U.S.C. §362(d)

on the interested parties in this action following the ordinary business practice of Townsend and Townsend and Crew LLP, as follows:

Robert J. Yorio, Esq. Colby B. Springer, Esq. Christopher P. Grewe, Esq. Carr & Ferrell, LLP 2200 Geng Road Palo Alto, California 94303 Phone: 650-812-3400 Fax: 650-812-3444	email: yorio@carrferrell.com email: cspringer@carrferrell.com email: cgrewe@carrferrell.com
--	---

[By First Class Mail] I am readily familiar with my employer's practice for collecting and processing documents for mailing with the United States Postal Service. On the date listed herein, following ordinary business practice, I served the within document(s) at my place of business, by placing a true copy thereof, enclosed in a sealed envelope, with postage thereon fully prepaid, for collection and mailing with the United States Postal Service where it would be deposited with the United States Postal Service that same day in the ordinary course of business.

[By Overnight Courier] I caused each envelope to be delivered by a commercial carrier service for overnight delivery to the offices of the addressee(s).

[By Hand] I directed each envelope to the party(ies) so designated on the service list to be delivered by courier this date.

[By Facsimile Transmission] I caused said document to be sent by facsimile transmission to the fax number indicated for the party(ies) listed above.

[By Electronic Transmission] I caused said document to be sent by electronic transmission to the e-mail address indicated for the party(ies) listed above via the court's ECF notification system.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed on June 25, 2009, at San Francisco, California.

/s/ Martha A. Van Cleef
Martha A. Van Cleef

townsend.