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9 *Attorneys for Plaintiff*
ALEX TOMER

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ALEX TOMER, an individual and on behalf of all
others similarly situated,

Plaintiffs,

v.

APPLE INC., a California corporation, and DOES
1 through 20,

Defendants.

Case No. 2:11-cv-02700-MCE-DAD

STIPULATION AND ORDER

Hon. Morrison C. England, Jr.

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WHEREAS, Defendant Apple, Inc. (“Apple”) filed a Motion to Dismiss on November 17, 2011, which is currently scheduled for hearing on February 23, 2012;

WHEREAS, Plaintiff Alex Tomek’s Opposition to the Motion to Dismiss is scheduled to be filed and served on January 26, 2012;

WHEREAS, Plaintiff has given consideration to the arguments raised in the Motion and has determined that filing an amended complaint would conserve judicial resources as well as the resources of the parties;

WHEREAS, Apple has agreed that, in light of the foregoing, Plaintiff should be permitted to file and serve a First Amended Complaint (“FAC”), without prejudice to Apple’s right to move to dismiss the FAC;

THE PARTIES TO HEREBY AGREE AND STIPULATE AS FOLLOWS:

1. Apple’s Motion to Dismiss set for February 23, 2012, shall be taken off-calendar and the hearing vacated without prejudice; and,
2. Plaintiff Alex Tomek shall have 20 days from the date of this stipulation to file a First Amended Complaint in this matter;
3. Apple shall have 30 days from the service of the First Amended Complaint to respond.

Dated: January 26, 2012

ANTHONY A. FERRIGNO
LAW OFFICES OF ANTHONY A.
FERRIGNO

JACK T. HUMES
LAW OFFICES OF JACK T. HUMES

/s/ Jack T. Humes
JACK T. HUMES
Email: JackHumes@verizon.net
One of the Attorneys for Plaintiff
ALEX TOMEK

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Dated: January 26, 2012

PENELOPE A. PREVOLOS
ANDREW D. MUHLBACH
ALEXEI KLESTOFF
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APPLE INC.

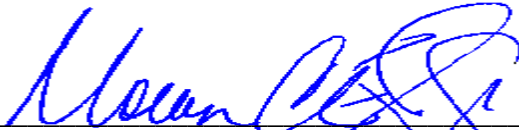
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ORDER

Defendant Apple, Inc's Motion to Dismiss set for February 23, 2012, is taken off-calendar and the hearing vacated without prejudice. Plaintiff Alex Tomek has 20 days from the date of the parties' stipulation to file a First Amended Complaint in this matter, and Apple shall have 30 days from the date of service of the First Amended Complaint to respond.

IT IS SO ORDERED.

Dated: February 21, 2012


MORRISON C. ENGLAND, JR
UNITED STATES DISTRICT JUDGE