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12 Attorneys for Plaintiff and Counterdefendant
 13 APPLE INC.

14 UNITED STATES DISTRICT COURT
 15 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 16 SAN FRANCISCO DIVISION

18 APPLE INC.,

19 Plaintiff,

20 v.

21 PSYSTAR CORPORATION, a Florida
 22 corporation,

Defendant.

23 AND RELATED COUNTERCLAIMS.

Case No. 08-3251 WHA

**NOTICE OF MOTION AND MOTION
 FOR SUMMARY JUDGMENT ON
 COPYRIGHT INFRINGEMENT, DMCA
 VIOLATIONS AND PSYSTAR'S
 AFFIRMATIVE DEFENSES**

Hearing Date: November 12, 2009
 Hearing Time: 8:00 a.m.
 Courtroom: 9
 Judge: Hon. William Alsup
 Trial Date: January 11, 2010

1 PLEASE TAKE NOTICE that on November 12, 2009, at 8:00 a.m., or as soon thereafter
2 as the matter can be heard, in the courtroom of the Honorable William Alsup, located at 450
3 Golden Gate Avenue, Courtroom 9, San Francisco, California 94102, plaintiff and
4 counterdefendant, Apple Inc. (“Apple”) will, and hereby does, move for an order granting partial
5 summary judgment that defendant and counterclaimant Psystar Corporation (“Psystar”) has
6 infringed Apple’s copyrights and violated the Digital Millennium Copyright Act. Apple further
7 seeks an order granting summary judgment dismissing Psystar’s Eleventh and Thirty-Seventh
8 Affirmative Defenses for First Sale/Exhaustion of Copyright and Copyright Misuse and Psystar’s
9 First and Second Counterclaims seeking a Declaration of Unenforceability for Copyright Misuse
10 (EULA) and Copyright Misuse (DMCA).

11
12 DATED: October 8, 2009

Respectfully submitted,

13 TOWNSEND AND TOWNSEND AND CREW LLP

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15 By: /s/James G. Gilliland, Jr.
16 JAMES G. GILLILAND, JR.

17 Attorneys for Plaintiff and Counterdefendant
18 APPLE INC.

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