

## **EXHIBIT 17**

**MEGAN M. CHUNG'S DECLARATION IN SUPPORT OF APPLE INC.'S MOTION  
FOR SUMMARY JUDGMENT ON COPYRIGHT INFRINGEMENT, DMCA  
VIOLATIONS AND PSYSTAR'S AFFIRMATIVE DEFENSES**

1 ROBERT J. YORIO (SBN 93178)  
yorio@carrferrell.com  
2 COLBY B. SPRINGER (SBN 214868)  
cspringer@carrferrell.com  
3 CHRISTOPHER P. GREWE (SBN 245938)  
cgrewe@carrferrell.com  
4 CARR & FERRELL *LLP*  
2200 Geng Road  
5 Palo Alto, California 94303  
Telephone: (650) 812-3400  
6 Facsimile: (650) 812-3444

7 Attorneys for Defendant/Counterclaimant  
PSYSTAR CORPORATION

8

9

UNITED STATES DISTRICT COURT

10

NORTHERN DISTRICT OF CALIFORNIA

11

SAN FRANCISCO DIVISION

12

APPLE INC., a California corporation,

CASE NO. CV-08-03251-WHA

13

Plaintiff,

14

v.

**PSYSTAR CORPORATION'S  
RESPONSES TO APPLE INC.'S SECOND  
SET OF REQUESTS FOR ADMISSION  
(SET NO. 30-100)**

15

PSYSTAR CORPORATION,

16

17

Defendant.

18

AND RELATED COUNTERCLAIMS.

19

20

21

PROPOUNDING PARTY: APPLE INC.

22

RESPONDING PARTY: PSYSTAR CORPORATION

23

24

SET NO: TWO (2)

25

26

TAKE NOTICE THAT Defendant PSYSTAR CORPORATION responds as follows to the  
second set of requests for admission of Plaintiff APPLE INC. dated November 11, 2008 (the  
"Requests").

27

28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**RESPONSES TO REQUESTS FOR ADMISSIONS**

**REQUEST FOR ADMISSION NO. 30:**

Admit that PSYSTAR has distributed MAC OS X.

**RESPONSE TO REQUEST NO. 30:**

Psystar Corporation repeats and incorporates by reference its GENERAL OBJECTIONS in full as if set forth herein. Psystar Corporation further objects on the grounds that this request is vague and ambiguous, *inter alia*, in its use of the term “distributed.” Subject to and without waiving these objections, Psystar Corporation responds as follows:

Psystar Corporation legally acquired retail copies of MAC OS X from retailers, including without limitation The Apple Store, Best Buy, Circuit City, NewEgg.com and Amazon.com, and installed those legally acquired retail copies of MAC OS X on computers sold by Psystar Corporation. In this context, Psystar Corporation admits the request.

**REQUEST FOR ADMISSION NO. 31:**

Admit that PSYSTAR distributes MAC OS X on its Open Computer.

**RESPONSE TO REQUEST NO. 31:**

Psystar Corporation repeats and incorporates by reference its GENERAL OBJECTIONS in full as if set forth herein. Psystar Corporation further objects on the grounds that this request is vague and ambiguous, *inter alia*, in its use of the terms “distributes” and “on.” Subject to and without waiving these objections, Psystar Corporation responds as follows:

Psystar Corporation legally acquired retail copies of MAC OS X from retailers, including without limitation The Apple Store, Best Buy, Circuit City, NewEgg.com and Amazon.com, and installed those legally acquired retail copies of MAC OS X on Open computers sold by Psystar Corporation. In this context, Psystar Corporation admits the request.

1 **REQUEST FOR ADMISSION NO. 32:**

2 Admit that PSYSTAR distributes MAC OS X on its OpenPro computer.

3 **RESPONSE TO REQUEST NO. 32:**

4 Psystar Corporation repeats and incorporates by reference its GENERAL OBJECTIONS in  
5 full as if set forth herein. Psystar Corporation further objects on the grounds that this request is  
6 vague and ambiguous, *inter alia*, in its use of the terms “distributes” and “on.” Subject to and  
7 without waiving these objections, Psystar Corporation responds as follows:

8 Psystar Corporation legally acquired retail copies of MAC OS X from retailers, including  
9 without limitation The Apple Store, Best Buy, Circuit City, NewEgg.com and Amazon.com, and  
10 installed those legally acquired retail copies of MAC OS X on OpenPro computers sold by Psystar  
11 Corporation. In this context, Psystar Corporation admits the request.

12  
13 **REQUEST FOR ADMISSION NO. 33:**

14 Admit that PSYSTAR distributes MAC OS X on its OpenServ 800.

15 **RESPONSE TO REQUEST NO. 33:**

16 Psystar Corporation repeats and incorporates by reference its GENERAL OBJECTIONS in  
17 full as if set forth herein. Psystar Corporation further objects on the grounds that this request is  
18 vague and ambiguous, *inter alia*, in its use of the term “distributes.” Psystar Corporation further  
19 objects to this request on the grounds that the request is overbroad and unduly burdensome and  
20 seeks information that is not relevant to the claim or defense of any party. PSYSTAR has not  
21 distributed OpenServ 800 servers with MAC OS X installed. Subject to and without waiving these  
22 objections, Psystar Corporation responds as follows: Denied.

23  
24 **REQUEST FOR ADMISSION NO. 34:**

25 Admit that PSYSTAR distributes MAC OS X on its OpenServ 1100.

26 **RESPONSE TO REQUEST NO. 34:**

27 Psystar Corporation repeats and incorporates by reference its GENERAL OBJECTIONS in  
28 full as if set forth herein. Psystar Corporation further objects on the grounds that this request is

1 vague and ambiguous, *inter alia*, in its use of the term “distributes.” Psystar Corporation further  
2 objects to this request on the grounds that the request is overbroad and unduly burdensome and  
3 seeks information that is not relevant to the claim or defense of any party as PSYSTAR has not  
4 distributed OpenServ 1100 servers with MAC OS X installed. Subject to and without waiving  
5 these objections, Psystar Corporation responds as follows: Denied.

6  
7 **REQUEST FOR ADMISSION NO. 35:**

8 Admit that PSYSTAR distributes MAC OS X on its OpenServ 2400.

9 **RESPONSE TO REQUEST NO. 35:**

10 Psystar Corporation repeats and incorporates by reference its GENERAL OBJECTIONS in  
11 full as if set forth herein. Psystar Corporation further objects on the grounds that this request is  
12 vague and ambiguous, *inter alia*, in its use of the term “distributes.” Psystar Corporation further  
13 objects to this request on the grounds that the request is overbroad and unduly burdensome and  
14 seeks information that is not relevant to the claim or defense of any party as PSYSTAR has not sold  
15 OpenServ 2400 servers with MAC OS X installed. Subject to and without waiving these  
16 objections, Psystar Corporation responds as follows: Denied.

17  
18 **REQUEST FOR ADMISSION NO. 36:**

19 Admit that PSYSTAR distributes MAC OS X with its Open Computers.

20 **RESPONSE TO REQUEST NO. 36:**

21 Psystar Corporation repeats and incorporates by reference its GENERAL OBJECTIONS in  
22 full as if set forth herein. Psystar Corporation further objects on the grounds that this request is  
23 vague and ambiguous, *inter alia*, in its use of the terms “distributed” and “with.” Subject to and  
24 without waiving these objections, Psystar Corporation responds as follows:

25 Psystar Corporation legally acquired retail copies of MAC OS X from retailers, including  
26 without limitation The Apple Store, Best Buy, Circuit City, NewEgg.com and Amazon.com, and  
27 installed those legally acquired retail copies of MAC OS X on Open computers sold by Psystar  
28

1 Corporation. That legally acquired copy is then shipped with the Open computer. In this context,  
2 Psystar Corporation admits the request.

3

4 **REQUEST FOR ADMISSION NO. 37:**

5 Admit that PSYSTAR distributes MAC OS X with its OpenPro computer.

6 **RESPONSE TO REQUEST NO. 37:**

7 Psystar Corporation repeats and incorporates by reference its GENERAL OBJECTIONS in  
8 full as if set forth herein. Psystar Corporation further objects on the grounds that this request is  
9 vague and ambiguous, *inter alia*, in its use of the terms “distributed” and “with.” Subject to and  
10 without waiving these objections, Psystar Corporation responds as follows:

11 Psystar Corporation legally acquired retail copies of MAC OS X from retailers, including  
12 without limitation The Apple Store, Best Buy, Circuit City, NewEgg.com and Amazon.com, and  
13 installed those legally acquired retail copies of MAC OS X on OpenPro computers sold by Psystar  
14 Corporation. That legally acquired copy is then shipped with the OpenPro computer. In this  
15 context, Psystar Corporation admits the request.

16

17 **REQUEST FOR ADMISSION NO. 38:**

18 Admit that PSYSTAR distributes MAC OS X with its OpenServ 1100.

19 **RESPONSE TO REQUEST NO. 38:**

20 Psystar Corporation repeats and incorporates by reference its GENERAL OBJECTIONS in  
21 full as if set forth herein. Psystar Corporation further objects on the grounds that this request is  
22 vague and ambiguous, *inter alia*, in its use of the term “distributes.” Psystar Corporation further  
23 objects to this request on the grounds that the request is overbroad and unduly burdensome and  
24 seeks information that is not relevant to the claim or defense of any party as PSYSTAR has not  
25 distributed OpenServ 1100 servers with MAC OS X installed. Subject to and without waiving  
26 these objections, Psystar Corporation responds as follows: Denied.

27

28

1 **REQUEST FOR ADMISSION NO. 39:**

2 Admit that PSYSTAR distributes MAC OS X with its OpenServ 2400.

3 **RESPONSE TO REQUEST NO. 39:**

4 Psystar Corporation repeats and incorporates by reference its GENERAL OBJECTIONS in  
5 full as if set forth herein. Psystar Corporation further objects on the grounds that this request is  
6 vague and ambiguous, *inter alia*, in its use of the term “distributes.” Psystar Corporation further  
7 objects to this request on the grounds that the request is overbroad and unduly burdensome and  
8 seeks information that is not relevant to the claim or defense of any party as PSYSTAR has not  
9 distributed OpenServ 1100 servers with MAC OS X installed. Subject to and without waiving  
10 these objections, Psystar Corporation responds as follows: Denied.

11  
12 **REQUEST FOR ADMISSION NO. 40:**

13 Admit that PSYSTAR has distributed one or more discs of MAC OS X.

14 **RESPONSE TO REQUEST NO. 40:**

15 Psystar Corporation repeats and incorporates by reference its GENERAL OBJECTIONS in  
16 full as if set forth herein. Psystar Corporation further objects to this request insofar as it calls for  
17 documents or information outside the current possession, custody, or control of Psystar  
18 Corporation. Psystar Corporation further objects on the grounds that this request is vague and  
19 ambiguous, *inter alia*, in its use of the terms “distributed” and “discs.” Subject to and without  
20 waiving these objections, Psystar Corporation responds as follows:

21 Psystar Corporation legally acquired retail copies of MAC OS X from retailers, including  
22 without limitation The Apple Store, Best Buy, Circuit City, NewEgg.com and Amazon.com. The  
23 legally acquired retail copies (i.e., the discs) of MAC OS X are then shipped with the computers  
24 sold by Psystar Corporation. In this context, Psystar Corporation admits the request.

25  
26 **REQUEST FOR ADMISSION NO. 41:**

27 Admit that PSYSTAR has distributed one or more discs of MAC OS X within its original  
28 shrink-wrapped plastic film.

1 **REQUEST FOR ADMISSION NO. 53:**

2 Admit that PSYSTAR has preinstalled MAC OS X on PSYSTAR's OpenServ 1100.

3 **RESPONSE TO REQUEST NO. 53:**

4 Psystar Corporation repeats and incorporates by reference its GENERAL OBJECTIONS in full as  
5 if set forth herein. Psystar Corporation further objects on the grounds that this request is vague and  
6 ambiguous, *inter alia*, in its use of the term "preinstalled." Psystar Corporation further objects to  
7 this request on the grounds that the request is overbroad and unduly burdensome and seeks  
8 information that is not relevant to the claim or defense of any party. As the present request for  
9 admission is wholly unintelligible, Psystar Corporation denies the request.

11 **REQUEST FOR ADMISSION NO. 54:**

12 Admit that PSYSTAR has preinstalled MAC OS X on PSYSTAR's OpenServ 2400.

13 **RESPONSE TO REQUEST NO. 54:**

14 Psystar Corporation repeats and incorporates by reference its GENERAL OBJECTIONS in full as  
15 if set forth herein. Psystar Corporation further objects on the grounds that this request is vague and  
16 ambiguous, *inter alia*, in its use of the term "preinstalled." Psystar Corporation further objects to  
17 this request on the grounds that the request is overbroad and unduly burdensome and seeks  
18 information that is not relevant to the claim or defense of any party. As the present request for  
19 admission is wholly unintelligible, Psystar Corporation denies the request.

21 **REQUEST FOR ADMISSION NO. 55:**

22 Admit that PSYSTAR has distributed a copy of MAC OS X to one or more of its customers  
23 for use with PSYSTAR's Open Computer.

24 **RESPONSE TO REQUEST NO. 55:**

25 Psystar Corporation repeats and incorporates by reference its GENERAL OBJECTIONS in  
26 full as if set forth herein. Psystar Corporation further objects on the grounds that this request is  
27 vague and ambiguous, *inter alia*, in its use of the terms "distributed," "copy" and "use with."

28 Subject to and without waiving these objections, Psystar Corporation responds as follows:



1 Psystar Corporation admits that it legally acquired retail copies of MAC OS X from  
2 retailers, including without limitation The Apple Store, Best Buy, Circuit City, NewEgg.com and  
3 Amazon.com and that it has distributed those legally acquired copies to purchasers of Open  
4 computers sold by Psystar Corporation.

5  
6 **REQUEST FOR ADMISSION NO. 56:**

7 Admit that PSYSTAR has distributed a copy of MAC OS X to one or more of its customers  
8 for use with PSYSTAR's OpenPro computer.

9 **RESPONSE TO REQUEST NO. 56:**

10 Psystar Corporation repeats and incorporates by reference its GENERAL OBJECTIONS in  
11 full as if set forth herein. Psystar Corporation further objects on the grounds that this request is  
12 vague and ambiguous, *inter alia*, in its use of the terms "distributed," "copy" and "use with."  
13 Subject to and without waiving these objections, Psystar Corporation responds as follows:

14 Psystar Corporation admits that it legally acquired retail copies of MAC OS X from  
15 retailers, including without limitation The Apple Store, Best Buy, Circuit City, NewEgg.com and  
16 Amazon.com and that it has distributed those legally acquired copies to purchasers of OpenPro  
17 computers sold by Psystar Corporation.

18  
19 **REQUEST FOR ADMISSION NO. 57:**

20 Admit that PSYSTAR has distributed a copy of MAC OS X to one or more of its customers  
21 for use with PSYSTAR's OpenServ 800.

22 **RESPONSE TO REQUEST NO. 57:**

23 Psystar Corporation repeats and incorporates by reference its GENERAL OBJECTIONS in  
24 full as if set forth herein. Psystar Corporation further objects on the grounds that this request is  
25 vague and ambiguous, *inter alia*, in its use of the terms "distributed," "copy" and "use with."  
26 Psystar Corporation further objects to this request on the grounds that the request is overbroad and  
27 unduly burdensome and seeks information that is not relevant to the claim or defense of any party.  
28 Subject to and without waiving these objections, Psystar Corporation responds as follows:

1 **REQUEST FOR ADMISSION NO. 100:**

2 Admit that by transferring a PSYSTAR PRODUCTS with MAC OS X preinstalled to a  
3 customer or a THIRD PARTY, PSYSTAR is transferring portions of APPLE firmware.


4 **RESPONSE TO REQUEST NO. 100:**

5 Psystar Corporation repeats and incorporates by reference its GENERAL OBJECTIONS in  
6 full as if set forth herein. Psystar Corporation further objects on the grounds that this request is  
7 vague and ambiguous, *inter alia*, in its use of the terms “transferring,” “preinstalled,” “customer,”  
8 “portions” and “APPLE firmware.” As the request for admission is wholly unintelligible, the  
9 request is denied.

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: December 11, 2008

CARR & FERRELL LLP

By:   
ROBERT J. YORIO  
COLBY B. SPRINGER  
CHRISTOPHER P. GREWE  
Attorneys for Defendant/Counterclaimant  
PSYSTAR CORPORATION

## **EXHIBIT 18**

**MEGAN M. CHUNG'S DECLARATION IN SUPPORT OF APPLE INC.'S MOTION  
FOR SUMMARY JUDGMENT ON COPYRIGHT INFRINGEMENT, DMCA  
VIOLATIONS AND PSYSTAR'S AFFIRMATIVE DEFENSES**

1 ROBERT J. YORIO (SBN 93178)  
 yorio@carrferrell.com  
 2 COLBY B. SPRINGER (SBN 214868)  
 cspringer@carrferrell.com  
 3 CHRISTOPHER P. GREWE (SBN 245938)  
 egrewe@carrferrell.com  
 4 CARR & FERRELL LLP  
 2200 Geng Road  
 5 Palo Alto, California 94303  
 Telephone: (650) 812-3400  
 6 Facsimile: (650) 812-3444

7 Attorneys for Defendant/Counterclaimant  
 PSYSTAR CORPORATION

8

9 UNITED STATES DISTRICT COURT  
 10 NORTHERN DISTRICT OF CALIFORNIA  
 11 SAN FRANCISCO DIVISION

12

APPLE INC., a California corporation,

13

Plaintiff,

14

v.

15

PSYSTAR CORPORATION,

16

17

Defendant.

18

AND RELATED COUNTERCLAIMS.

19

20

21

PROPOUNDING PARTY: APPLE INC.

22

RESPONDING PARTY: PSYSTAR CORPORATION

23

24

SET NO: TWO (2)

25

26

TAKE NOTICE THAT Defendant Psystar Corporation submits these supplemental responses to Plaintiff Apple Inc.'s second set of requests for admission to which Psystar

27

28

Corporation originally responded on December 11, 2008. These responses supplement Psystar

CASE NO. CV-08-03251-WHA

**PSYSTAR CORPORATION'S  
SUPPLEMENTAL RESPONSES TO  
APPLE INC.'S SECOND SET OF  
REQUESTS FOR ADMISSION**

1 relevant to the claim or defense of any party as PSYSTAR has not sold OpenServ 1100 servers with  
2 MAC OS X installed. Subject to and without waiving these objections, Psystar Corporation  
3 responds as follows: Denied.

4

5 **REQUEST FOR ADMISSION NO. 92:**

6 Admit that PSYSTAR has used a MASTER COPY to preinstall MAC OS X on the  
7 OpenServ 2400.

8 **SUPPLEMENTAL RESPONSE TO REQUEST NO. 92:**

9 Psystar Corporation repeats and incorporates by reference its GENERAL OBJECTIONS in  
10 full as if set forth herein. Psystar Corporation further objects on the grounds that this request is  
11 vague and ambiguous, *inter alia*, in its use of the term “used” and its use of the term “MASTER  
12 COPY” to mean “the copy of MAC OS X that PSYSTAR has used or used to install MAC OS X on  
13 more than one computer or server.” Psystar Corporation further objects to this request on the  
14 grounds that the request is overbroad and unduly burdensome and seeks information that is not  
15 relevant to the claim or defense of any party as PSYSTAR has not sold OpenServ 2400 servers with  
16 MAC OS X installed. Subject to and without waiving these objections, Psystar Corporation  
17 responds as follows: Denied.

18

19 **REQUEST FOR ADMISSION NO. 94:**

20 Admit that PSYSTAR’s Open Computer copies portions of MAC OS X to random access  
21 memory (RAM) when running MAX OS X.

22 **SUPPLEMENTAL RESPONSE TO REQUEST NO. 94:**

23 Psystar Corporation repeats and incorporates by reference its GENERAL OBJECTIONS in  
24 full as if set forth herein. Psystar Corporation further objects on the grounds that this request is  
25 vague and ambiguous, *inter alia*, in its use of the terms “copies” and “portions.” Subject to and  
26 without waiving these objections, Psystar Corporation responds as follows:

27 Psystar Corporation admits that computers, including but not limited to Psystar  
28 Corporation’s Open Computer, run by utilizing random access memory to run an operating system.

1 RAM is volatile and is subsequently erased when the corresponding computer is “shut off” or  
2 “restarted”; RAM is thus constantly being rewritten. In this context, Psystar admits this request.

3  
4 **REQUEST FOR ADMISSION NO. 95:**

5 Admit that PSYSTAR’s OpenPro computer copies portions of MAC OS X to random access  
6 memory (RAM) when running MAX OS X.

7 **SUPPLEMENTAL RESPONSE TO REQUEST NO. 94:**

8 Psystar Corporation repeats and incorporates by reference its GENERAL OBJECTIONS in  
9 full as if set forth herein. Psystar Corporation further objects on the grounds that this request is  
10 vague and ambiguous, *inter alia*, in its use of the terms “copies” and “portions.” Subject to and  
11 without waiving these objections, Psystar Corporation responds as follows:

12 Psystar Corporation admits that computers, including but not limited to Psystar  
13 Corporation’s OpenPro Computer, run by utilizing random access memory to run an operating  
14 system. RAM is volatile and is subsequently erased when the corresponding computer is “shut off”  
15 or “restarted”; RAM is thus constantly being rewritten. In this context, Psystar admits this request.

16  
17  
18 **REQUEST FOR ADMISSION NO. 96:**

19 Admit that PSYSTAR’s OpenServ 800 copies portions of MAC OS X to random access  
20 memory (RAM) when running MAX OS X.

21 **SUPPLEMENTAL RESPONSE TO REQUEST NO. 96:**

22 Psystar Corporation repeats and incorporates by reference its GENERAL OBJECTIONS in  
23 full as if set forth herein. Psystar Corporation further objects on the grounds that this request is  
24 vague and ambiguous, *inter alia*, in its use of the terms “copies” and “portions.” Psystar  
25 Corporation further objects to this request on the grounds that the request is overbroad and unduly  
26 burdensome and seeks information that is not relevant to the claim or defense of any party as  
27 PSYSTAR has not sold OpenServ 800 servers with MAC OS X installed. Subject to and without  
28 waiving these objections, Psystar Corporation responds as follows:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: January 9, 2009

CARR & FERRELL *LLP*

By:   
\_\_\_\_\_

ROBERT J. YORIO  
COLBY B. SPRINGER  
CHRISTOPHER P. GREWE

Attorneys for Defendant/Counterclaimant  
PSYSTAR CORPORATION

## **EXHIBIT 19**

**MEGAN M. CHUNG'S DECLARATION IN SUPPORT OF APPLE INC.'S MOTION  
FOR SUMMARY JUDGMENT ON COPYRIGHT INFRINGEMENT, DMCA  
VIOLATIONS AND PSYSTAR'S AFFIRMATIVE DEFENSES**



1 ROBERT J. YORIO (SBN 93178)  
 yorio@carrferrell.com  
 2 COLBY B. SPRINGER (SBN 214868)  
 cspringer@carrferrell.com  
 3 CHRISTOPHER P. GREWE (SBN 245938)  
 cgrewe@carrferrell.com  
 4 CARR & FERRELL *LLP*  
 2200 Geng Road  
 5 Palo Alto, California 94303  
 Telephone: (650) 812-3400  
 6 Facsimile: (650) 812-3444

7 Attorneys for Defendant/Counterclaimant  
 PSYSTAR CORPORATION

8

9 UNITED STATES DISTRICT COURT  
 10 NORTHERN DISTRICT OF CALIFORNIA  
 11 SAN FRANCISCO DIVISION

12

APPLE INC., a California corporation,

CASE NO. CV-08-03251-WHA

13

Plaintiff,

14

v.

**PSYSTAR CORPORATION'S  
 RESPONSES TO APPLE INC.'S THIRD  
 SET OF REQUESTS FOR ADMISSION  
 (NOS. 101-161)**

15

PSYSTAR CORPORATION,

16

Defendant.

17

18 AND RELATED COUNTERCLAIMS.

19

20

21 PROPOUNDING PARTY: APPLE INC.

22 RESPONDING PARTY: PSYSTAR CORPORATION

23 SET NO: THREE (3)

24

25 TAKE NOTICE THAT Defendant PSYSTAR CORPORATION responds as follows to the  
 26 third set of requests for admission of Plaintiff APPLE INC. dated December 3, 2008 (the  
 27 "Requests").

28

1 **REQUEST FOR ADMISSION NO. 159:**

2 Admit that no PERSON has developed an operating system on behalf of PSYSTAR.

3 **RESPONSE TO REQUEST NO. 159:**

4 Psystar Corporation repeats and incorporates by reference its GENERAL OBJECTIONS in  
5 full as if set forth herein. Subject to and without waiving these objections, Psystar Corporation  
6 responds as follows: Admitted.

7  
8 **REQUEST FOR ADMISSION NO. 160:**

9 Admit that PSYSTAR has not developed its own operating system.

10 **RESPONSE TO REQUEST NO. 160:**

11 Psystar Corporation repeats and incorporates by reference its GENERAL OBJECTIONS in  
12 full as if set forth herein. Subject to and without waiving these objections, Psystar Corporation  
13 responds as follows: Admitted.

14  
15 **REQUEST FOR ADMISSION NO. 161:**


16 Admit that PSYSTAR did not expend resources to develop its own operating system.

17 **RESPONSE TO REQUEST NO. 161:**

18 Psystar Corporation repeats and incorporates by reference its GENERAL OBJECTIONS in  
19 full as if set forth herein. Subject to and without waiving these objections, Psystar Corporation  
20 responds as follows: Admitted.

21  
22 Dated: January 16, 2009

CARR & FERRELL LLP

23  
24 By 

25 ROBERT J. YORIO  
26 COLBY B. SPRINGER  
27 CHRISTOPHER P. GREWE

28 Attorneys for Defendant/Counterclaimant  
PSYSTAR CORPORATION

## **EXHIBIT 20**

**MEGAN M. CHUNG'S DECLARATION IN SUPPORT OF APPLE INC.'S MOTION  
FOR SUMMARY JUDGMENT ON COPYRIGHT INFRINGEMENT, DMCA  
VIOLATIONS AND PSYSTAR'S AFFIRMATIVE DEFENSES**

1 ROBERT J. YORIO (SBN 93178)  
 yorio@carrferrell.com  
 2 COLBY B. SPRINGER (SBN 214868)  
 cspringer@carrferrell.com  
 3 CHRISTOPHER P. GREWE (SBN 245938)  
 cgrewe@carrferrell.com  
 4 CARR & FERRELL *LLP*  
 2200 Geng Road  
 5 Palo Alto, California 94303  
 Telephone: (650) 812-3400  
 6 Facsimile: (650) 812-3444

7 Attorneys for Defendant/Counterclaimant  
 PSYSTAR CORPORATION

8

9 UNITED STATES DISTRICT COURT  
 10 NORTHERN DISTRICT OF CALIFORNIA  
 11 SAN FRANCISCO DIVISION

12 APPLE INC., a California corporation,  
 13 Plaintiff,  
 14 v.  
 15 PSYSTAR CORPORATION,  
 16 Defendant.  
 17  
 18 AND RELATED COUNTERCLAIMS.

CASE NO. CV-08-03251-WHA

**PSYSTAR CORPORATION'S SECOND  
 SUPPLEMENTAL RESPONSES TO  
 APPLE INC.'S REQUESTS FOR  
 ADMISSION NOS. 14-18 AND 23-27; AND  
 PSYSTAR CORPORATION'S FIRST  
 SUPPLEMENTAL RESPONSES TO  
 APPLE INC.'S REQUESTS FOR  
 ADMISSION NO. 19 AND 20-22**

19

20 PROPOUNDING PARTY: APPLE INC.

21 RESPONDING PARTY: PSYSTAR CORPORATION

22 SET NO: ONE (1)

23

24 TAKE NOTICE THAT at the request of and as a courtesy to Apple Inc., Defendant Psystar  
 25 Corporation submits these second supplemental responses to Plaintiff Apple Inc.'s first set of  
 26 requests for admission. Psystar Corporation originally responded to Apple Inc.'s first set of  
 27 requests for admission on December 4, 2008. Supplemental responses were served January 9,  
 28 2009; those response supplemented Psystar Corporation's original responses of December 4, 2008

1 installed. Subject to and without waiving these objections, Psystar Corporation responds as  
2 follows:

3 Psystar Corporation denies the request. Psystar Corporation believes that if Psystar  
4 Corporation had elected to, attempted to, or did install MAC OS X on OpenServ 2400 computers  
5 that Psystar Corporation did so with a license. Notwithstanding that belief, Psystar Corporation  
6 reiterates that certain terms of the APPLE Software License Agreements are invalid and/or  
7 unenforceable.

8

9 **REQUEST FOR ADMISSION NO. 19:**

10 Admit that PSYSTAR does not have a license to distribute MAC OS X.

11 **FIRST SUPPLEMENTAL RESPONSE TO REQUEST NO. 19:**

12 Psystar Corporation repeats and incorporates by reference its GENERAL OBJECTIONS in  
13 full as if set forth herein. Psystar Corporation further objects on the grounds that this request is  
14 vague and ambiguous, *inter alia*, in its use of the term "distribute." Subject to and without waiving  
15 these objections, Psystar Corporation responds as follows:

16 Psystar Corporation admits that it does not have a license to distribute MAC OS X. Psystar  
17 Corporation does not have a license because Psystar Corporation does not require a license to  
18 distribute MAC OS X. Any rights that Apple might have to control distribution of MAC OS X are,  
19 at the very least, exhausted upon Psystar Corporation having legally purchased a legitimate copy of  
20 the MAC OS X from an Apple authorized distributor.

21

22 **REQUEST FOR ADMISSION NO. 20:**

23 Admit that it is necessary to agree to the terms of APPLE's Software License Agreement  
24 when installing MAC OS X.

25 **FIRST SUPPLEMENTAL RESPONSE TO REQUEST NO. 20:**

26 Psystar Corporation repeats and incorporates by reference its GENERAL OBJECTIONS in  
27 full as if set forth herein. Psystar Corporation further objects on the grounds that this request is  
28

1 vague and ambiguous, *inter alia*, in its use of the term "APPLE's Software License Agreement."

2 Subject to and without waiving these objections, Psystar Corporation responds as follows:

3 Denied. It is not necessary when installing the MAC OS X on an Open Computer or an  
4 OpenPro to acknowledge agreement to the terms of APPLE's Software License Agreement.

5 Notwithstanding, Psystar contends that certain terms of the APPLE Software License Agreement  
6 are invalid and unenforceable.

7

8 **REQUEST FOR ADMISSION NO. 21:**

9 Admit that it is necessary to agree to the terms of APPLE's Software License Agreement  
10 before installing MAC OS X.

11 **FIRST SUPPLEMENTAL RESPONSE TO REQUEST NO. 21:**

12 Psystar Corporation repeats and incorporates by reference its GENERAL OBJECTIONS in  
13 full as if set forth herein. Psystar Corporation further objects on the grounds that this request is  
14 vague and ambiguous, *inter alia*, in its use of the terms "necessary to agree" and "APPLE's  
15 Software License Agreement." Subject to and without waiving these objections, Psystar  
16 Corporation responds as follows:

17 Admitted. Before installing the MAC OS X on an Open Computer or an OpenPro, Psystar  
18 Corporation agreed to the terms of the Software License Agreement. That agreement occurred,  
19 however, on a MacMini before installation of the Mac OS X on the aforementioned Open Computer  
20 or OpenPro began. Notwithstanding, Psystar contends that certain terms of the APPLE Software  
21 License Agreement are invalid and unenforceable.

22

23 **REQUEST FOR ADMISSION NO. 22:**

24 Admit that when PSYSTAR installs MAC OS X, the installer must acknowledge agreement  
25 to the terms of APPLE's Software License Agreement.

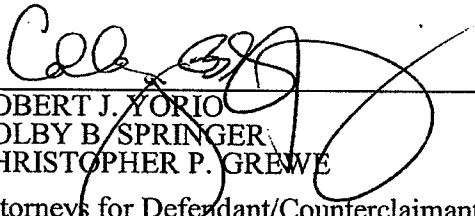
26 **FIRST SUPPLEMENTAL RESPONSE TO REQUEST NO. 22:**

27 Psystar Corporation repeats and incorporates by reference its GENERAL OBJECTIONS in  
28 full as if set forth herein. Psystar Corporation further objects on the grounds that this request is

1 Dated: March 6, 2009

CARR & FERRELL LLP

2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

By:   
ROBERT J. YORIO  
COLBY B. SPRINGER  
CHRISTOPHER P. GREWE  
Attorneys for Defendant/Counterclaimant  
PSYSTAR CORPORATION

## **EXHIBIT 21**

**MEGAN M. CHUNG'S DECLARATION IN SUPPORT OF APPLE INC.'S MOTION  
FOR SUMMARY JUDGMENT ON COPYRIGHT INFRINGEMENT, DMCA  
VIOLATIONS AND PSYSTAR'S AFFIRMATIVE DEFENSES**



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

APPLE INC., a California corporation,

*Plaintiff,*

v.

PSYSTAR CORPORATION,

*Defendants.*

AND RELATED COUNTERCLAIMS

CASE NO. CV-08-03251-WHA

**PSYSTAR CORPORATION'S  
RESPONSE TO APPLE INC.'S  
FOURTH (CORRECTED) SET OF  
REQUESTS FOR  
ADMISSION (NOS. 162-226)**

PROPOUNDING PARTY: APPLE INC.  
RESPONDING PARTY: PSYSTAR CORPORATION  
SET NO: FOUR (4) (CORRECTED)

Pursuant to Rule 36 of the Federal Rules of Civil Procedure, defendant Psystar Corporation hereby responds to plaintiff Apple Inc.'s Corrected Fourth Set of Requests for Admission (Nos. 162-226) as follows:

**GENERAL STATEMENTS AND OBJECTIONS**

1. Each of the following General Objections apply to each Request and are incorporated into each response (Nos. 162-226) below. Specific assertion of the same, similar, or additional objections in any or all individual responses does not waive other objections set forth herein.

2. Discovery in this case is continuing. Psystar's responses below are based on and limited to discovery available as of the date of this response. Continuing discovery, investigation, and analysis, may provide new and additional facts and may establish new factual and legal conclusions and contentions. Such discovery may cause additions, changes, modifications,

PSYSTAR CORPORATION'S RESPONSE TO APPLE INC.'S FOURTH (CORRECTED) SET OF REQUESTS FORADMISSION (NOS. 162-226)

1 RESPONSE TO REQUEST FOR ADMISSION NO. 163:

2 Psystar Corporation incorporates by reference herein its General Statement and Objections  
3 stated above. Psystar Corporation objects to the above request to the extent that it calls for the  
4 disclosure of information protected by the attorney-client privilege, the work product doctrine, or  
5 any other applicable privilege, protection, or right providing for non-disclosure.  
6

7 Psystar Corporation objects to the this request as vague, ambiguous, compound and  
8 unintelligible with regard to the phrase "YOU had knowledge" because it incorporates by  
9 reference a definition of YOU including "its present and former divisions, predecessors-in-  
10 interest, and related entities, subsidiaries, and all present and former employees, officers, directors,  
11 agents, representatives, and persons acting at its discretion, under its control, or on its behalf,  
12 including persons involved in the planning or startup process."  
13

14 Psystar Corporation also objects to this request on the grounds that the phrase "knowledge  
15 of APPLE's Software License Agreement" is vague, ambiguous, compound and unintelligible.

16 Subject to and without waiving its foregoing objections and the General Statement and  
17 Objections, and based on the information now available to Psystar Corporation, Psystar  
18 Corporation responds as follows:

19 Psystar Corporation admits that a document entitled or purporting to be a Software License  
20 Agreement for Mac OS X Server exists. To the extent this request seeks to acknowledge the legal  
21 effect, if any, of a Software License Agreement for Mac OS X Server, Psystar Corporation is  
22 without sufficient information to admit or deny it; and therefore denies it. Except as expressly  
23 admitted, and based on its several objections, Psystar Corporation denies this request.  
24

25 REQUEST FOR ADMISSION NO. 164:

26 Admit that Psystar offers a restore disc to its customers that allows customers to re-install  
27 Mac OS X on the computers purchased from PSYSTAR with MAC OS X.

28 PSYSTAR CORPORATION'S RESPONSE TO APPLE INC.'S FOURTH  
(CORRECTED) SET OF REQUESTS FOR ADMISSION (NOS. 162-226)

1 RESPONSE TO REQUEST FOR ADMISSION NO. 164:

2 Psystar Corporation incorporates by reference herein its General Statement and  
3 Objections stated above. Psystar Corporation objects to the above request to the extent that it calls  
4 for the disclosure of information protected by the attorney-client privilege, the work product  
5 doctrine, or any other applicable privilege, protection, or right providing for non-disclosure.  
6

7 Psystar Corporation objects to the this request as vague, ambiguous, compound and  
8 unintelligible with regard to the phrase "Psystar [PSYSTAR] offers" because it incorporates by  
9 reference a definition of PSYSTAR including "its present and former divisions, predecessors-in-  
10 interest, and related entities, subsidiaries, and all present and former employees, officers, directors,  
11 agents, representatives, and persons acting at its discretion, under its control, or on its behalf,  
12 including persons involved in the planning or startup process."  
13

14 Psystar further objects to this request as vague, ambiguous, compound and unintelligible  
15 with regard to the term "its customers" because Psystar Corporation's customers purchase a wide  
16 variety of computer hardware from Psystar.

17 Psystar objects to this request as redundant, or alternatively, to the extent it is redundant.  
18 See Apple, Inc.'s Second Set of Requests for Admission at Request For Admission No. 62.

19 Subject to and without waiving its foregoing objections and the General Statement and  
20 Objections, and based on the information now available to Psystar Corporation, Psystar  
21 Corporation responds as follows:  
22

23 Psystar Corporation admits that it provides a "restore disk" to purchasers of computers sold  
24 by Psystar Corporation but otherwise denies this request. The "restore disk" does not allow a user  
25 to install MAC OS X on PSYSTAR PRODUCTS. The "restore disk" allows a user "to reinstall  
26 their OS should something go drastically wrong." The "restore disc" allows the "Open Computer  
27 to boot from the native Leopard installation DVD." (<http://www.psystar.com/restore.html>) If a  
28 PSYSTAR CORPORATION'S RESPONSE TO APPLE INC.'S FOURTH  
(CORRECTED) SET OF REQUESTS FOR ADMISSION (NOS. 162-226)

1 purchaser purchases Leopard and an Open Computer the restore disc allows reinstallation of the  
2 Leopard OS X operating system, purchased by the purchaser, directly from the original retail-  
3 packaged DVD which is included with the computer. (<http://store.psystar.com/faqs/#faq2>).

4 REQUEST FOR ADMISSION NO. 165:

5 Admit that PSYSTAR knows that one or more of its customers has installed MAC OS X  
6 onto the Open Computer through the use of PSYSTAR's restore disc.  
7

8 RESPONSE TO REQUEST FOR ADMISSION NO. 165

9 Psystar Corporation incorporates by reference herein its General Statement and Objections  
10 stated above. Psystar Corporation objects to the above request to the extent that it calls for the  
11 disclosure of information protected by the attorney-client privilege, the work product doctrine, or  
12 any other applicable privilege, protection, or right providing for non-disclosure.  
13

14 Psystar Corporation objects to the this request as vague, ambiguous, compound and  
15 unintelligible with regard to the phrase "PSYSTAR knows" because it incorporates by reference a  
16 definition of PSYSTAR including "its present and former divisions, predecessors-in-interest, and  
17 related entities, subsidiaries, and all present and former employees, officers, directors, agents,  
18 representatives, and persons acting at its discretion, under its control, or on its behalf, including  
19 persons involved in the planning or startup process."  
20

21 Psystar Corporation also objects to this request on the grounds that the phrase "knows that  
22 one or more of its customers" is vague, ambiguous, compound and unintelligible.

23 Subject to and without waiving its foregoing objections and the General Statement and  
24 Objections, and based on the information now available to Psystar Corporation, Psystar  
25 Corporation responds as follows:

26 Psystar Corporation admits that it provides a "restore disk" to purchasers of computers sold  
27 by Psystar Corporation but otherwise denies this request. The "restore disk" does not allow a user  
28 PSYSTAR CORPORATION'S RESPONSE TO APPLE INC.'S FOURTH  
(CORRECTED) SET OF REQUESTS FOR ADMISSION (NOS. 162-226)

1 Dated: August 6, 2009

2 CAMARA & SIBLEY *LLP*

3  
4 By: /s/ K. A. D. Camara

5 K.A.D. CAMARA

6  
7 Dated: August 6, 2009

8 WELKER & ROSARIO

9  
10 By: /s/ David Welker

11 DAVID WELKER

12 Attorneys for Defendant/Counterclaimant  
13 PSYSTAR CORPORATION

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28 PSYSTAR CORPORATION'S RESPONSE TO APPLE INC.'S FOURTH  
(CORRECTED) SET OF REQUESTS FOR ADMISSION (NOS. 162-226)

## **EXHIBIT 22**

**MEGAN M. CHUNG'S DECLARATION IN SUPPORT OF APPLE INC.'S MOTION  
FOR SUMMARY JUDGMENT ON COPYRIGHT INFRINGEMENT, DMCA  
VIOLATIONS AND PSYSTAR'S AFFIRMATIVE DEFENSES**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

APPLE INC., a California corporation,

*Plaintiff,*

v.

PSYSTAR CORPORATION,

*Defendants.*

AND RELATED COUNTERCLAIMS

CASE NO. CV-08-03251-WHA

**PSYSTAR CORPORATION'S  
RESPONSE TO APPLE INC.'S  
FOURTH (CORRECTED) SET OF  
REQUESTS FOR  
ADMISSION (NOS. 227-306)**

PROPOUNDING PARTY: APPLE INC.  
RESPONDING PARTY: PSYSTAR CORPORATION  
SET NO: FIVE (5)

Pursuant to Rule 36 of the Federal Rules of Civil Procedure, defendant Psystar Corporation hereby responds to plaintiff Apple Inc.'s Corrected Fourth Set of Requests for Admission (Nos. 227-306) as follows:

**GENERAL STATEMENTS AND OBJECTIONS**

1. Each of the following General Objections apply to each Request and are incorporated into each response (Nos. 226-306) below. Specific assertion of the same, similar, or additional objections in any or all individual responses does not waive other objections set forth herein.

2. The following responses are made without prejudice to Psystar's right to produce or rely on subsequently discovered information, facts and documents. Psystar reserves its right to modify, amend, supplement, or change any response herein upon continuing: discovery information, analysis of existing information, and legal research and legal theory formulation; each of which may

lead to additions, changes to, or variations from the information set forth herein.  
PSYSTAR CORPORATION'S RESPONSE TO APPLE INC.'S FIFTH  
(CORRECTED) SET OF REQUESTS FORADMISSION (NOS. 227-306)

1 including persons involved in the planning or startup process for the entity that became known as  
2 Psystar Corporation.”

3 Subject to and without waiving the prior objections, denied.

4 REQUEST FOR ADMISSION NO. 245:

5 Admit that PSYSTAR has used a disk image to install iWork® on PSYSTAR PRODUCTS.

6  
7 **RESPONSE:**

8 Psystar Corporation incorporates by reference herein its General Statement and Objections  
9 stated above. Psystar Corporation objects to the above request to the extent that it calls for the  
10 disclosure of information protected by the attorney-client privilege, the work product doctrine, or  
11 any other applicable privilege, protection, or right providing for non-disclosure.

12 Psystar Corporation objects to the this request as vague, ambiguous, compound and  
13 unintelligible with regard to the phrase “PSYSTAR created” because it incorporates by reference a  
14 definition of PSYSTAR including “its present and former divisions, predecessors-in-interest, and  
15 related entities, subsidiaries, and all present and former employees, officers, directors, agents,  
16 representatives, attorneys, and persons acting at its direction, under its control, or on its behalf,  
17 including persons involved in the planning or startup process for the entity that became known as  
18 Psystar Corporation.”

19  
20 Subject to and without waiving the prior objections, denied.

21  
22 REQUEST FOR ADMISSION NO. 246:

23 Admit that each segment of a Mach-O file that has a flag 0x08 bit set is encrypted.

24 **RESPONSE:**

25 Psystar Corporation incorporates by reference herein its General Statement and Objections  
26 stated above. Psystar Corporation objects to the above request to the extent that it calls for the  
27 disclosure of information protected by the attorney-client privilege, the work product doctrine, or  
28 PSYSTAR CORPORATION’S RESPONSE TO APPLE INC.’S FIFTH  
(CORRECTED) SET OF REQUESTS FOR ADMISSION (NOS. 227-306)



1 any other applicable privilege, protection, or right providing for non-disclosure.

2 Subject to and without waiving the prior objections, admitted.

3 REQUEST FOR ADMISSION NO. 247:

4 Admit that each segment of a Mach-O file that has a flag 0x08 bit set cannot be executed  
5 unless the segment is decrypted.

6 **RESPONSE:**

7 Psystar Corporation incorporates by reference herein its General Statement and Objections  
8 stated above. Psystar Corporation objects to the above request to the extent that it calls for the  
9 disclosure of information protected by the attorney-client privilege, the work product doctrine, or  
10 any other applicable privilege, protection, or right providing for non-disclosure.

11 Subject to and without waiving the prior objections, admitted.

12 REQUEST FOR ADMISSION NO. 248:

13 Admit that a segment of a Mach-O file that has a flag 0x08 bit set cannot be executed on a  
14 PSYSTAR COMPUTER, purchased in March 2009, without OpenCojones.kext.

15 **RESPONSE:**

16 Psystar Corporation incorporates by reference herein its General Statement and Objections  
17 stated above. Psystar Corporation objects to the above request to the extent that it calls for the  
18 disclosure of information protected by the attorney-client privilege, the work product doctrine, or  
19 any other applicable privilege, protection, or right providing for non-disclosure.

20 Subject to and without waiving the prior objections, denied.

21 REQUEST FOR ADMISSION NO. 249:

22 Admit that PSYSTAR has stated on its website that PSYSTAR "will promote Open Source  
23 projects in every way possible."

24 **RESPONSE:**

25 Psystar Corporation incorporates by reference herein its General Statement and Objections  
26 stated above. Psystar Corporation objects to the above request to the extent that it calls for the  
27 PSYSTAR CORPORATION'S RESPONSE TO APPLE INC.'S FIFTH  
28 (CORRECTED) SET OF REQUESTS FOR ADMISSION (NOS. 227-306)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Admit that PSYSTAR has used an imaging station with a copy of MAC OS X to install MAC OS X onto PSYSTAR's Rackmount Open(7).

**RESPONSE:** Subject to and without waiving the prior objections, admitted.

REQUEST FOR ADMISSION NO. 300:

Admit that PSYSTAR has used an imaging station with a copy of iLife® to install iLife® onto PSYSTAR PRODUCTS.

**RESPONSE:**

Psystar Corporation incorporates by reference herein its General Statement and Objections stated above. Psystar Corporation objects to the above request to the extent that it calls for the disclosure of information protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege, protection, or right providing for non-disclosure. Psystar further objects to the extent this request calls for legal conclusions.

Subject to and without waiving the prior objections, denied.

REQUEST FOR ADMISSION NO. 301:

Admit that PSYSTAR has used an imaging station with a copy of iWork® to install iWork® onto PSYSTAR PRODUCTS.

**RESPONSE:**

Psystar Corporation incorporates by reference herein its General Statement and Objections stated above. Psystar Corporation objects to the above request to the extent that it calls for the disclosure of information protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege, protection, or right providing for non-disclosure. Psystar further objects to the extent this request calls for legal conclusions.

Subject to and without waiving the prior objections, denied.

REQUEST FOR ADMISSION NO. 302:

PSYSTAR CORPORATION'S RESPONSE TO APPLE INC.'S FIFTH (CORRECTED) SET OF REQUESTS FOR ADMISSION (NOS. 227-306)

1 Admit that all PSYSTAR PRODUCTS contain one of the following three kernel extensions:  
2 dsmos.kext, AppleDecrypt.kext or OpenCojones.kext.

3 **RESPONSE:**

4 Psystar Corporation incorporates by reference herein its General Statement and Objections  
5 stated above. Psystar Corporation objects to the above request to the extent that it calls for the  
6 disclosure of information protected by the attorney-client privilege, the work product doctrine, or  
7 any other applicable privilege, protection, or right providing for non-disclosure. Psystar further  
8 objects to the extent this request calls for legal conclusions.

9 Subject to and without waiving the prior objections, admitted.  
10 REQUEST FOR ADMISSION NO. 303:

11 Admit that PSYSTAR PRODUCTS shipped from April 2008 through July 2008 contain  
12 dsmos.kext or AppleDecrypt.kext.

13 **RESPONSE:**

14 Psystar Corporation incorporates by reference herein its General Statement and Objections  
15 stated above. Psystar Corporation objects to the above request to the extent that it calls for the  
16 disclosure of information protected by the attorney-client privilege, the work product doctrine, or  
17 any other applicable privilege, protection, or right providing for non-disclosure. Psystar further  
18 objects to the extent this request calls for legal conclusions.

19 Subject to and without waiving the prior objections, denied.

20 REQUEST FOR ADMISSION NO. 304:

21 Admit that PSYSTAR PRODUCTS shipped from April 2008 through July 2008 contain  
22 dsmos.kext and AppleDecrypt.kext.

23 **RESPONSE:**

24 Psystar Corporation incorporates by reference herein its General Statement and Objections  
25 stated above. Psystar Corporation objects to the above request to the extent that it calls for the  
26 disclosure of information protected by the attorney-client privilege, the work product doctrine, or  
27

28 PSYSTAR CORPORATION'S RESPONSE TO APPLE INC.'S FIFTH  
(CORRECTED) SET OF REQUESTS FOR ADMISSION (NOS. 227-306)

1 any other applicable privilege, protection, or right providing for non-disclosure. Psystar further  
2 objects to the extent this request calls for legal conclusions.

3 Subject to and without waiving the prior objections, denied.

4 REQUEST FOR ADMISSION NO. 305:

5 Admit all Psystar PRODUCTS shipped from April 2008 through June 2009 contain on of  
6 the following three kernel extensions: dsmos.kext, AppleDecrypt.kext or OpenCojones.kext.

7 **RESPONSE:** Subject to and without waiving the prior objections: Admitted.

8 REQUEST FOR ADMISSION NO. 306:

9 Admit that all PSYSTAR PRODUCTS contain software to get around "countermeasures  
10 built into Mac OS X," as that term is used by PSYSTAR in PS00009264.

11 **RESPONSE:**

12 Psystar Corporation incorporates by reference herein its General Statement and Objections  
13 stated above. Psystar Corporation objects to the above request to the extent that it calls for the  
14 disclosure of information protected by the attorney-client privilege, the work product doctrine, or  
15 any other applicable privilege, protection, or right providing for non-disclosure. Psystar further  
16 objects to the extent this request calls for legal conclusions.

17 Subject to and without waiving the prior objections, denied.  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

28 PSYSTAR CORPORATION'S RESPONSE TO APPLE INC.'S FIFTH  
(CORRECTED) SET OF REQUESTS FOR ADMISSION (NOS. 227-306)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: August 19, 2009

CAMARA & SIBLEY *LLP*

By: /s/ K. A. D. Camara

K.A.D. CAMARA

Dated: August 19, 2009

WELKER & ROSARIO

By: /s/ David Welker

DAVID WELKER

Attorneys for Defendant/Counterclaimant  
PSYSTAR CORPORATION

PSYSTAR CORPORATION'S RESPONSE TO APPLE INC.'S FIFTH  
(CORRECTED) SET OF REQUESTS FOR ADMISSION (NOS. 227-306)