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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,

23 Defendant.

24 AND RELATED COUNTERCLAIMS.

Case No. 08-3251 WHA

**DECLARATION OF JOHN P. J. KELLY
 IN OPPOSITION TO PSYSTAR
 CORPORATION'S MOTION FOR
 SUMMARY JUDGMENT**

Hearing Date: November 12, 2009
 Hearing Time: 2:00 p.m.
 Courtroom: 9
 Judge: Hon. William Alsup
 Trial Date: January 11, 2010

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 26 **PUBLIC VERSION**
 27 **[REDACTED]**
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I, JOHN P. J. KELLY, declare as follows:

1. I make this declaration on personal knowledge and if called as a witness, could and would competently testify with respect to the matters stated herein. I am the principal of Kelly Computing Incorporated in Santa Barbara, California. I have been retained by the law firm of Townsend and Townsend and Crew LLP on behalf of Apple Inc. ("Apple") to provide testimony and expert opinion in the above-captioned matter. I have submitted an expert report in this matter as well as a declaration in support of Apple's Motion for Summary Judgment. My background and credentials are set forth in my declaration, submitted to the Court on October 8, 2009.

[REDACTED]

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and corrected.

Executed this 21st day of October, 2009 at Santa Barbara, California.


John P.J. Kelly, Ph.D.

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1 **CERTIFICATE OF SERVICE**

2 I, Diane G. Sunnen, declare I am employed in the City and County of San Francisco,
3 California in the office of a member of the bar of this court at whose direction this service was
4 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.

5 I served the following documents exactly entitled: **DECLARATION OF JOHN P. J.**
6 **KELLY IN OPPOSITION TO PSYSTAR CORPORATION'S MOTION FOR SUMMARY**
7 **JUDGMENT** on the interested parties in this action following the ordinary business practice of
Townsend and Townsend and Crew LLP, as follows:

8 K.A.D. Camara Kent Radford Camara & Sibley LLP 2339 University Boulevard Houston, TX 77005 Phone: 713-893-7973 Fax: 713-583-1131 Email: camara@camarasibley.com	Eugene Action 1780 E. Barstow Avenue, #5 Fresno, CA 93710 Email: eugeneaction@hotmail.com
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12 [By First Class Mail] I am readily familiar with my employer's practice for
13 collecting and processing documents for mailing with the United States Postal Service. On the date
14 listed herein, following ordinary business practice, I served the within document(s) at my place of
15 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.

16 [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).

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

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

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

22 I declare under penalty of perjury under the laws of the United States of America that the
23 foregoing is true and correct, and that this declaration was executed on October 22, 2009, at San
Francisco, California.

24 /s/Diane G. Sunnen
Diane G. Sunnen

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