

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

8 O'MELVENY & MYERS LLP  
 GEORGE RILEY (State Bar No. 118304)  
 9 Two Embarcadero Center, 28<sup>th</sup> Floor  
 San Francisco, CA 94111  
 10 Telephone: (415) 984-8700  
 Facsimile: (415) 984-8701  
 11 Email: griley@omm.com

12 Attorneys for Plaintiff and Counterdefendant  
 APPLE INC.

13  
 14 UNITED STATES DISTRICT COURT  
 15 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 16 SAN FRANCISCO DIVISION  
 17

18 APPLE INC.,

19 Plaintiff,

20 v.

21 PSYSTAR CORPORATION, a Florida  
 corporation,

22 Defendant.

23 AND RELATED COUNTERCLAIMS.  
 24  
 25  
 26  
 27  
 28

Case No. 08-3251 WHA

**[PROPOSED] ORDER DENYING  
 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

1 Defendant Psystar Corporation's ("Psystar") Motion For Summary Judgment was heard by  
2 this Court on November 12, 2009. Having considered the papers and arguments of counsel, the  
3 Court **DENIES** Psystar's motion for summary judgment.

4  
5 **IT IS SO ORDERED.**

6  
7 DATED: \_\_\_\_\_, 2009

\_\_\_\_\_  
8 Hon. William H. Alsup  
United States District Judge

9  
10  
11  
12 62277095 v1  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I, **Diane G. Sunnen**, 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 documents exactly entitled: **[PROPOSED] ORDER DENYING PSYSTAR CORPORATION'S MOTION FOR SUMMARY JUDGMENT**

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

K.A.D. Camara Kent Radford Camara & Sibley LLP 2339 University Boulevard Houston, TX 77005 Phone: 713-893-7973 Fax: 713-583-1131 Email: <a href="mailto:camara@camarasibley.com">camara@camarasibley.com</a>	Eugene Action 1780 E. Barstow Avenue, #5 Fresno, CA 93710 Email: <a href="mailto:eugeneaction@hotmail.com">eugeneaction@hotmail.com</a>
---	--

[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 October 23, 2009, at San Francisco, California.

/s/ Diane G. Sunnen  
**Diane G. Sunnen**