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 APPLE INC.

13
 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
 corporation,
 22 Defendant.

Case No. 08-3251 WHA

**DECLARATION OF J. JEB B. OBLAK IN
 SUPPORT OF PSYSTAR
 CORPORATION'S MISCELLANEOUS
 ADMINISTRATIVE REQUEST FOR AN
 ORDER PERMITTING THE FILING
 UNDER SEAL OF PORTIONS OF
 PSYSTAR CORP.'S OPPOSITION BRIEF
 AND EXHIBITS (DKT. NO. 193)**

23
 24 AND RELATED COUNTERCLAIMS.

25 I, J. Jeb B. Oblak, declare as follows:

26 1. I am an attorney licensed to practice law in the State of California and am admitted
 27 to practice before this Court. I am an associate in the law firm of Townsend and Townsend and
 28

1 Crew LLP, and am one of the attorneys representing plaintiff and counterdefendant Apple Inc.
2 (“Apple”) in the above-captioned matter. I make this declaration based on personal knowledge
3 and, if called as a witness, I could and would competently testify with respect to the matters stated
4 herein.

5 2. I make this declaration pursuant to Civil Local Rule 79-5(d) in support of Psystar’s
6 administrative request to seal portions of its opposition brief and exhibits (Dkt. No. 193). Though
7 in that administrative request Psystar has asked that its request be denied, some of what Psystar
8 has filed under seal contains Apple’s highly confidential information that was produced to Psystar
9 during discovery or served as part of the expert report of Apple’s technical expert, Dr. John P.J.
10 Kelly.

11 3. During discovery, Apple produced to Psystar confidential technical information
12 regarding Apple’s technological protection measures and the means Psystar uses to circumvent
13 Apple’s technological protection measures. That information was designated “CONFIDENTIAL-
14 ATTORNEYS’ EYES ONLY” pursuant to the Stipulated Protective Order approved and entered
15 by this Court on March 2, 2009.

16 4. Such highly confidential information about Apple’s technological protection
17 measures has never been disclosed by Apple to the public and is maintained in such manner to
18 ensure that it is never disclosed to the public by Apple. Apple has explained in detail the legal
19 basis for why such information has been kept confidential by courts and why it should remain
20 confidential in Apple’s reply in support of its motion to seal portions of Apple’s motion for
21 summary judgment (Dkt. No. 188).

22 5. Similarly, information contained in both the Kelly report, and in the Declaration of
23 Rodolfo Pedraza attached as Exhibit C to the Declaration of Kent Radford In Support of Psystar’s
24 Opposition to Apple’s Motion For Summary Judgment sets forth the techniques that Psystar uses
25 to circumvent Apple’s technological protection measures for Mac OS X. Disclosure of this
26 information may competitively harm Apple by revealing information regarding Apple’s
27 technological protection measure and facilitating circumvention.

28 6. I attended a telephonic meet and confer between attorneys at Townsend and

1 Townsend and Crew and Psystar's counsel, Camara & Sibley, prior to the filing of the parties'
2 respective opposition papers. During that meet and confer, Apple made clear that under the
3 compelling reasons standard, information relating to Apple's technological protection measure and
4 Psystar's circumvention thereof should be filed under seal. Accordingly, Apple requests that the
5 Court file under seal portions of Psystar's Opposition and supporting papers that discuss Apple's
6 technological protection measure and Psystar's circumvention. Specifically, Apple requests that
7 the following remain under seal: (1) portions of Psystar's response to Apple's motion for summary
8 judgment; (2) portions of Exhibit A; (3) portions of Exhibit B; (4) portions of Exhibit C; (5)
9 Exhibit D; and (6) Exhibit E.

10 7. For the Court's convenience, Apple has lodged the portions of Psystar's filing that
11 should be redacted and filed under seal. With respect to Psystar's Opposition brief, those portions
12 that Psystar redacted remain highlighted in yellow and those portions that Apple contends should
13 be redacted are now boxed in red. Similarly, the portions of Psystar's Exhibits to the Radford
14 Declaration that Apple contends should be redacted are also boxed in red and are also lodged with
15 the Court.

16 I declare under penalty of perjury under the laws of the United States that the foregoing is
17 true and correct to the best of my knowledge and belief.

18 Executed on October 28, 2009, at San Francisco, California.

19
20 /s/J. Jeb B. Oblak
21 J. JEB B. OBLAK

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**ATTACHMENTS TO OBLAK DECLARATION WILL BE
LODGED WITH CLERK OF THE COURT PURSUANT TO
CIVIL LOCAL RULE 79-5(d)**

CERTIFICATE OF SERVICE

I, Stacie Treposkoufes, 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: **DECLARATION OF J. JEB B. OBLAK IN SUPPORT OF PSYSTAR CORPORATION'S MISCELLANEOUS ADMINISTRATIVE REQUEST FOR AN ORDER PERMITTING THE FILING UNDER SEAL OF PORTIONS OF PSYSTAR CORP.'S OPPOSITION BRIEF AND EXHIBITS (DKT. NO. 193)** 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
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Houston, TX 77005
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Eugene Action
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[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 28, 2009, at San Francisco, California.

/s/Stacie Treposkoufes
STACIE TREPOSKOUFES