

1 K.A.D. CAMARA (TX Bar No. 24062646/
 MA Bar No. 661087 – *Admitted Pro Hac Vice*)
 2 camara@camarasibley.com
 KENT RADFORD (TX Bar No. 24027640 –
 3 *Admitted Pro Hac Vice*)
 radford@camarasibley.com
 4 CAMARA & SIBLEY LLP
 2339 University Boulevard
 5 Houston, Texas 77005
 Telephone: (713) 893-7973
 6 Facsimile: (713) 583-1131

7 EUGENE ACTION (SBN 223023)
 eugeneaction@hotmail.com
 8 1780 E. Barstow Ave., #5
 Fresno, California 93710
 9 Telephone: (559) 283-9772
 Facsimile: (559) 642-2843
 10

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

14 APPLE INC., a California corporation,

15 *Plaintiff,*

16 v.

17 PSYSTAR CORPORATION,

18 *Defendants.*

19 AND RELATED COUNTERCLAIMS

CASE NO. CV-08-03251-WHA

**MISCELLANEOUS
 ADMINISTRATIVE REQUEST FOR
 AN ORDER PERMITTING THE
 FILING UNDER SEAL OF
 CONFIDENTIAL PORTIONS OF
 PSYSTAR'S REPLY IN SUPPORT
 OF ITS MOTION FOR SUMMARY
 JUDGMENT**

20
 21
 22 Defendant Psystar Corporation submits this Administrative Request pursuant to Civil Local
 23 Rules 7–11 and 79–5(d) to file parts of Psystar Corporation's Reply In Support of Its Summary
 24 Judgment under seal. **Psystar has no interest in sealing the information contained in its reply in**
 25 **support of its motion for summary judgment and requests that this Court deny this motion to**

26 **seal.** Psystar's reply contains information designated by Apple as Confidential or Confidential
 27 Attorneys' Eyes Only under the Stipulated Protective Order of March 2, 2009. These designations are

28 MISCELLANEOUS ADMINISTRATIVE REQUEST FOR AN ORDER PERMITTING THE FILING
 UNDER SEAL OF CONFIDENTIAL PORTIONS OF PSYSTAR'S REPLY IN SUPPORT OF ITS
 SUMMARY JUDGMENT (CV 08-03251 WHA)

1 overbroad, in many cases encompassing entire deposition transcripts and documents that contain no
2 information not already available on the Internet. Psystar has complied with these designations
3 throughout this litigation by filing papers under seal, whether merited or not.

4
5 In its order granting the joint motion for a confidentiality order, this Court explained that it was
6 granting the joint motion subject to a list of four conditions. The fourth condition, citing *Kamakana v.*
7 *Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006), explains that a “compelling reason” is necessary to
8 seal any part of a dispositive motion and that such a compelling reason will exist only with respect to
9 trade secrets analogous to the recipe for Coca Cola. See Docket No. 55 at 2. Certainly material that is
10 publicly available on the Internet does not qualify for Coke-like protection. Certainly this Court would
11 not close the courtroom for essentially all of the trial in this case, as would be required if all the
12 material designated by Apple as Confidential or Attorneys’ Eyes Only merited sealing.

13
14 Under the local rules, Apple has five days to file with the Court and serve a declaration in
15 response to this motion should it seek to have Psystar’s Reply in Support of Its Motion for Summary
16 Judgment remain under seal.

17
18 Dated: October 29, 2009

Respectfully submitted,

19
20 CAMARA & SIBLEY LLP

21
22 By: /s/ K.A.D. Camara _____
K.A.D. Camara

1 **CERTIFICATE OF SERVICE**

2 I, Michael Wilson, declare I am employed in the City of Houston and County of Harris, Texas
3 in the office of Camara & Sibley. I am over the age of eighteen and not a party to this action. My
4 business address is Camara & Sibley, 2339 University Boulevard, Houston, Texas 77005.

5 I served the following document(s):

6 **MISCELLANEOUS ADMINISTRATIVE REQUEST FOR AN ORDER PERMITTING THE
7 FILING UNDER SEAL OF CONFIDENTIAL PORTIONS OF PSYSTAR'S REPLY IN
8 SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT**

9 Case No. CV 08-03251 WHA

10 on the interested parties in this action by placing a true and correct copy thereof, on the above date,
11 enclosed in a sealed envelope, following the ordinary business practice of Camara & Sibley LLP. I
12 sent the document(s) to the following:

<p>13 James G. Gilliland, Jr. 14 TOWNSEND AND TOWNSEND AND CREW LLP 15 Two Embarcadero Center, 8th Floor 16 San Francisco, California 94111 17 Telephone: (415) 576-0200 18 Facsimile: (415) 576-0300</p>	<p>19 email: jggilliland@townsend.com</p>
--	---

20 [By First Class Mail] I am readily familiar with my employer's practice for collecting
21 and processing documents for mailing with the United States Postal Service. On the date listed herein,
22 following ordinary business practice, I served the within document(s) at my place of business, by
23 placing a true copy thereof, enclosed in a sealed envelope, with postage thereon fully prepaid, for
24 collection and mailing with the United States Postal Service where it would be deposited with the
25 United States Postal Service that same day in the ordinary course of business.

26 [By Overnight Courier] I caused each envelope to be delivered by a commercial carrier
27 service for overnight delivery to the offices of the addressee(s).

28 [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 29, 2009 at Houston,
Texas.

/s/ Michael Wilson
Michael Wilson