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Attorneys for Plaintiff and Counterdefendant
 APPLE INC.

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

APPLE INC.,

Plaintiff,

v.

PSYSTAR CORPORATION, a Florida
 corporation,

Defendant.

AND RELATED COUNTERCLAIMS.

Case No. 08-3251 WHA

**STIPULATION REGARDING
 DISPOSITION OF CLAIMS
 AND ORDER**

Whereas on November 13, 2009, the Court issued its Order Re Cross Motions for
 Summary Judgment;

Whereas the Court will hear and determine the request of plaintiff, Apple Inc. ("Apple"),
 for a permanent injunction on December 14, 2009; and

1 Whereas the parties desire to have a final judgment entered in this matter once a decision is
2 rendered by the Court regarding a permanent injunction;

3 Now, therefore, it is hereby stipulated by and between Apple and Psystar Corporation
4 (“Psystar”), as follows:

5 1. With respect to Apple’s First Claim for Relief (Copyright Infringement) in the
6 Amended Complaint, judgment may be awarded in favor of Apple and against Psystar.

7 2. With respect to Apple’s Second Claim for Relief (Contributory and Induced
8 Copyright Infringement) in the Amended Complaint, judgment may be awarded in favor of Apple
9 and against Psystar.

10 3. With respect to Apple’s Third Claim for Relief (Violation of the Digital
11 Millennium Copyright Act) in the Amended Complaint, judgment may be awarded in favor of
12 Apple and against Psystar.

13 4. With respect to Apple’s Fourth Claim for Relief (Breach of Contract) in the
14 Amended Complaint judgment may be entered in favor of Apple and against Psystar.

15 5. With respect to Apple’s Fifth Claim for Relief (Inducing Breach of Contract) in the
16 Amended Complaint judgment may be entered in favor of Apple and against Psystar.

17 6. With respect to Apple’s First through Fifth Claims for Relief in the Amended
18 Complaint, damages may be awarded in favor of Apple, and against Psystar, in the amount of
19 \$1,337,550.

20 7. With respect to Apple’s First, Second and Third Claims for Relief in the Amended
21 Complaint, attorneys’ fees and costs in addition to and separate from the damages set forth in
22 paragraph 6, above, may be awarded in favor of Apple, and against Psystar, in the amount of
23 \$1,337,500.

24 8. Apple agrees it will not seek to execute on the money judgments set forth in
25 paragraphs 6 and 7, *supra*, until any and all appeals in this matter are concluded or the time for
26 filing any such appeal has lapsed.

27 9. Pursuant to Fed. R. Civ. P. 41(a), Apple will dismiss without prejudice to its right
28

1 to refile in the future the Sixth Claim for Relief (Trademark Infringement), Seventh Claim for
2 Relief (Trademark Infringement), Eighth Claim for Relief (Trade Dress Infringement), Ninth
3 Claim for Relief (Trademark Dilution), Tenth Claim for Relief (State Unfair Competition) and
4 Eleventh Claim for Relief (Common Law Unfair Competition) in the Amended Complaint.
5 Psystar agrees to toll the statute of limitations applicable to each of these claims for relief until a
6 date thirty days after Apple is required to file an Answer in the matter *Psystar Corporation v.*
7 *Apple, Inc.*, whether that case proceeds in the Southern District of Florida, the Northern District of
8 California, or some other district.

9 10. Judgment may be entered in favor of Apple, and against Psystar, on Psystar's First
10 Amended Counterclaim (Declaration of Unenforceability for Copyright Misuse (EULA)) and on
11 Psystar's Second Amended Counterclaim (Declaration of Unenforceability for Copyright Misuse
12 (DMCA)).

13 11. With respect to all issues (including but not limited to liability) other than the
14 stipulated damages and attorneys' fees and costs awards, the parties reserve their rights to appeal
15 with respect to the final judgments entered on Apple's First through Fifth Claims for Relief in the
16 Amended Complaint as well as Psystar's First and Second Amended Counterclaims.

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1 12. The parties agree that neither the fact of this Stipulation, nor the terms of it, shall be
2 argued by either of them either in favor of, or against, any contention that venue in the Southern
3 District of Florida is appropriate, or is not appropriate, in the matter *Psystar Corporation v. Apple*
4 *Inc.*, S.D. Fla. Case No. 09-22535 CIV-Hoeveler/Gardner.
5

6 IT IS SO AGREED.
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8 DATED: November 30, 2009

TOWNSEND AND TOWNSEND AND CREW LLP

10 By: 
11

JAMES G. GILLILAND, JR.

12 Attorneys for Plaintiff and Counterdefendant
13 APPLE INC.

14 DATED: November 30, 2009

CAMARA & SIBLEY

15 By: 
16

K.A.D. CAMARA

17 Attorneys for Defendant and Counterclaimant
18 PSYSTAR CORPORATION
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21 The stipulation is hereby **APPROVED**. The sole issue remaining to be decided is
22 Apple, Inc.'s request for a permanent injunction.
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24 **IT IS SO ORDERED.**
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26 Dated: December 1, 2009.

27 WILLIAM ALSUP

28 UNITED STATES DISTRICT JUDGE

