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10
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11 PSYSTAR CORPORATION

12

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

14

15 APPLE INC., a California corporation,   CASE NO. CV-08-03251-WHA

        Plaintiff,
16

17 v.   **SUPPLEMENTAL REPORT
                                                  REGARDING COMPLIANCE WITH
                                                  INJUNCTION**
18 PSYSTAR CORPORATION,

        Defendants.
19

   AND RELATED COUNTERCLAIMS
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SUPPLEMENTAL REPORT REGARDING COMPLIANCE WITH INJUNCTION   1

SUPPLEMENTAL REPORT REGARDING COMPLIANCE WITH INJUNCTION

1. My name is Rudy Pedraza. I am the CEO of Psystar Corporation. I was personally responsible for the steps that Psystar has taken to comply with this Court's injunction.

2. Although I believe that my previous report regarding compliance with this Court's injunction fully satisfied the requirements of that injunction, I am voluntarily submitting this supplemental report in response to a request from Apple Inc. I hope that this supplemental report will put to rest any fears on Apple's part that Psystar intends to violate this Court's injunction.

3. Psystar has stopped (a) directly infringing Apple's copyrights in Mac OS X (including but not limited to ceasing its copying or distribution of Apple's software and its creation of derivative works of Mac OS X); (b) inducing infringement of Apple's Mac OS X software; (c) circumventing Apple's technological protection measure in Mac OS X; and (d) manufacturing, importing, offering to the public, providing or otherwise trafficking in or distributing any device or technology that circumvents Apple's technological protection measure in Mac OS X (including but not limited to distribution of Rebel EFI, the Open Restore disc, and the OpenCojones, OpenDevice, Open SMC and Open Install kernel extensions).

4. In particular, Psystar no longer sells or offers to sell either its Open Computers running Mac OS X or its Rebel EFI software for running Mac OS X on non-Apple computers. Psystar no longer sells or offers to sell any product that includes, modifies, or duplicates copies of Mac OS X. Psystar no longer sells or offers to sell any product that allows circumvention of
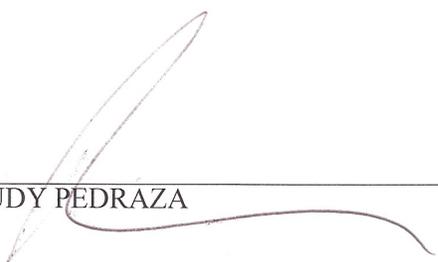
Apple's technological protection measure in Mac OS X, including both its Open Computers and its Rebel EFI software. And Psystar has ceased manufacturing, offering, or otherwise providing both its Open Computers and its Rebel EFI software.

5. With the exception of materials given to Psystar's counsel pursuant to an agreement with Apple Inc., Psystar has destroyed all products, technology and/or devices that directly or contributorily infringe Apple's copyrights in Mac OS X or circumvent Apple's technological protection measure in Mac OS X. This includes all binaries and source code to Rebel EFI.

6. I make this declaration subject to Psystar Corporation's right to appeal this Court's orders to the United States Court of Appeals for the Ninth Circuit. In particular, Psystar continues to believe that the acts described here and in my original report do not constitute copyright infringement and are not violations of the DMCA. But Psystar intends to comply fully with this Court's injunction so long as that injunction remains in force.

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

Executed on January 25, 2010, at Miami, Florida.

_____
RUDY PEDRAZA

SUPPLEMENTAL REPORT REGARDING COMPLIANCE WITH INJUNCTION   3

CERTIFICATE OF SERVICE

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

I served the following document(s):

SUPPLEMENTAL REPORT REGARDING COMPLIANCE WITH INJUNCTION
Case No. CV 08-03251 WHA

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

James G. Gilliland, Jr. TOWNSEND AND TOWNSEND AND CREW LLP Two Embarcadero Center, 8th Floor San Francisco, California 94111 Telephone: (415) 576-0200 Facsimile: (415) 576-0300	email: jggilliland@townsend.com

☐   [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 January 25, 2010 at Houston, Texas.

/s/ Michael Wilson
Michael Wilson

SUPPLEMENTAL REPORT REGARDING COMPLIANCE WITH INJUNCTION   4