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 15 PSYSTAR CORPORATION

16 UNITED STATES DISTRICT COURT  
 17 NORTHERN DISTRICT OF CALIFORNIA  
 18 SAN FRANCISCO DIVISION  
 19

20 APPLE INC., a California Corporation,

21 Plaintiff,

22 v.

23 PSYSTAR CORPORATION,

24 Defendant.

Case No. CV 08-3251 WHA

**STIPULATION CONSENTING TO  
 APPLE INC.'S FILING OF  
 AMENDED COMPLAINT AND  
 [PROPOSED] ORDER VACATING  
 HEARING ON APPLE INC.'S  
 MOTION FOR LEAVE TO AMEND**

Date: January 8, 2009  
 Time: 8:00 a.m.  
 Courtroom: 9, 19<sup>th</sup> Floor  
 Honorable William Alsup

1 WHEREAS on November 7, 2008, this Court issued a Case Management Order setting  
2 November 30, 2008 as the last day for the parties to seek leave to amend the pleadings to add claims  
3 or parties;

4 WHEREAS Plaintiff Apple Inc. ("Apple") filed a Motion for Leave to File Its Amended  
5 Complaint on November 26, 2008 (see Doc. Nos. 35-36), after having met and conferred with  
6 Defendant's counsel;

7 WHEREAS Defendant Psystar Corporation ("Psystar") has now had additional time to review  
8 Apple's Amended Complaint and its Motion for Leave to File the Amended Complaint;

9 WHEREAS Psystar has now consented to Apple's filing of its Amended Complaint without  
10 the need for a motion seeking leave of the Court;

11 THEREFORE, pursuant to Federal Rule of Civil Procedure 15(a)(2), Psystar consents to Apple  
12 filing its Amended Complaint and the parties hereby stipulate that the Amended Complaint will be  
13 filed separately today. The parties also respectfully request that the Court vacate the hearing set for  
14 January 8, 2009 in relation to Apple's Motion For Leave to File Amended Complaint.

15  
16 DATED: December 2, 2008

Respectfully submitted,

17 TOWNSEND AND TOWNSEND AND CREW LLP

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19 By: /s/ James G. Gilliland, Jr.  
20 JAMES G. GILLILAND, JR.  
21 Attorneys for Plaintiff  
APPLE INC.

22  
23 DATED: December 2, 2008

CARR & FERRELL LLP

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25 By: /s/ Colby B. Springer  
26 COLBY B. SPRINGER  
27 Attorneys for Defendant  
PSYSTAR CORPORATION

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**ORDER**

Pursuant to the stipulation, this Court GRANTS the parties' request and VACATES the January 8, 2009 hearing scheduled on Apple Inc.'s Motion for Leave To File Amended Complaint.

IT IS SO ORDERED.

DATED: \_\_\_\_\_  
Hon. William Alsup  
United States District Court Judge

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**SIGNATURE ATTESTATION**

Pursuant to General Order No. 45(X)(B), I hereby attest that I have obtained the concurrence in the filing of this document from all the signatories for whom a signature is indicated by a “conformed” signature (/s/) within this e-filed document and I have on file records to support this concurrence for subsequent production for the court if so ordered or for inspection upon request.

Dated: December 2, 2008

/s/ James G. Gilliland, Jr.  
JAMES G. GILLILAND, JR.  
Attorneys for Plaintiff and Counter-Defendant  
APPLE INC.

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