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9		
10	UNITED STATES D	ISTRICT COURT
11	NORTHERN DISTRIC	Γ OF CALIFORNIA
12	SAN FRANCISC	O DIVISION
13		
14	IN RE APPLE IPHONE/IPOD WARRANTY LITIGATION	Case No. CV 10-01610-RS
15		CLASS ACTION
16		ANSWER TO MASTER COMPLAINT
17		DEMAND FOR JURY TRIAL
18		
19 20		Judge Richard Seeborg, Courtroom 3 Complaint Filed: June 30, 2011 Trial Date: None Set
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23		
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	Answer of Defendant Apple Inc. CV 10-01610-RS sf-3015986	

1	Defendant Apple Inc. ("Apple"), by and through its attorneys, answers the Master
2	Complaint ("Complaint") filed by Plaintiffs Charlene Gallion, Christopher Corsi, Daniel Calix,
3	and Raj Johal as follows:
4	PARTIES
5	1. Responding to paragraph 1 of the Complaint, Apple is without knowledge or
6	information sufficient to form a belief as to the truth of the averments contained in paragraph 1
7	and on that basis denies the averments.
8	2. Responding to paragraph 2 of the Complaint, Apple is without knowledge or
9	information sufficient to form a belief as to the truth of the averments contained in paragraph 2
10	and on that basis denies the averments.
11	3. Responding to paragraph 3 of the Complaint, Apple is without knowledge or
12	information sufficient to form a belief as to the truth of the averments contained in paragraph 3
13	and on that basis denies the averments.
14	4. Responding to paragraph 4 of the Complaint, Apple is without knowledge or
15	information sufficient to form a belief as to the truth of the averments contained in paragraph 4
16	and on that basis denies the averments.
17	5. Responding to paragraph 5 of the Complaint, Apple states that "Apple Inc." is
18	incorporated in California. Apple further states that its executive offices and corporate
19	headquarters are located in Cupertino, Santa Clara County, California. Except as expressly
20	stated, Apple denies each and every averment contained in paragraph 5.
21	6. Responding to paragraph 6 of the Complaint, Apple is without knowledge or
22	information sufficient to form a belief as to the truth of the averments contained in paragraph 6
23	and on that basis denies the averments.
24	7. Responding to paragraph 7 of the Complaint, Apple is without knowledge or
25	information sufficient to form a belief as to the truth of the averments contained in paragraph 7
26	and on that basis denies the averments.
27	
28	
	Answer of Defendant Apple Inc. CV 10-01610-RS sf-3015986

1	JURISDICTION AND VENUE
2	8. Responding to paragraph 8 of the Complaint, Apple states that insofar as the
3	averments in paragraph 8 state conclusions of law, no response thereto is required. Except as
4	expressly stated, Apple denies each and every averment contained in paragraph 8.
5	a. Responding to subparagraph 8(a) of the Complaint, Apple is without knowledge or
6	information sufficient to form a belief as to the truth of the averments that the
7	matter in controversy exceeds the jurisdictional amount or that the proposed class
8	includes more than 100 members. Except as expressly stated, Apple denies each
9	and every averment contained in paragraph 8(a).
10	b. Responding to subparagraph 8(b) of the Complaint, Apple states that its executive
11	offices and corporate headquarters are located in Cupertino, California. Apple
12	further states that it is incorporated in California and that it is registered to do
13	business in the State of California. Apple further states that it has designed and
14	sold Apple iPhone and Apple iPod touch products equipped with Liquid Contact
15	Indicators and that such products include or are sold with warranties drafted and/or
16	approved by Apple. Insofar as the averments in paragraph 8(b) state conclusions
17	of law, no response thereto is required. Except as expressly stated, Apple denies
18	each and every averment contained in paragraph 8(b).
19	9. Responding to paragraph 9 of the Complaint, Apple states that it does business in
20	the Northern District of California and that its headquarters are located in Santa Clara County,
21	California. Insofar as the averments in paragraph 9 state conclusions of law, no response thereto
22	is required. Except as expressly stated, Apple denies each and every averment contained in
23	paragraph 9.
24	GENERAL ALLEGATIONS
25	10. Responding to paragraph 10 of the Complaint, Apple states that it designs and
26	markets a phone called the iPhone, and that it has sold the iPhone in the United States since
27	approximately June 2007. Apple further states that it has sold subsequent versions of the iPhone
28	referred to as the iPhone 3G, iPhone 3GS, and iPhone 4, and such products have ranged in price
	Answer of Defendant Apple Inc. CV 10-01610-RS sf-3015986

from \$99 to \$499. Except as expressly stated, Apple denies each and every averment contained
 in paragraph 10.

11. Responding to paragraph 11 of the Complaint, Apple states that until
approximately January 2011, the iPhone was configured so that U.S. customers were required to
purchase cellular telephone service from AT&T Mobility LLC ("AT&T") in order to use the
iPhone to make telephone calls. Apple is informed and believes that AT&T currently requires
consumers to enter into a two-year contract with AT&T in order to use their iPhone to make
telephone calls. Except as expressly stated, Apple denies each and every averment contained in
paragraph 11.

10 12. Responding to paragraph 12 of the Complaint, Apple states that it designs,
11 markets, and sells a product known as the iPod touch. Apple further states that it sells the iPod
12 touch in the United States. Apple further states that the iPod touch and the iPhone have similar
13 non-telephonic features. Apple further states that it currently sells the iPod touch at prices
14 ranging from \$199 to \$399 depending on features and storage capacity. Except as expressly
15 stated, Apple denies each and every averment contained in paragraph 12.

16

## The Standard Warranty and Extended Warranty

17 13. Responding to paragraph 13 of the Complaint, Apple states that to the extent 18 paragraph 13 is a reference to part of an Apple website, the website speaks for itself. Apple 19 further states that it provides a one-year limited warranty with its iPhone and iPod touch products. 20 Apple further states that the documents attached to the Complaint as Exhibit 1 appear to be copies 21 of a version of the Limited Warranty. Apple further states that the documents speak for 22 themselves. Insofar as the averments in paragraph 11 state conclusions of law, no response 23 thereto is required. Except as expressly stated, Apple denies each and every averment contained 24 in paragraph 11.

14. Responding to paragraph 14 of the Complaint, Apple states that the documents
attached to the Complaint speak for themselves. Except as expressly stated, Apple denies each
and every averment contained in paragraph 14.

1	15. Responding to paragraph 15 of the Complaint, Apple states that to the extent
2	paragraph 15 is a reference to part of an Apple website, the website speaks for itself. Apple
3	further states that consumers who purchase an iPhone or iPod touch have the opportunity to
4	purchase an AppleCare Protection Plan ("AppleCare") for those products. Apple further states
5	that AppleCare for the iPhone currently costs \$69.00 and that AppleCare for the iPod touch
6	currently costs \$59.00. Apple further states that the documents attached to the Complaint as
7	Exhibit 2 appear to be copies of a version of the AppleCare Protection Plan. Apple further states
8	that the documents speak for themselves. Insofar as the averments in paragraph 15 state
9	conclusions of law, no response thereto is required. Except as expressly stated, Apple denies
10	each and every averment contained in paragraph 15.
11	16. Responding to paragraph 16 of the Complaint, Apple states that the documents
12	speak for themselves. Except as expressly stated, Apple denies each and every averment
13	contained in paragraph 16.
14	17. Responding to paragraph 17 of the Complaint, Apple states that the documents
15	speak for themselves. Except as expressly stated, Apple denies each and every averment
16	contained in paragraph 17.
17	18. Responding to paragraph 18 of the Complaint, Apple states that the document
18	attached to the Complaint as Exhibit 3 appears to be a page from Apple's website entitled "Apple,
19	Inc., Repair Terms and Conditions." Apple further states that the document speaks for itself.
20	Insofar as the averments in paragraph 18 state conclusions of law, no response thereto is required.
21	Except as expressly stated, Apple denies each and every averment contained in paragraph 18.
22	The Liquid Submersion Indicators
23	19. Responding to paragraph 19 of the Complaint, Apple states that the document
24	attached to the Complaint as Exhibit 4 appears to be a page from Apple's website entitled
25	"iPhone and iPod: Water damage is not covered by warranty" as it existed on September 10,
26	2009. Apple further states that the document speaks for itself. Except as expressly stated, Apple
27	denies each and every averment contained in paragraph 19.
28	
	Answer of Defendant Apple Inc. 4

CV 10-01610-RS sf-3015986 20. Responding to paragraph 20 of the Complaint, Apple states that the document
 speaks for itself. Except as expressly stated, Apple denies each and every averment contained in
 paragraph 20.

Responding to paragraph 21 of the Complaint, Apple states that the liquid contact
indicators in iPhone and iPod touch devices employ Water Contact Indicator Tape manufactured
by 3M Company, model nos. 5558 and 5559. Apple is without knowledge or information
sufficient to form a belief as to the truth of the averments contained in paragraph 21 concerning
promotional materials used by 3M Company and on that basis denies these averments. Except as
expressly stated, Apple denies each and every averment contained in paragraph 21.

10 22. Responding to paragraph 22 of the Complaint, Apple denies each and every
11 averment contained in paragraph 22.

12 23. Responding to paragraph 23 of the Complaint, Apple denies each and every
13 averment contained in paragraph 23.

14 24. Responding to paragraph 24 of the Complaint, Apple states that the document 15 attached to the Complaint as Exhibit 4 appears to be a page from Apple's website entitled 16 "iPhone and iPod: Water damage is not covered by warranty" as it existed on September 10, 17 2009. Apple further states that this document speaks for itself. Apple states that the document 18 attached to the Complaint as Exhibit 5 appears to be page from Apple's website entitled "iPhone 19 and iPod: Water damage is not covered by warranty" as it existed on December 22, 2009. Apple 20 further states that this document speaks for itself. Except as expressly stated, Apple denies each 21 and every averment contained in paragraph 24.

22 23 25. Responding to paragraph 25 of the Complaint, Apple denies each and every averment contained in paragraph 25.

24 26. Responding to paragraph 26 of the Complaint, Apple denies each and every
25 averment contained in paragraph 26.

26 27. Responding to paragraph 27 of the Complaint, Apple denies each and every
27 averment contained in paragraph 27.

1 28. Responding to paragraph 28 of the Complaint, Apple states that the document 2 speaks for itself. Except as expressly stated, Apple denies each and every averment contained in 3 paragraph 28. 29. 4 Responding to paragraph 29 of the Complaint, Apple states that the document 5 speaks for itself. Except as expressly stated, Apple denies each and every averment contained in 6 paragraph 29. 7 30. Responding to paragraph 30 of the Complaint, Apple denies each and every 8 averment contained in paragraph 30. 9 31. Responding to paragraph 31 of the Complaint, Apple denies each and every 10 averment contained in paragraph 31. 11 32. Responding to paragraph 32 of the Complaint, Apple states that insofar as the 12 averments in paragraph 32 state conclusions of law, no response thereto is required. Except as 13 expressly stated, Apple denies each and every averment contained in paragraph 32. 14 "Out of Warranty Service" 15 33. Responding to paragraph 33 of the Complaint, Apple states that in order to use an 16 iPhone's telephonic features, a customer must purchase cellular phone service from AT&T or, as 17 of January 2011, Verizon Wireless ("Verizon"). Apple is informed and believes that AT&T and 18 Verizon currently require consumers to enter into a two-year contract with AT&T or Verizon in 19 order to use their iPhone to make telephone calls. Apple is without knowledge or information 20 sufficient to form a belief as to the truth of the averments concerning AT&T or Verizon's 21 termination fee practices and on that basis denies such averments. Except as expressly stated, 22 Apple denies each and every averment contained in paragraph 33. 23 34. Responding to paragraph 34 of the Complaint, Apple states that iPhone and iPod 24 touch devices that are ineligible for warranty service, such as those that have failed due to liquid 25 damage, may be eligible for Out-Of-Warranty Service. Apple further states that if an iPhone is 26 eligible for Out-Of-Warranty Service, Apple will replace a customer's damaged iPhone with a 27 new or refurbished iPhone for a fee that is currently \$199. Apple further states that if an iPod 28 touch is eligible for Out-Of-Warranty Service, Apple will replace a customer's damaged iPod Answer of Defendant Apple Inc. 6 CV 10-01610-RS sf-3015986

1 touch with a new or refurbished iPod touch for a fee that is currently between \$99 and \$249 2 depending on the iPod touch model. Except as expressly stated, Apple denies each and every 3 averment contained in paragraph 34. 4 35. Responding to paragraph 35 of the Complaint, Apple states that customers who 5 elect to exchange their iPhone pursuant to Apple's Out-Of-Warranty Service are required to 6 tender their damaged iPhone to Apple. Apple further states that the document attached to the 7 Complaint as Exhibit 6 appears to be a page from Apple's website entitled "iPhone Service: 8 Frequently Asked Questions" printed on March 11, 2010. Apple further states that this document 9 speaks for itself. Except as expressly stated, Apple denies each and every averment contained in 10 paragraph 35. 11 **Plaintiffs' Experience With Triggered Liquid Submersion Indicators** 12 Charlene Gallion 13 36. Responding to paragraph 36 of the Complaint, Apple denies that the experience 14 described by Plaintiffs is "typical." Apple further states that it is without knowledge or 15 information sufficient to form a belief as to the truth of the remaining averments of paragraph 36 16 at this time, and on that basis denies each and every such averment. 17 37. Responding to paragraph 37 of the Complaint, Apple states that it is without 18 knowledge or information sufficient to form a belief as to the truth of the averments of 19 paragraph 37 at this time, and on that basis denies each and every such averment. 20 38. Responding to paragraph 38 of the Complaint, Apple states that it is without 21 knowledge or information sufficient to form a belief as to the truth of the averments of 22 paragraph 38 at this time, and on that basis denies each and every such averment. 23 39. Responding to paragraph 39 of the Complaint, Apple states that it is without 24 knowledge or information sufficient to form a belief as to the truth of the averments of 25 paragraph 39 at this time, and on that basis denies each and every such averment. 26 40. Responding to paragraph 40 of the Complaint, Apple states that it is without 27 knowledge or information sufficient to form a belief as to the truth of the averments of 28 paragraph 40 at this time, and on that basis denies each and every such averment. Answer of Defendant Apple Inc. CV 10-01610-RS

sf-3015986

1 41. Responding to paragraph 41 of the Complaint, Apple states that it is without 2 knowledge or information sufficient to form a belief as to the truth of the averments of 3 paragraph 41 at this time, and on that basis denies each and every such averment. 4 42. Responding to paragraph 42 of the Complaint, Apple states that it is without 5 knowledge or information sufficient to form a belief as to the truth of the averments of 6 paragraph 42 at this time, and on that basis denies each and every such averment. 7 43. Responding to paragraph 43 of the Complaint, Apple states that it is without 8 knowledge or information sufficient to form a belief as to the truth of the averments of 9 paragraph 43 at this time, and on that basis denies each and every such averment. 10 44. Responding to paragraph 44 of the Complaint, Apple states that it is without 11 knowledge or information sufficient to form a belief as to the truth of the averments of 12 paragraph 44 at this time, and on that basis denies each and every such averment. 13 Christopher Corsi 14 45. Responding to paragraph 45 of the Complaint, Apple states that it is without 15 knowledge or information sufficient to form a belief as to the truth of the averments of 16 paragraph 45 at this time, and on that basis denies each and every such averment. 17 46. Responding to paragraph 46 of the Complaint, Apple states that it is without 18 knowledge or information sufficient to form a belief as to the truth of the averments of 19 paragraph 46 at this time, and on that basis denies each and every such averment. 20 47. Responding to paragraph 47 of the Complaint, Apple states that it is without 21 knowledge or information sufficient to form a belief as to the truth of the averments of 22 paragraph 47 at this time, and on that basis denies each and every such averment. 23 48. Responding to paragraph 48 of the Complaint, Apple states that it is without knowledge or information sufficient to form a belief as to the truth of the averments of 24 25 paragraph 48 at this time, and on that basis denies each and every such averment. 26 49. Responding to paragraph 49 of the Complaint, Apple states that it is without 27 knowledge or information sufficient to form a belief as to the truth of the averments of 28 paragraph 49 at this time, and on that basis denies each and every such averment. Answer of Defendant Apple Inc. CV 10-01610-RS sf-3015986

1	Daniel Calix	
2	50. Responding to paragraph 50 of the Complaint, Apple states that it is without	
3	knowledge or information sufficient to form a belief as to the truth of the averments of	
4	paragraph 50 at this time, and on that basis denies each and every such averment.	
5	51. Responding to paragraph 51 of the Complaint, Apple states that it is without	
6	knowledge or information sufficient to form a belief as to the truth of the averments of	
7	paragraph 51 at this time, and on that basis denies each and every such averment.	
8	52. Responding to paragraph 52 of the Complaint, Apple states that it is without	
9	knowledge or information sufficient to form a belief as to the truth of the averments of	
10	paragraph 52 at this time, and on that basis denies each and every such averment.	
11	Raj Johal	
12	53. Responding to paragraph 53 of the Complaint, Apple states that it is without	
13	knowledge or information sufficient to form a belief as to the truth of the averments of	
14	paragraph 53 at this time, and on that basis denies each and every such averment.	
15	54. Responding to paragraph 54 of the Complaint, Apple states that it is without	
16	knowledge or information sufficient to form a belief as to the truth of the averments of	
17	paragraph 54 at this time, and on that basis denies each and every such averment.	
18	55. Responding to paragraph 55 of the Complaint, Apple states that it is without	
19	knowledge or information sufficient to form a belief as to the truth of the averments of	
20	paragraph 55 at this time, and on that basis denies each and every such averment.	
21	56. Responding to paragraph 56 of the Complaint, Apple states that it is without	
22	knowledge or information sufficient to form a belief as to the truth of the averments of	
23	paragraph 56 at this time, and on that basis denies each and every such averment.	
24	57. Responding to paragraph 57 of the Complaint, Apple states that it is without	
25	knowledge or information sufficient to form a belief as to the truth of the averments of	
26	paragraph 57 at this time, and on that basis denies each and every such averment.	
27	58. Responding to paragraph 58 of the Complaint, Apple states that an individual	
28	named Raj S. Johal filed a complaint with the Consumer Protection Division of the Washingto	n
	Answer of Defendant Apple Inc. CV 10-01610-RS sf-3015986	

1 Attorney's General office concerning an iPod touch device. Apple is without knowledge or 2 information sufficient to form a belief as to the truth of the remaining averments of paragraph 58 3 at this time, and on that basis denies each and every such remaining averment. 4 59. Responding to paragraph 59 of the Complaint, Apple states that the quoted 5 language appears to be from correspondence between Apple and the Consumer Protection 6 Division of the Washington Attorney's General office sent on or about June 17, 2010. Apple is 7 without knowledge or information sufficient to form a belief as to the truth of the remaining 8 averments of paragraph 59 at this time, and on that basis denies each and every such remaining 9 averment. 10 60. Responding to paragraph 60 of the Complaint, Apple denies each and every 11 averment contained in paragraph 60. 12 61. Responding to paragraph 61 of the Complaint, Apple denies each and every 13 averment contained in paragraph 61. 14 62. Responding to paragraph 62 of the Complaint, Apple denies each and every 15 averment contained in paragraph 62. 16 63. Responding to paragraph 63 of the Complaint, Apple states that Plaintiffs purport 17 to bring this action on behalf of an alleged class to obtain the relief sought in their prayer for 18 relief. Apple denies that class treatment is appropriate. Apple denies that Plaintiffs or the 19 members of the purported class have been injured or damaged in any way and further denies that 20 Plaintiffs or the members of the purported class are entitled to relief of any kind. Except as 21 expressly stated, Apple denies each and every averment contained in paragraph 63. 22 **STATUTES OF LIMITATION** 23 64. Responding to paragraph 64 of the Complaint, Apple denies each and every 24 averment contained in paragraph 64. 25 Responding to paragraph 65 of the Complaint, Apple denies each and every 65. 26 averment contained in paragraph 65. 27 66. Responding to paragraph 66 of the Complaint, Apple denies each and every 28 averment contained in paragraph 66. Answer of Defendant Apple Inc. 10 CV 10-01610-RS sf-3015986

1	CHOICE OF LAW
2	67. Responding to paragraph 67 of the Complaint, Apple states that insofar as the
3	averments in paragraph 67 state conclusions of law, no response thereto is required. Except as
4	expressly stated, Apple denies each and every averment contained in paragraph 67.
5	68. Responding to paragraph 68 of the Complaint, Apple states that the documents
6	speak for themselves. Except as expressly stated, Apple denies each and every averment
7	contained in paragraph 68.
8	CLASS ALLEGATIONS
9	69. Responding to paragraph 69 of the Complaint, Apple states that Plaintiffs purport
10	to bring a class action against Apple. Apple denies that class treatment is appropriate.
11	70. Responding to paragraph 70 of the Complaint, Apple states that Plaintiffs purport
12	to bring a class action against Apple and seeks to represent a purported class as stated. Apple
13	denies that class treatment is appropriate.
14	71. Responding to paragraph 71 of the Complaint, Apple states that Plaintiffs purport
15	to bring a class action against Apple and seeks to represent a purported class as stated. Apple
16	denies that class treatment is appropriate.
17	72. Responding to paragraph 72 of the Complaint, Apple states that Plaintiffs purport
18	to bring a class action against Apple and seeks to represent a purported class as stated. Apple
19	denies that class treatment is appropriate.
20	73. Responding to paragraph 73 of the Complaint, Apple denies each and every
21	averment contained in paragraph 73.
22	74. Responding to paragraph 74 of the Complaint, Apple denies each and every
23	averment contained in paragraph 74.
24	75. Responding to paragraph 75 of the Complaint, Apple denies each and every
25	averment contained in paragraph 75.
26	76. Responding to paragraph 76 of the Complaint, Apple denies each and every
27	averment contained in paragraph 76.
28	
	Answer of Defendant Apple Inc. CV 10-01610-RS sf-3015986 11

1	77.	Responding to paragraph 77 of the Complaint, Apple denies each and every	
2	averment con	tained in paragraph 77.	
3	78.	Responding to paragraph 78 of the Complaint, Apple denies each and every	
4	averment con	tained in paragraph 78.	
5	79.	Responding to paragraph 79 of the Complaint, Apple denies each and every	
6	averment con	tained in paragraph 79.	
7	80.	Responding to paragraph 80 of the Complaint, Apple denies each and every	
8	averment con	tained in paragraph 80.	
9	81.	Responding to paragraph 81 of the Complaint, Apple denies each and every	
10	averment con	tained in paragraph 81.	
11		FIRST CLAIM FOR RELIEF	
12		(Declaratory Relief)	
13	82.	Responding to paragraph 82 of the Complaint, Apple realleges and incorporates	by
14	reference eacl	h and every preceding paragraph of this Answer as if fully set forth herein.	
15	83.	Responding to paragraph 83 of the Complaint, Apple states that Plaintiffs seek a	ì
16	declaration of	the parties' rights and duties. Except as expressly stated, Apple denies each and	
17	every averme	nt contained in paragraph 83.	
18	84.	Responding to paragraph 84 of the Complaint, Apple denies each and every	
19	averment con	tained in paragraph 84.	
20	85.	Responding to paragraph 85 of the Complaint, Apple denies each and every	
21	averment con	tained in paragraph 85.	
22	86.	Responding to paragraph 86 of the Complaint, Apple denies each and every	
23	averment con	tained in paragraph 86.	
24		SECOND CLAIM FOR RELIEF	
25		(Breach of Express Warranty)	
26	87.	Responding to paragraph 87 of the Complaint, Apple realleges and incorporates	by
27	reference eacl	h and every preceding paragraph of this Answer as if fully set forth herein.	
28			
	Answer of Defer CV 10-01610-R sf-3015986		12

1	88. Responding to paragraph 88 of the Complaint, Apple states that the documents
2	attached to the Complaint speak for themselves. Apple further states that insofar as Plaintiffs'
3	averments in paragraph 88 state conclusions of law, no response thereto is required. Except as
4	expressly stated, Apple denies each and every averment contained in paragraph 88.
5	89. Responding to paragraph 89 of the Complaint, Apple states that it provides a one-
6	year limited warranty for iPhone and iPod touch devices it sells. Apple further states that an
7	AppleCare Protection Plan is available for iPhone and iPod touch devices for an additional fee.
8	Apple further states that insofar as Plaintiffs' averments in paragraph 89 state conclusions of law,
9	no response thereto is required. Except as expressly stated, Apple denies each and every
10	averment contained in paragraph 89.
11	90. Responding to paragraph 90 of the Complaint, Apple states that insofar as
12	Plaintiffs' averments in paragraph 90 state conclusions of law, no response thereto is required.
13	Except as expressly stated, Apple denies each and every averment contained in paragraph 90.
14	91. Responding to paragraph 91 of the Complaint, Apple denies each and every
15	averment contained in paragraph 91.
16	92. Responding to paragraph 92 of the Complaint, Apple denies each and every
17	averment contained in paragraph 92.
18	93. Responding to paragraph 93 of the Complaint, Apple denies each and every
19	averment contained in paragraph 93.
20	94. Responding to paragraph 94 of the Complaint, Apple denies each and every
21	averment contained in paragraph 94.
22	THIRD CLAIM FOR RELIEF
23	(Violation of the Song-Beverly Consumer Warranty Act)
24	95. Responding to paragraph 95 of the Complaint, Apple realleges and incorporates by
25	reference each and every preceding paragraph of this Answer as if fully set forth herein.
26	96. Responding to paragraph 96 of the Complaint, Apple states that insofar as
27	Plaintiffs' averments in paragraph 96 state conclusions of law, no response thereto is required.
28	Except as expressly stated, Apple denies each and every averment contained in paragraph 96.
	Answer of Defendant Apple Inc. 13 CV 10-01610-RS sf-3015986

1	97. Responding to paragraph 97 of the Complaint, Apple states that insofar as	
2	Plaintiffs' averments in paragraph 97 state conclusions of law, no response thereto is required.	
3	Except as expressly stated, Apple denies each and every averment contained in paragraph 97.	
4	98. Responding to paragraph 98 of the Complaint, Apple states that insofar as	
5	Plaintiffs' averments in paragraph 98 state conclusions of law, no response thereto is required.	
6	Except as expressly stated, Apple denies each and every averment contained in paragraph 98.	
7	99. Responding to paragraph 99 of the Complaint, Apple denies each and every	
8	averment contained in paragraph 99.	
9	100. Responding to paragraph 100 of the Complaint, Apple denies each and every	
10	averment contained in paragraph 100.	
11	FOURTH CLAIM FOR RELIEF	
12	(Fraud)	
13	101. Responding to paragraph 101 of the Complaint, Apple realleges and incorporates	
14	by reference each and every preceding paragraph of this Answer as if fully set forth herein.	
15	102. Responding to paragraph 102 of the Complaint, Apple denies each and every	
16	averment contained in paragraph 102.	
17	103. Responding to paragraph 103 of the Complaint, Apple denies each and every	
18	averment contained in paragraph 103.	
19	104. Responding to paragraph 104 of the Complaint, Apple denies each and every	
20	averment contained in paragraph 104.	
21	105. Responding to paragraph 105 of the Complaint, Apple denies each and every	
22	averment contained in paragraph 105.	
23	106. Responding to paragraph 106 of the Complaint, Apple denies each and every	
24	averment contained in paragraph 106.	
25	107. Responding to paragraph 107 of the Complaint, Apple denies each and every	
26	averment contained in paragraph 107.	
27	108. Responding to paragraph 108 of the Complaint, Apple denies each and every	
28	averment contained in paragraph 108.	
	Answer of Defendant Apple Inc. CV 10-01610-RS sf-3015986	1

109.	Responding to paragraph 109 of the Complaint, Apple denies each and every	
averment co	ontained in paragraph 09.	
	FIFTH CLAIM FOR RELIEF	
	(Unfair and Deceptive Act and Practices in Violation of the Consumer Legal Remedies Act)	
110.	C ,	
by reference	e each and every preceding paragraph of this Answer as if fully set forth herein.	
111.	Responding to paragraph 111 of the Complaint, Apple states that insofar as the	
averments i	n paragraph 111 state conclusions of law, no response thereto is required. Except as	
expressly st	ated, Apple denies each and every averment contained in paragraph 111.	
112.	Responding to paragraph 112 of the Complaint, Apple states that insofar as	
Plaintiffs' a	verments in paragraph 112 state conclusions of law, no response thereto is required.	
Except as ex	xpressly stated, Apple denies each and every averment contained in paragraph 112.	
113.	Responding to paragraph 113 of the Complaint, Apple denies each and every	
averment co	ontained in paragraph 113.	
114.	Responding to paragraph 114 of the Complaint, Apple denies each and every	
averment co	ontained in paragraph 114.	
115.	Responding to paragraph 115 of the Complaint, Apple denies each and every	
averment co	ontained in paragraph 115.	
116.	Responding to paragraph 116 of the Complaint, Apple denies each and every	
averment co	ontained in paragraph 116.	
117.	Responding to paragraph 117 of the Complaint, Apple denies each and every	
averment co	ontained in paragraph 117.	
118.	Responding to paragraph 118 of the Complaint, Apple denies each and every	
averment co	ontained in paragraph 118.	
119.	Responding to paragraph 119 of the Complaint, Apple states that Plaintiffs seek	
injunctive r	elief against Apple. Except as expressly stated, Apple denies each and every	
averment co	ontained in paragraph 119. Apple denies that Plaintiffs or the members of the	
Answer of De CV 10-01610- sf-3015986	fendant Apple Inc. RS	15

1	purported class have been injured or damaged in any way and further denies that Plaintiffs or the
2	members of the purported class are entitled to relief of any kind.
3	120. Responding to paragraph 120 of the Complaint, Apple states that Plaintiffs seek an
4	order as stated. Except as expressly stated, Apple denies each and every averment contained in
5	paragraph 120. Apple denies that Plaintiffs or the members of the purported class have been
6	injured or damaged in any way and further denies that Plaintiffs or the members of the purported
7	class are entitled to relief of any kind.
8	SIXTH CLAIM FOR RELIEF
9 10	(Unfair, Fraudulent, and Unfair Business Practices in Violation of the Unfair Competition Law)
10	121. Responding to paragraph 121 of the Complaint, Apple realleges and incorporates
11	by reference each and every preceding paragraph of this Answer as if fully set forth herein.
12	122. Responding to paragraph 122 of the Complaint, Apple denies each and every
13	averment contained in paragraph 122.
15	123. Responding to paragraph 123 of the Complaint, Apple denies each and every
16	averment contained in paragraph 123.
17	124. Responding to paragraph 124 of the Complaint, Apple states that Plaintiffs seek
18	injunctive and other relief as stated. Except as expressly stated, Apple denies each and every
19	averment contained in paragraph 124. Apple denies that Plaintiffs or the members of the
20	purported class have been injured or damaged in any way and further denies that Plaintiffs or the
21	members of the purported class are entitled to relief of any kind.
22	SEVENTH CLAIM FOR RELIEF
23	(Unjust Enrichment)
24	125. Responding to paragraph 125 of the Complaint, Apple realleges and incorporates
25	by reference each and every preceding paragraph of this Answer as if fully set forth herein.
26	126. Responding to paragraph 126 of the Complaint, Apple denies each and every
27	averment contained in paragraph 126.
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	Answer of Defendant Apple Inc. CV 10-01610-RS sf-3015986

1	127. Responding to paragraph 127 of the Complaint, Apple denies each and every
2	averment contained in paragraph 127.
3	128. Responding to paragraph 128 of the Complaint, Apple states that Plaintiffs seek an
4	order as stated. Except as expressly stated, Apple denies each and every averment contained in
5	paragraph 128. Apple denies that Plaintiffs or the members of the purported class have been
6	injured or damaged in any way and further denies that Plaintiffs or the members of the purported
7	class are entitled to relief of any kind.
8	PRAYER FOR RELIEF
9	Apple denies that Plaintiffs' purported class is certifiable or that Plaintiffs or the members
10	of the purported class suffered injury or damage, and further denies that Plaintiffs or the members
11	of the purported class are entitled to relief of any kind.
12	AFFIRMATIVE DEFENSES
13	As to affirmative defenses to the Complaint, Apple does not, by stating the matters set
14	forth in these defenses, allege or admit that it has the burden of proof and/or persuasion with
15	respect to any of these matters, and does not assume the burden of proof or persuasion as to any
16	matters as to which Plaintiffs have the burden of proof or persuasion.
17	FIRST AFFIRMATIVE DEFENSE
18	(Failure to State a Claim)
19	1. The Complaint, and each and every cause of action therein, fails to state facts
20	sufficient to constitute a cause, or causes, of action against Apple.
21	SECOND AFFIRMATIVE DEFENSE
22	(Lack of Standing)
23	2. The claims of the purported class are barred, in whole or in part, because members
24	of the purported class lack standing to assert any or all of the causes of action alleged in the
25	Complaint.
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	Answer of Defendant Apple Inc. CV 10-01610-RS sf-3015986 17

1	THIRD AFFIRMATIVE DEFENSE		
2	(Lack of Article III Standing)		
3	3. Apple alleges on information and belief that members of the purported class lack		
4	standing under Article III of the Constitution of the United States.		
5	FOURTH AFFIRMATIVE DEFENSE		
6	(Waiver)		
7	4. The Complaint, and each of its purported causes of action, is barred, in whole or in		
8	part, by the doctrine of waiver.		
9	FIFTH AFFIRMATIVE DEFENSE		
10	(Accord and Satisfaction)		
11	5. Plaintiffs' claims, and those of the purported class, are barred, in whole or in part,		
12	to the extent that Plaintiffs and members of the purported class have released, settled, entered into		
13	an accord and satisfaction of, or otherwise compromised their claims.		
14	SIXTH AFFIRMATIVE DEFENSE		
15	(Failure to Mitigate)		
16	6. Plaintiffs and the purported class have failed to mitigate their damages, if any.		
17	SEVENTH AFFIRMATIVE DEFENSE		
18	(Comparative Fault)		
19	7. Plaintiffs' claims, and those of the purported class, are barred, in whole or in part,		
20	by their own comparative fault.		
21	EIGHTH AFFIRMATIVE DEFENSE		
22	(Contributory Negligence)		
23	8. Any and all events, happenings, injuries and damages set forth in the Complaint		
24	were proximately caused and contributed to by the acts and/or omissions of Plaintiffs and/or		
25	members of the purported class, and such acts and/or omissions totally bar or reduce any recovery		
26	on the party of Plaintiffs and/or the purported class.		
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	Answer of Defendant Apple Inc. CV 10-01610-RS sf-3015986		

1	NINTH AFFIRMATIVE DEFENSE			
2	(Constitutional)			
3	9. The claims of Plaintiffs and the purported class are in contravention of Apple's			
4	rights under applicable clauses of the United States and California Constitutions, including			
5	without limitation the following provisions: (a) said claims constitute an impermissible burden			
6	on interstate commerce in contravention of Article I, Section 8 of the United States Constitution;			
7	(b) said claims violate Apple's right to Due Process under the Fourteenth Amendment of the			
8	United States Constitution; (c) said claims contravene the constitutional prohibition against vague			
9	and overbroad laws; (d) such claims contravene freedom of speech rights under the California			
10	Constitution and the First and Fourteenth Amendments to the United States Constitution; and			
11	(e) said claims contravene the Due Process Clause of the California Constitution.			
12	TENTH AFFIRMATIVE DEFENSE			
13	(Bona Fide Error)			
14	10. The claims of Plaintiffs and the purported class are barred because, although Apple			
15	denies each and every claim of Plaintiffs and the purported class and denies that Apple engaged			
16	in wrongdoing or error of any kind, any alleged error on Apple's part was a bona fide error			
17	notwithstanding Apple's use of reasonable procedures adopted to avoid any such error.			
18				
19	Apple reserves the right to assert other defenses as discovery progresses.			
20	PRAYER			
21	WHEREFORE, Apple prays for judgment as follows:			
22	1. That Plaintiffs and the purported class take nothing by way of the Complaint;			
23	2. That the Complaint be dismissed with prejudice and judgment be entered in favor			
24	of Apple;			
25	3. That Apple be awarded its costs of suit; and			
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	Answer of Defendant Apple Inc. CV 10-01610-RS sf-3015986			

1	4. For such other and further relief as the Court deems just and proper.		
2			
3			
4	DEMAND FOR JURY TRIAL		
5	Apple hereby demands a trial by jury on all issues upon which trial by jury may be had.		
6			
7	Dated: August 1, 2011	PENELOPE A. PREOVOLOS	
8		ANDREW DAVID MUHLBACH HEATHER A. MOSER	
9		SAMUEL J. BOONE LUNIER MORRISON & FOERSTER LLP	
10			
11		By: /s/ Penelope A. Preovolos	
12		PENELOPE A. PREOVOLOS	
13		Attorneys for Defendant APPLE INC.	
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	Answer of Defendant Apple Inc. CV 10-01610-RS sf-3015986	20	