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12 UNITED STATES DISTRICT COURT  
 13 NORTHERN DISTRICT OF CALIFORNIA

14 ANTHONY PETRU and MARCUS MATHIS,  
 Individually and on Behalf of All Others Similarly  
 Situated,

15 Plaintiffs,

16 v.

17 APPLE INC.; HACHETTE BOOK GROUP, INC.;  
 18 HARPERCOLLINS PUBLISHERS, INC.;  
 MACMILLAN PUBLISHERS, INC.; PENGUIN  
 19 GROUP (USA) INC.; and SIMON & SCHUSTER,  
 INC.,

20 Defendants.

No. 3:11-cv-03892 EMC

CLASS ACTION

21 PATSY DIAMOND, Individually and on Behalf of  
 22 All Others Similarly Situated,

23 Plaintiff,

24 v.

25 APPLE INC.; HACHETTE BOOK GROUP, INC.;  
 HARPERCOLLINS PUBLISHERS, INC.;  
 26 MACMILLAN PUBLISHERS, INC; PENGUIN  
 GROUP (USA) INC.; and SIMON & SCHUSTER,  
 INC.,

27 Defendants.

No. 3:11-CV-03954-NC

**ADMINISTRATIVE MOTION TO  
 CONSIDER WHETHER CASES  
 SHOULD BE RELATED [L.R. 3-12]**

1                   **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2                   PLEASE TAKE NOTICE that Plaintiff Patsy Diamond submits this Administrative Motion  
3 to relate *Diamond v. Apple, Inc. et al.*, Case No. 3:11-CV-03954-NC (“*Diamond*”), filed August 11,  
4 2011 to *Petru et al. v. Apple, Inc. et al.*, Case No. 3:11-CV-03892 EMC (“*Petru*”), filed on August 9,  
5 2011 pursuant to Civil Local Rule 3-12.

6                   **I.        APPLICABLE STANDARD UNDER CIVIL L.R. 3-12**

7                   Under Civil Local Rule 3-12, an “action is related to another when: (1) the actions concern  
8 substantially the same parties, property, transaction or event, and (2) it appears likely that there will  
9 be an unduly burdensome duplication of labor and expense or conflicting results if the cases are  
10 conducted before different Judges.” Civil L.R. 3-12(a).

11                  Whenever a party knows or believes that an action may be related to an action which is or  
12 was pending in the Northern District, said party “must promptly file in the earliest-filed case an  
13 Administrative Motion to Consider Whether Cases Should be Related, pursuant to civil L.R. 7-11.”<sup>1</sup>  
14 Civil L.R. 3-12(b). That motion must include: “(1) The title and case number of each apparently  
15 related case; (2) A brief statement of the relationship of the actions according to the criteria set forth  
16 in Civil L.R. 3-12(a).”

17                  **II.        DIAMOND AND PETRU ARE RELATED CASES**

18                  The *Petru* litigation was filed in this Court on August 9, 2011. The *Diamond* litigation was  
19 filed on August 11, 2011 and was assigned Case No. 3:11-CV-03954-NC. These two cases involve  
20 the exact same transactions and events, the identical defendants, the identical allegations and causes  
21 of action, and the same proposed class of plaintiffs. Accordingly, there will be unduly burdensome  
22 duplication of labor and expense and there will be a risk of conflicting results if these cases are  
23 conducted with different Judges.

24  
25  
26                  \_\_\_\_\_  
27                  <sup>1</sup> “In addition to complying with Civil L.R. 7-11, a copy of the motion, together with proof  
28 of service pursuant to Civil L.R. 5-6, must be served on all known parties to each apparently related  
action. A Chambers copy of the motion must be lodged with the assigned Judge in each apparently  
related case under Civil L.R. 5-1(b).” Civil L.R. 3-12(b).

1 **III. CONCLUSION**

2 *Diamond* and *Petru* satisfy the criteria of Civil Local Rule 3-12. Therefore, Plaintiff Patsy  
3 *Diamond* respectfully requests that *Diamond* be deemed related to *Petru* and that *Diamond* be  
4 assigned to the Honorable Edward M. Chen, the Judge assigned to the low numbered case, *Petru*.

5 DATED: August 19, 2011

RAM, OLSON, CEREGHINO  
& KOPCZYNSKI LLP

6  
7 By: /s/ Michael F. Ram  
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