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 APPLE INC.

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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION

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IN RE APPLE IPHONE ANTITRUST
 LITIGATION

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CASE NO. C 11-06714-YGR
 RELATED CASE NO. C 07-05152-JW

**[PROPOSED] ORDER GRANTING
 DEFENDANT APPLE'S MOTION TO
 DISMISS PLAINTIFFS' AMENDED
 CONSOLIDATED COMPLAINT**

Date: December 18, 2012
 Time: 2:00 P.M.
 Place: Courtroom TBD

The Honorable Yvonne Gonzalez Rogers

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1 Before the Court is Apple's Motion to Dismiss Plaintiffs' Amended Consolidated Class
2 Action Complaint ("Complaint").

3 The Court's July 11, 2012 Order required the joinder of ATTM for the assertion of any
4 voice and data service aftermarket claim. As ATTM has not been joined, the Court hereby
5 DISMISSES the voice and data aftermarket claim (Count III) and grants Apple's request for an
6 order under Federal Rule of Civil Procedure 12(f), striking all allegations concerning, and
7 requests for injunction based on, the voice and data aftermarket claim (Count III).

8 With respect to Counts I and II, concerning iPhone Applications, the Complaint fails to
9 allege that Plaintiffs have Article III or antitrust standing to pursue these claims. In addition,
10 Counts I and II fail to state a claim and must therefore be dismissed pursuant to Federal Rule of
11 Civil Procedure 12(b)(6). Accordingly, the Court DISMISSES Counts I and II.

12 The Court thus GRANTS Defendant Apple Inc.'s Motion to Dismiss in its entirety. As
13 the Court finds that the defects in the Complaint cannot be cured, further amendment would be
14 futile. Accordingly, the Complaint is dismissed with prejudice.

15 **IT IS SO ORDERED.**

16 Dated: _____

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18 By _____
19 THE HONORABLE YVONNE GONZALEZ ROGERS
20 UNITED STATES DISTRICT COURT JUDGE

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