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United States District Court
Northern District of California

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

OPENTV, INC., et al., Plaintiffs, v. APPLE, INC., Defendant.	Case No. 14-cv-01622-JST **ORDER NOTING WITHDRAWAL OF MOTION TO DISMISS; GRANTING IN PART STIPULATION** Re: ECF Nos. 35 & 36

The court construes the parties' stipulation, ECF No. 36, as representing to the court that Defendant's motion to dismiss the first amended complaint, ECF No. 35, will soon be mooted by the filing of a second amended complaint. Since the parties have stipulated to the filing of a second amended complaint, amendment is permitted by Rule 15(b) of the Federal Rules of Civil Procedure. Accordingly, the court construes Defendant as having WITHDRAWN its motion to dismiss the first amended complaint, ECF No. 35, and so the court VACATES the hearing scheduled for July 10, 2014. At the parties' request, and pursuant to Rule 16 of the Federal Rules of Civil Procedure, the court ORDERS Plaintiffs to file the second amended complaint not later than July 28, 2014.

IT IS SO ORDERED.

Dated: July 9, 2014

JON S. TIGAR
United States District Judge

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