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15 Attorneys for Defendant and Counterclaim-Plaintiff  
 16 Apple Inc.

17 **UNITED STATES DISTRICT COURT**  
 18 **NORTHERN DISTRICT OF CALIFORNIA**  
 19 **OAKLAND DIVISION**

19 AFFINITY LABS OF TEXAS, LLC, a  
 20 Texas Limited Liability Company,  
 21 Plaintiff and  
 Counterclaim-Defendant,  
 22 v.  
 23 APPLE INC., a California Corporation,  
 24 Defendant and  
 25 Counterclaim-Plaintiff.

CASE NO. CV 09-4436-CW

**STIPULATION REGARDING SONY  
 MINIDISC RECORDER, MINIDISC  
 RECORDER USER MANUAL, AND  
 LAPTOP USER GUIDE; ORDER**

Judge: Hon. Claudia Wilken

1 IT IS HEREBY STIPULATED by and between Plaintiff and Counterclaim-Defendant  
2 Affinity Labs of Texas, LLC (“Affinity”) and Defendant and Counterclaim-Plaintiff Apple Inc.  
3 (“Apple”) as follows:

4 WHEREAS, Apple obtained and has made available to Affinity for inspection samples of  
5 a product called the Sony Portable MiniDisc Recorder (Model Number MZ-R55) shown in  
6 pictures produced in this case with bates numbers 179Apple-CA0021112 - 179Apple-  
7 CA0021117, 179Apple-CA0021120 - 179Apple-CA0021127, 179Apple-CA00207582 -  
8 179Apple-CA00207586, 179Apple-CA00207589, 179Apple-CA00207670, and 179Apple-  
9 CA00207698 - 179Apple-CA00207702 (“Sony MZ-R55 MiniDisc Recorder”);

10 WHEREAS, Apple obtained and has made available to Affinity for inspection samples of  
11 a remote control unit (Model Number RM-MZR55) for the Sony MZ-R55 MiniDisc Recorder  
12 shown in pictures produced in this case with bates numbers 179Apple-CA0021112, 179Apple-  
13 CA0021118 - 179Apple-CA0021127, 179Apple-CA00207587 - 179Apple-CA00207589, and  
14 179Apple-CA207671 (“Sony RM-MZR55 Remote Control”);

15 WHEREAS, Apple produced Operating Instructions for the Sony MZ-R55 MiniDisc  
16 Recorder with bates numbers 179AppleCA0021450 - 179AppleCA0021491 (the “Sony MZ-R55  
17 MiniDisc Recorder Operating Instructions”);

18 WHEREAS, the Sony MZ-R55 MiniDisc Recorder was packaged for sale in this country  
19 in 1998 with the Sony RM-MZR55 Remote Control and Sony MZ-R55 MiniDisc Recorder  
20 Operating Instructions;

21 WHEREAS, Apple produced the Sony VAIO Notebook Computer User Guide PCG-  
22 731/PCG-735 with bates numbers 179AppleCA0012891 - 179AppleCA0013021 (the “Sony  
23 PCG-731/PCG-735 Laptop User Guide”);

24 WHEREAS, Apple’s Patent L.R. 3-3 Invalidity Contentions identify the Sony MZ-R55  
25 Portable MiniDisc Recorder, Sony RM-MZR55 Remote Control, Sony MZ-R55 MiniDisc  
26 Recorder Operating Instructions, and the Sony PCG-731/PCG-735 VAIO Notebook Computer  
27 User Guide as prior art to the asserted patents;

1 NOW, THEREFORE, IT IS HEREBY STIPULATED BY AND BETWEEN THE  
2 PARTIES HERETO, THROUGH THEIR RESPECTIVE COUNSEL AND SUBJECT TO THE  
3 APPROVAL OF THE COURT, AS FOLLOWS:

- 4 1. The Sony MZ-R55 MiniDisc Recorders, Sony RM-MZR55 Remote Controls, Sony  
5 MZ-R55 MiniDisc Recorder Operating Instructions, and Sony PCG-731/PCG-735  
6 Laptop User Guide are authentic under Federal Rule of Evidence 901;
- 7 2. The Sony MZ-R55 MiniDisc Recorder Operating Instructions and Sony PCG-  
8 731/PCG-735 Laptop User Guide are records of regularly conducted activity under  
9 Federal Rule of Evidence 803(6);
- 10 3. The Sony MZ-R55 MiniDisc Recorders made available to Affinity for inspection  
11 and shown in pictures produced with bates numbers 179Apple-CA0021112 -  
12 179Apple-CA0021117, 179Apple-CA0021120 - 179Apple-CA0021127,  
13 179Apple-CA00207582 - 179Apple-CA00207586, 179Apple-CA00207589,  
14 179Apple-CA00207670, and 179Apple-CA00207698 - 179Apple-CA00207702  
15 were “on sale in this country” and “in public use . . . in this country,” as these  
16 terms are used in 35 U.S.C. § 102, in 1998;
- 17 4. The Sony RM-MZR55 Remote Controls made available to Affinity for inspection  
18 and shown in pictures produced with bates numbers 179Apple-CA0021112,  
19 179Apple-CA0021118 - 179Apple-CA0021127, 179Apple-CA00207587 -  
20 179Apple-CA00207589, and 179Apple-CA207671 (“Sony RM-MZR55 Remote  
21 Control”) were “on sale in this country” and “in public use . . . in this country,” as  
22 these terms are used in 35 U.S.C. § 102, in 1998;
- 23 5. The MZ-R55 MiniDisc Recorder Operating Instructions titled “Sony Portable  
24 MiniDisc Recorder Operating Instructions” and bates numbered  
25 179AppleCA0021450 - 179AppleCA0021491 constitutes a “printed publication”  
26 as the term is used in 35 U.S.C. § 102 and was a printed publication in 1998;
- 27 6. The Sony MZ-R55 MiniDisc Recorder, Sony RM-MZR55 Remote Control, and  
28 Sony MZ-R55 MiniDisc Recorder Operating Instructions were bundled and

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collectively “on sale in this country” and “in public use . . . in this country,” as these terms are used in 35 U.S.C. § 102, in 1998; and  
7. The Sony PCG-731/PCG-735 Laptop User Guide titled “Sony VAIIO Notebook Computer User Guide PGC-731/PCG-735” and bates numbered 179AppleCA0012891 - 179AppleCA0013021 constitutes a “printed publication” as the term is used in 35 U.S.C. § 102 and was a printed publication in 1998.

Dated: March 3, 2011

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Pursuant to General Order No. 45 X(B), I hereby attest that concurrence in the filing of this document has been obtained from Jordan T. Fowles.

Dated: March 3, 2011

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Attorneys for Defendant and Counterclaim-  
Plaintiff APPLE INC.

PURSUANT TO STIPULATION, IT IS SO ORDERED:

Dated: 3/7/2011

  
\_\_\_\_\_  
Honorable Claudia Wilken  
United States District Judge