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 APPLE INC.  
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8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA  
 10 SAN JOSE DIVISION  
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12 **THE APPLE IPOD iTUNES ANTI-  
 13 TRUST LITIGATION**

**Case No. C 05-00037 JW  
 C 06-04457 JW**

**DEFENDANTS' MOTION UNDER CIVIL  
 L.R. 7-3(d) TO FILE RESPONSE TO  
 PLAINTIFFS' REPLY MEMORANDUM  
 IN SUPPORT OF CLASS  
 CERTIFICATION**

**Date:** December 15, 2008

**Time:** 9:00 A.M.

**Place:** Courtroom 8, 4th Floor

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1 Apple respectfully requests leave under Civil Local Rule 7-3(d) to file the attached  
2 2½-page memorandum in response to plaintiffs' reply memorandum on class certification.  
3 Apple's response is limited to responding to three new arguments raised in plaintiffs' reply and to  
4 correcting plaintiffs' misstatement regarding Apple's opposition to certification of plaintiffs'  
5 section 2 claims. Apple believes that having this response in advance of the hearing will assist  
6 the Court in evaluating the parties' arguments and will permit a more efficient presentation of the  
7 issues as the hearing.

8 Dated: December 2, 2008

JONES DAY

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10 By: /s/ Robert A. Mittelstaedt  
11 Robert A. Mittelstaedt

12 Counsel for Defendant  
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