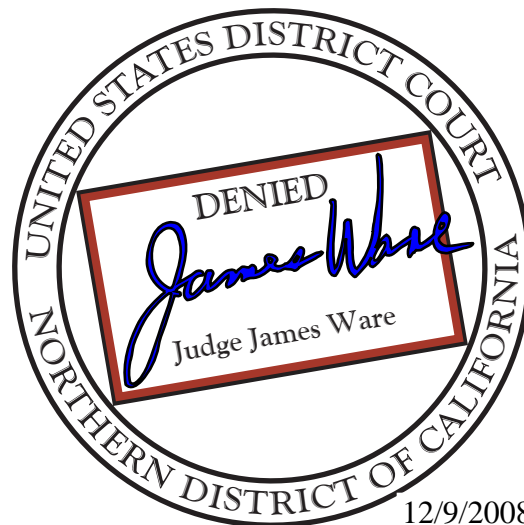


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 7 APPLE INC.



8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 SAN JOSE DIVISION

11
 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

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
9 Dated: December 2, 2008

JONES DAY

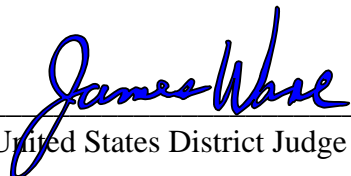
10 By: /s/ Robert A. Mittelstaedt
11 Robert A. Mittelstaedt

12 Counsel for Defendant

13
14 **IT IS SO ORDERED:**

15 The Motion for Leave to file is DENIED.

16
17 Dated: December 9, 2008

18 
United States District Judge