

# EXHIBIT F



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Thomas R. Merrick  
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September 22, 2009

VIA E-MAIL

David C. Kiernan  
Jones Day  
555 California Street, 26th Floor  
San Francisco, CA 94104

Re: *The Apple iPod iTunes Anti-Trust Litigation*,  
No. C-05-00037-JW (N.D. Cal.)

Dear David:

I write to follow up on Plaintiffs' Amended First Set of Requests for Admission ("RFAs"), First Set of Requests for Production of Documents ("RFPs"), and First Set of Interrogatories ("Interrogatories") that were served on May 22, 2009. Apple responded to the RFPs on July 20, 2009, to the Interrogatories on July 21, 2009, and to the RFAs on July 24, 2009.

During the parties August 20, 2009 telephonic meet and confer, Apple stated that it would provide supplemental responses to Interrogatory Nos. 1, 2, 3, 7, and 8, and would respond by letter to RFA Nos. 3 and 4. See 8/24/09 Letter to David Kiernan from Tom Merrick at 2. These requests have been outstanding for four months and Plaintiffs have yet to receive complete responses. Please provide your supplemental responses by September 25, 2009.

Additionally, in its responses Apple stated that it would produce documents responsive to RFP Nos. 1-3, 5-10, 12-23, 25, 28, and 29 after "searching custodian files mostly likely to contain a substantial amount of relevant documents." See, e.g., Response to RFP 29 at 22. During the August 20 meet and confer, Apple agreed to produce documents responsive to RFP 11. See 8/24/09 Letter to David Kiernan from Tom Merrick at 2. You also agreed that you would provide Plaintiffs with a list of proposed custodians and search terms by August 27, 2009. However, in an email dated August 27, 2009 you stated that these would not be provided until September 2 or 3. Apple has had over four weeks to make such a proposal and continues to drag its feet. It is Plaintiffs' understanding that most of these documents were pulled in 2007 for particular custodians using certain search terms. Thus, the burden and time involved in developing such a list is extremely minimal. Please provide Apple's proposal on search terms and custodians by September 25, 2009.



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Moreover, in its responses Apple stated that it would produce unredacted copies of APPLE CHAR 00059 to APPLE CHAR 00066 responsive to RFP No. 10 without delay. Please produce these documents by September 25, 2009.

Based on your call on September 9, 2009, it is our understanding that Apple is experiencing "a snafu with the document review tool," and will not be able to begin its rolling production of documents responsive to Plaintiffs' Rule 30(b)(6) related document requests until the end of September. I asked you to memorialize this in writing and you have yet to do so. Although Plaintiffs have been understanding of issues outside of your control in the discovery process, Apple has successfully stalled for more than five months in producing documents responsive to these requests. Plaintiffs again request that you provide in writing the basis for your most recent delay in production by September 25, 2009 so that we have a complete record of the discovery process.

We look forward to your supplemental Interrogatory and RFA responses, proposal of custodians and search terms, and production of documents responsive to RFP No. 10 on September 25, 2009. Plaintiffs may have to seek court intervention if Apple continues to stall on its duty to produce. Please call me if you should have any questions.

Very truly yours,

THOMAS R. MERRICK

TRM:hsb

cc: Bonny E. Sweeney  
Robert A. Mittelstaedt  
Paula Roach