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8 Attorneys for Defendant
 APPLE INC.

10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA
 12 SAN JOSE DIVISION

14 **THE APPLE IPOD iTUNES ANTI-TRUST
 LITIGATION**

15 **This Document Relates To All Matters**

**Case No. C-05-00037-JW (HRL)
 C-06-04457 JW (HRL)
 C-07-06507 JW (HRL)**

**JOINT CASE MANAGEMENT
 STATEMENT**

Date: December 20, 2010
 Time: 9:00 a.m.
 Courtroom 8, 4th Floor

21 In accord with the Court's July 22, 2010 Order, the parties jointly submit this Case
 22 Management Statement.

23 **I. PLEADINGS AND DISPOSITIVE MOTIONS**

24 **A. Direct Purchaser Action**

25 On October 28, 2010, the Court set the following briefing schedule for Defendant's
 26 renewed Rule 56 motion and Plaintiffs' Renewed Motion for Class Certification:

27 (1) Defendant's Opening Rule 56 Brief and Plaintiffs' Motion for Class Certification shall
 28 be filed on or before January 17, 2011;

1 (2) Plaintiffs' Opposition to Defendant's Rule 56 Brief and Apple's Opposition to
2 Plaintiffs' Motion for Class Certification shall be filed on or before February 28, 2011;

3 (3) Defendant's Reply Brief in Support of its Rule 56 Motion and Plaintiffs' Reply in
4 support of their Motion for Class Certification shall be filed on or before March 28, 2011;

5 (4) The Court will conduct a hearing on both motions on April 18, 2011 at 9 a.m.

6 **B. Indirect Purchaser Action**

7 On September 13, 2010, Defendant moved to dismiss Indirect Purchaser Plaintiff's
8 amended complaint. The Court's August 11, 2010 Order set the hearing for December 20, 2010.

9 The parties agree that plaintiff will not file a renewed motion for class certification until
10 after the Court decides Defendant's Motion To Dismiss plaintiff's Amended Complaint.

11 **II. DISCOVERY**

12 **A. Direct Purchaser Action**

13 Fact Discovery ends on December 20, 2010.

14 Defendant's Request To Extend Fact Discovery For Limited Purpose

15 Defendant requests that the fact discovery cut-off be extended to allow Direct Purchaser
16 Plaintiffs to take the deposition of Apple's Chief Executive Officer, Steve Jobs, if Defendant's
17 motion for a protective order is denied. Direct Purchaser Plaintiffs do not oppose Defendant's
18 request.

19 The deposition was noticed for December 20, 2010 to allow the parties time to meet and
20 confer regarding the deposition with the parties agreeing that Defendant would file a motion for
21 protective order by December 9, 2010. On December 9, 2010, Defendant filed the motion with
22 Judge Lloyd seeking an order preventing the deposition on the grounds that Mr. Jobs does not
23 have unique, non-repetitive, firsthand knowledge about issues relevant to this action that is
24 unavailable from other, less burdensome sources. Pursuant to the Federal Rules, the deposition is
25 off calendar while the motion is pending. *See* Fed. R. Civ. Proc. 37(d) and 1993 Notes
26 thereto; *Societe Civile Succession Guino v. Renoir*, 2008 WL 5157719 *2 (9th Cir. 2008).

27 Subject to this Court's approval, should Judge Lloyd deny Apple's motion for a protective
28 order, the parties will agree upon a date for the deposition that is convenient for the witness and

1 counsel before Direct Purchaser Plaintiffs' opposition to Defendant's motion for summary
2 judgment is due.

3 Plaintiffs' Position

4 Plaintiffs will oppose Apple's motion for a protective order and will request the Court
5 decide the motion on an expedited basis. Based on the documents produced to date, plaintiffs
6 will demonstrate that Mr. Jobs possesses relevant first-hand knowledge regarding issues critical to
7 plaintiffs' case that are properly the subject of deposition testimony. Plaintiffs do not object to
8 potentially scheduling Mr. Jobs' deposition for a date after the discovery cut off should the Court
9 deny defendant's motion. However, plaintiffs are concerned about losing the already noticed
10 deposition date without a ruling by the Court on the protective order. Therefore, plaintiffs
11 previously asked defendants to agree to hold the December 20, 2010 date should the Court not
12 rule by December 17, 2010. No agreement was reached on this point.

13 **B. Indirect Purchaser Action**

14 In accord with this Court's July 22, 2010 Order, discovery shall not commence until the
15 Court addresses Defendant's Motion to Dismiss the Amended Complaint.

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1 Dated: December 10, 2010

Jones Day

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By: /s/ _____
Robert A. Mittelstaedt

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Counsel for Defendant
APPLE INC.

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6 Dated: December 10, 2010

Coughlin Stoia Geller Rudman & Robbins
LLP

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By: /s/ _____
Paula Roach

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Counsel for Direct Purchaser Plaintiffs

11 Dated: December 10, 2010

Zeldes & Haeggquist, LLP

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By: /s/ _____
Helen I. Zeldes

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Counsel for Plaintiff Stacie Somers

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