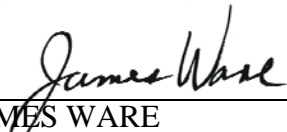


1 iTunes store..." (Request at 2.) However, during his January 30, 2006 deposition, Slattery admitted
2 that he had obtained no music from Apple's online store before buying an iPod. In fact, Slattery
3 obtained music from Apple on only one occasion, and that was after filing his complaint. (Request
4 at 3.) The Court finds that Defendant's request for leave to file a summary judgment motion is based
5 purely on a challenge to Plaintiff Slattery's standing. Since this is a class action lawsuit, substitution
6 of a proper class representative is permissible. Accordingly, the Court DENIES Defendant's request
7 for leave to file a motion for summary judgment at this time.

8 The Court sets **May 8, 2006 at 9 a.m.** as a hearing date for Plaintiff's motion for leave to file
9 Second Amended Complaint. The parties shall follow the briefing schedule pursuant to the Civil
10 Local Rules of this Court. The Court will also conduct a case management conference on the same
11 date at 10 a.m. where the Court will discuss a new schedule for the case. The previously set case
12 management for April 17, 2006 is effectively vacated.

13
14 Dated: March 23, 2006



JAMES WARE
United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

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8 **Dated: March 23, 2006**

Richard W. Wieking, Clerk

9 **By: /s/ JW Chambers**
10 _____
11 **Melissa Peralta**
12 **Courtroom Deputy**