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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

The Apple iPod iTunes Antitrust Litigation NO. C 05-00037 JW

**ORDER REQUIRING FURTHER
SUPPLEMENTAL BRIEFING**

_____ /

A hearing on Plaintiffs’ Motion for Class Certification in this case is scheduled for June 27, 2011. On May 19, 2011, the Court denied Plaintiffs’ Motion for Class Certification as premature.¹ The Court explained that it lacked information necessary to certify the class, and accordingly, the Court ordered further briefing to address the issues of how the class should be defined and the length of the class period. (*Id.* at 14-15.) On June 6, 2011, the parties filed supplemental briefs to address those issues.² However, in their supplemental briefs, neither party provided a sufficient definition of

¹ (Order Granting in part and Denying in part Defendant’s Motion for Summary Judgment; Denying as Premature Plaintiffs’ Motion for Class Certification, hereafter, “May 19 Order,” Docket Item No. 627.)

² (See Supplemental Brief in Support of Plaintiffs’ Renewed Motion for Class Certification and Response to Court’s May 19, 2011 Order, hereafter, “Plaintiffs’ Brief,” Docket Item No. 629; Apple’s Supplemental Brief Re Class Certification, hereafter, “Defendant’s Brief,” Docket Item No. 633.) In addition, on June 22, 2011, Defendant filed a Request for Leave and Supplemental Brief Re Wal-Mart Stores Inc. v. Dukes, contending that the Supreme Court’s June 20, 2011 decision in Dukes has a significant effect on Plaintiffs’ Motion for Class Certification. (See Docket Item No. 638.)

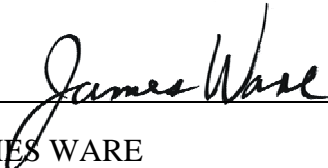
United States District Court
For the Northern District of California

1 the class. Thus, the Court finds that it would benefit from further supplemental briefing on these
2 issues as well as new issues that would potentially impact the class that the Court has identified.

3 Accordingly, on or before **June 23, 2011**, the parties shall file simultaneous supplemental
4 briefs addressing: (1) the specific definition of the products at issue in the class period, namely
5 whether the class consists of purchasers of all iPod products (e.g., iPod Shuffle, iPod Nano, etc.); (2)
6 the geographic scope of the class; and (3) the effect of the Supreme Court's decision in Dukes on
7 Plaintiffs' Motion for Class Certification.

8 The hearing on the Motion for Class Certification remains set for **June 27, 2011 at 9 a.m.**

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11 Dated: June 22, 2011



JAMES WARE
United States District Chief Judge

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

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Dated: June 22, 2011

Richard W. Wieking, Clerk

By: /s/ JW Chambers
Susan Imbriani
Courtroom Deputy