

Declaration of Roy A. Kartiel In Support
Of Plaintiffs' Motion for Class Certification
Charoensak et. al. v. Apple Computer, Inc., 05-cv-37 JW

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SOMTAI TROY CHAROENSAK and
MARIANNA ROSEN, Individually and on
Behalf of All Others Similarly Situated,
Plaintiff,
v.
APPLE COMPUTER, INC.,
Defendants.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

No. C-05-00037 JW

DECLARATION OF ROY A. KATRIEL IN
SUPPORT OF PLAINTIFFS' MOTION FOR
CLASS CERTIFICATION

Date: April 16, 2007
Time: 9:00 am
Place: Courtroom 8, 4th Floor

Michael D. Braun (#167416)
BRAUN LAW GROUP, P.C.
12400 Wilshire Boulevard,
Suite 920
Los Angeles, CA 90025
Telephone: (310) 442-7755
Facsimile: (310) 442-7756
Roy A. Kartiel (*pro hac vice application filed*)
THE KATRIEL LAW FIRM
1101 30th Street, NW
Suite 500
Washington, DC 20007
Telephone: (202) 625-4342
Jacqueline Sailer
Eric J. Belth (*pro hac vice*)
MURRAY, FRANK & SAILER LLP
275 Madison Avenue
Suite 801
New York, NY 10016-1101
Telephone: (212) 682-1818
Facsimile: (212) 682-1892
Counsel for Plaintiff

Declaration of Roy A. Katriel In Support
Of Plaintiffs' Motion For Class Certification
Charoensak et. al. v. Apple Computer, Inc., 05-cv-37 JW

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I, Roy A. Katriel, declare:

1. I am a partner at The Katriel Law Firm located at 1101 30th Street, NW Suite 500 in

Washington, DC, am counsel for plaintiffs in the above-entitled action, and am admitted to practice
pro hac vice before this Court in this action. I make this declaration out of my personal knowledge,
and if called upon to testify, I would and could do so as stated herein.

2. Attached hereto as Exhibit 1 is a true and correct copy of Defendant's Responses o
Plaintiffs' First Set of Interrogatories Direct at Defendant Apple Computer, Inc. in this action.

3. Attached hereto as Exhibit 2 is a firm biography detailing the experience and
qualifications of The Katriel Law Firm.

4. Attached hereto as Exhibit 3 is a true and correct copy of the receipt of plaintiff
Somjai Troy Charoensak for the purchase of his Apple iPod from the Apple Store.

5. Attached hereto as Exhibit 4 is a true and correct copy of the Purchase History of plaintiff
Somjai Troy Charoensak, documenting his purchases from Apple's iTunes music store.

6. Attached hereto as Exhibit 5 is a true and correct copy of a credit card statement
belonging to plaintiff Marianna Rosen, documenting her purchase of an Apple iPod from the Apple
Store.

7. Attached hereto as Exhibit 6 is a true and correct copy of a receipt documenting plaintiff
Marianna Rosen's second purchase of an Apple iPod from the Apple Store.

8. Attached hereto as Exhibit 7 is a true and correct copy of the Purchase History of
plaintiff Marianna Rosen, documenting her purchases from Apple's iTunes music store.

I declare under penalty of perjury under the laws of the United States of America that the foregoing
is true and correct.

Executed this 22nd day of January, 2007 in Washington, DC.

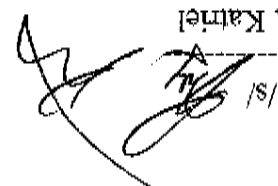
/s/ 
Roy A. Katriel

EXHIBIT 1

Responses to First Set of Interrogatories
C 05 00037 JW

SFI-537269V7

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Propounding Parties: Plaintiffs Somjai Troy Charoensak and Mariana Rosen
Responding Party: Defendant Apple Computer, Inc.
Set: One

SOMJAI TROY CHAROENSAK and
MARIANA ROSEN, individually, and
on behalf of all others similarly situated,
Plaintiffs,
v.
APPLE COMPUTER, INC.,
Defendant.

Case No. C 05 00037 JW
DEFENDANT'S RESPONSES TO
PLAINTIFFS' FIRST SET OF
INTERROGATORIES DIRECTED AT
DEFENDANT APPLE COMPUTER, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Robert A. Mittelstaedt #060359
Caroline N. Mitchell #143124
Adam R. Sand #217712
Tracy M. Strong #221540
JONES DAY
555 California Street, 26th Floor
San Francisco, CA 94104
Telephone: (415) 626-3939
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ramittelstaedt@jonesday.com
cmitchell@jonesday.com
ewallace@jonesday.com
arsand@jonesday.com
Attorneys for Defendant
APPLE COMPUTER, INC.

1 By agreement of the parties, defendant Apple Computer, Inc. ("Apple") submits this
2 response to the First Set of Special Interrogatories originally served by then-plaintiff Slattery and
3 objected to by Apple when Slattery announced that he intended to withdraw from this case and
4 seek leave to substitute other plaintiffs in his stead.
OBJECTIONS
5
6 **Argumentative:** Apple objects to this discovery as argumentative to the extent it purports
7 to represent as fact matters that are disputed in the underlying litigation or mischaracterizes the
8 law. By responding, Apple in no way admits the accuracy of plaintiffs' characterization of either
9 the facts or the applicable law. This objection will hereafter be referred to as the "Argumentative
10 Objection."
11 **Burden:** Apple objects to the breadth and burden of this discovery in relationship to its
12 relevance. Apple objects to the extent this discovery seeks "all" responsive information
13 regardless of its materiality and relevance. Apple further objects to the extent producing pursuant
14 to a "sufficient to show standard," or in an alternative form, is more reasonable under the
15 circumstances. Apple will not produce documents or information in response to this request that
16 exceeds the discovery that plaintiffs are entitled to under the applicable statutes or rules. This
17 objection will hereafter be referred to as the "Burden Objection."
18 **Compound:** Apple objects to the extent that this discovery violates the applicable
19 procedural statutes or rules to the extent that it is compound, conjunctive or disjunctive, resulting
20 in plaintiffs disguising the true amount of discovery they are taking and makes the call of the
21 question (or questions) impossible to ascertain. Apple will treat each subpart as a separately
22 propounded request. This objection will hereafter be referred to as the "Compound Objection."
23 **Geographic Location:** Apple objects to the discovery to the extent it imposes on Apple
24 an obligation to search for and produce materials unrelated to the geographic scope at issue in this
25 case. For example, Apple will not produce information or documents discussing any geographic
26 regions outside the United States. This objection will hereafter be referred to as the "Geographic
27 Location Objection."
28

1 **Reasonable and Diligent Search Objection:** Apple objects to the discovery to the
2 extent it is overbroad and purports to require Apple to search broadly for responsive materials
3 from persons who will not have responsive information. Apple will conduct a reasonable and
4 diligent search for information in their possession, custody and control. This objection will be
5 referred to hereafter as the "Reasonable and Diligent Search Objection."
6 **Scope and Relevancy:** Apple objects to this discovery to the extent the scope of the
7 requests for which plaintiffs seek responsive material is overbroad, burdensome and oppressive.
8 This occurs when the discovery seeks information that is not reasonably calculated to lead to the
9 discovery of admissible evidence or where the burden of producing the requested material far
10 outweighs the benefit to plaintiffs of its production. Apple further objects to the extent the
11 discovery requests do not relate to class certification issues, based on this Court's November 21,
12 2006, Order Following Further Case Management Conference. By providing information or
13 documents responsive to these discovery requests, Apple is not waiving its right to rely on that
14 Order or agreeing that this discovery relates to class certification issues. This objection will
15 hereafter be referred to as the "Scope and Relevancy Objection."
16 **Time Period:** Apple objects to this discovery to the extent that the time period for which
17 plaintiffs ask Apple to respond is overbroad and burdensome. When Apple agrees to respond, but
18 asserts this objection, Apple will respond for the time period from April 28, 2003 through
19 November 30, 2006, unless it is clear from the substance of a request that a shorter period will
20 suffice (e.g., if a request relates to events that did not happen until 2005, Apple will search for
21 documents or information beginning in 2005, not 2004). This objection will hereafter be referred
22 to as the "Time Period Objection."
23 **Vague and Ambiguous:** Apple objects to this discovery to the extent that the terms used
24 are so amorphous and overbroad that they either make the breadth of the request if literally read
25 so overbroad and burdensome as to be unreasonable and beyond the bounds of relevance and/or
26 they make it difficult for Apple to ascertain, with specificity sufficient to allow defendant to
27 conduct a search, what materials plaintiffs is seeking. This objection will hereafter be referred to
28 as the "Vague and Ambiguous Objection."

RESPONSES TO SPECIAL INTERROGATORIES

INTERROGATORY NO. 1: Other than the iPod, identify by brand and model number

and/or name each and every PORTABLE HARD-DRIVE DIGITAL MUSIC PLAYER that you

contend is capable of playing DIGITAL MUSIC FILES purchased from iTunes without first

altering in any way the DIGITAL MUSIC FILE (including without limitation altering and/or

converting the file format, encryption format, Digital Rights Management codes or programs

associated with the file).

RESPONSE TO INTERROGATORY NO. 1: Apple asserts the Scope and Relevancy,

Time Period, Vague and Ambiguous, Burden and Geographic Location objections. Apple also

objects that the phrase "altering in any way" is vague and ambiguous. Subject to these

objections, and without waiving same, Apple responds: Hewlett Packard iPod, Apple Shuffle,

Motorola ROKR, Motorola RAZR v3i and Motorola SLVR are capable of playing Digital Music

Files purchased from iTunes. In addition, copies of Digital Music Files purchased from iTunes may

be played on most if not all Portable Hard-Drive Digital Music Players, such as Creative's,

Microsoft's, Dell's, Rio's, iRiver's, RCA's, Panasonic's, Epson's, Gateway's, Archos', Nokia's

and others by simply copying the original file to an audio CD and loading it onto a computer. It

is unclear from plaintiffs' use of the terms "altering" or "converting" whether copying constitutes

such altering or converting.

INTERROGATORY NO. 2: Other than the iPod, identify by brand and model number

and/or name, each and every PORTABLE HARD-DRIVE DIGITAL MUSIC PLAYER that is

capable of playing DIGITAL MUSIC FILES encoded in Apple's "AAC Protected" format in that

file's native form, without first altering the file in any way (including without limitation altering

and/or converting the file format, encryption format, Digital Rights Management codes or

program's associated with the file).

RESPONSE TO INTERROGATORY NO. 2: See objections and response to No. 1.

INTERROGATORY NO. 3: Other than the iPod, identify by brand and model number

and/or name each and every PORTABLE HARD-DRIVE DIGITAL MUSIC PLAYER that is

capable of playing DIGITAL MUSIC FILES containing Apple's Fairplay Digital Rights

1 Management in that file's native form, without first altering the file in any way (including without
2 limitation altering and/or converting the file format, encryption format, Digital Rights
3 Management codes or programs associated with the file).

4 RESPONSE TO INTERROGATORY NO. 3: See objections and response to No. 1.

5 INTERROGATORY NO. 4: Do you contend that under the iTunes Terms of Service
6 agreement, which is attached hereto as Ex. A, it is permissible for consumers who purchase a
7 DIGITAL MUSIC FILE from iTunes that is subject to Apple's Fairplay Digital Rights
8 Management to burn a copy of that file to a compact disc and rip or transfer that file back to the
9 consumer's computer so that the file may be played in a digital portable hand-drive music player
10 other than an iPod?

11 RESPONSE TO INTERROGATORY NO. 4: Apple asserts the Scope and Relevancy,
12 Compound, Time Period, Argumentative, Vague and Ambiguous and Burden objections. Subject
13 to these objections, and without waiving same, Apple responds: Yes, under the Terms of Service
14 Agreement, consumers may burn copyrighted songs to an audio CD and use them for personal,
15 noncommercial use.

16 INTERROGATORY NO. 5: Do you contend that burning onto a compact disc a
17 DIGITAL MUSIC FILE that is purchased from iTunes and "RIPPING" that file back into a
18 computer so as to circumvent Apple's Fairplay Digital Rights Management violates any of
19 Apple's Terms of Service, agreements, policies, licenses, rules, policies, and/or practice that are
20 or were in effect during any portion of the Class Period identified in the First Amended
21 Complaint in this action?

22 RESPONSE TO INTERROGATORY NO. 5: Apple asserts the Scope and Relevancy,
23 Compound, Time Period, Argumentative, Vague and Ambiguous, Geographic Location and
24 Burden objections. Apple also objects to the phrase "so as to circumvent Apple's Fairplay Digital
25 Rights Management" as vague, ambiguous and argumentative which renders this request
26 unintelligible and an incomplete hypothetical. Subject to these objections, and without waiving
27 same, Apple responds: Apple makes no such contention. Under Apple's Terms of Service
28

Responses to First Set of Interrogatories
C 05 00037

1 Agreement and licensing agreements with the record labels, consumers may burn copyrighted songs to an audio CD and use them for personal, noncommercial use.

2 INTERROGATORY NO. 6: Unless your answer to Interrogatory No. 5 is an unequivocal

3 "No," identify with specificity each such agreement, Terms of Service, policy, license, rule,
4 policy, or practice that you contend the conduct described in Interrogatory No. 5 violates.

5 RESPONSE TO INTERROGATORY NO. 6: See objections and response to No. 5

6 above.

7 INTERROGATORY NO. 7: How many DIGITAL MUSIC FILES have been sold by

8 ITMS since April 28, 2003 to date?

9 RESPONSE TO INTERROGATORY NO. 7: Apple asserts the Reasonable and Diligent

10 Search, Scope and Relevancy, Geographic Location, Time Period and Burden objections. Subject
11 to these objections, and without waiving same, Apple responds: approximately 1,354,598,000

12 audio files were sold from April 28, 2003 through September 30, 2006 in the United States.

13 INTERROGATORY NO. 8: How many iPod units have been sold by Apple since April

14 28, 2003 to date?

15 RESPONSE TO INTERROGATORY NO. 8: Apple asserts the Reasonable and Diligent

16 Search, Scope and Relevancy, Geographic Location, Time Period and Burden objections. Subject
17 to these objections, and without waiving same, Apple responds: 13,251,142 iPods were sold by
18 Apple's retail and online stores in the United States from the beginning of the 3rd Quarter, 2003

19 (April 1, 2003) through the end of the 4th Quarter, 2006 (September 30, 2006).

20 Dated: December 22, 2006

21 Respectfully submitted,

22 JONES DAY

23 By:  Tracy M. Strong

24 Counsel for Defendant
25 APPLE COMPUTER, INC.

SF1-558822v1

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VERIFICATION

Charoensak et al. v. Apple Computer, Inc.

I, Jeff Robbin, am the Vice President of Engineering for the Applications Group of Apple

Computer, Inc. ("Apple") and am authorized to execute this statement for and on behalf of Apple.

I have read the foregoing Defendant's Objections and Responses to Plaintiffs' First Set of

Interrogatories Directed at Defendant Apple Computer, Inc. The information set forth in

the responses is based upon material gathered by employees and agents of Apple. Reserving the

right to correct or amend the responses if inadvertent errors or additional information is

subsequently discovered, I am informed and believe that the matters stated in the responses are

true and correct and on that basis verify that they are true and correct.

I declare under penalty of perjury that the foregoing is true and correct. Executed at

Cupertino, California this 22-day of December, 2006.

By: _____

Jeff Robbin
Jeff Robbin

VERIFICATION

EXHIBIT 2

A host of federal and state laws regulate fair market practices that protect consumers against unfair and deceptive business practices. These unfair practices include false and deceptive advertising or marketing, false labeling, consumer fraud, violations of implied or express warranties, and violations of various statutory and regulatory

Consumer Fraud/False Advertising

Antitrust law seeks to ensure that markets are subject to competitive forces in our free-enterprise system, and remain free from unlawful market manipulation devices like price-fixing, market allocation, monopolization, tying, and other agreements in restraint of trade. By forbidding such practices, antitrust law ensures that businesses and ultimately consumers benefit from the fruits of competition—production of the best possible goods in a competitive market environment. Our firm represents and has represented consumers in class action cases alleging that particular defendant manufacturers, sellers, or dealers have engaged in unlawful monopolization, price-fixing, market allocation, and other agreements in restraint of trade.

Antitrust

Our class action litigation practice focuses primarily on the areas of antitrust, consumer fraud/false advertising, and product liability litigation. Occasionally, however, we litigate specific class action cases that fall outside the foregoing practice areas.

PRACTICE AREAS

The Katriel Law Firm is a law firm specializing in class action litigation. We represent classes of litigants, primarily aggrieved consumers, in litigating their claims on a classwide basis where litigating consumers' individual claims separately would prove to be unfeasible. Our primary areas of focus are antitrust, consumer fraud/false advertising, and product liability class action litigation. We have represented millions of class members in a variety of class action suits, and have successfully settled numerous class action lawsuits.

ABOUT OUR FIRM

THE KATRIEL LAW FIRM
1101 30th Street, NW Suite 500
Washington, DC 20007
Telephone: (202) 625-4342
Facsimile: (202) 625-6774
email: rak@katriellaw.com

that benefited the class.
various state courts, this matter was settled as part of a nationwide class action settlement
litigation by The Kartiel Law Firm in federal court, and by other plaintiffs' firms in
account payments in its "no payment no interest" store credit card. After successful
case in which plaintiffs alleged that Home Depot, Inc. deceptively allocated consumers'
King v. The Home Depot. The Kartiel Law Firm successfully settled this class action
class action settlement.
Kartiel Law Firm in federal district court, the court issued its final order approving the
electric seat heaters in the vehicles were defective. After successful litigation by The
owners and lessees of thousands of Volkswagens Jetta automobiles, who alleged that the
successful settlement of a product liability class action lawsuit brought on behalf of
Holiday v. Volkswagen of America. The Kartiel Law Firm was lead counsel in this

settlement benefiting the class.
Second Circuit, the district court entered its final order approving a class action
Law Firm, which included litigation before the United States Court of Appeals for the
modern device from defendants. After zealous and successful litigation by The Kartiel
defendants unlawfully tied the sale of their subscription service to the leasing of a cable
of Time Warner Cable high-speed Internet service. The complaint alleged that
settlement of an antitrust class action lawsuit brought on behalf of millions of subscribers
Sevier v. Time Warner Cable. The Kartiel Law Firm was lead counsel in this successful

REPRESENTATIVE CLASS ACTION SETTLEMENTS

Product liability law, a subset of tort law, addresses the injury caused to users and
purchasers of products that are defectively designed, manufactured, or improperly
labeled. Potential remedies for such violations may include compensatory money
damages, statutory or punitive damages, as well as appropriate equitable or injunctive
relief to remedy the harm caused by the allegedly defective product. Our firm represents
and has represented consumers in class action cases involving a whole host of industries
and consumer products that are alleged to be defective.

Product Liability

requirements aimed at ensuring consumer protection. Our firm represents and has
represented consumers in class action cases who allege that they have been injured as a
result of manufacturers' or sellers' unfair or deceptive business practices.

Kline v. McNeil Nutritionals. The Katriel Law Firm is lead counsel in this class action case that alleges that defendants engaged in false advertising and labeling, as well as other unfair and deceptive practices in connection with the marketing and sales of an artificial sweetener.

Ziegler v. Pacific Bell. The Katriel Law Firm is lead counsel in this unfair competition class action brought on behalf of millions of subscribers of Pacific Bell's California local telephone service, who allege that Pacific Bell engaged in unfair competition in its provision of local telephone service in California during the class period.

Stein v. SBC. The Katriel Law Firm is lead counsel in this antitrust class action brought on behalf of hundreds of thousands of subscribers of Pacific Bell's DSL service, who allege that defendants unlawfully monopolized the market for DSL service in California during the class period.

REPRESENTATIVE CLASS ACTION CASES

EXHIBIT 3

Tell us about your experience at the Apple Store. Visit www.apple.com/feedback/retail.html

Page 1 of 1

sub-total \$269.00
 tax @8.5% \$22.87
 total \$291.87
 Payment Method
 Visa (A) 7026 600583
 Total Taxes \$291.87
 Change Due \$0.00

Product Description Warranty Return Date Support Contact Unit Price Qty
 iPod touch (128GB) Effective through Dec. 05, 2004 \$299.00 fee if opened 1
 - Part Number M928LL/A
 - Serial Number JQ43855P39
 Individual Educator \$299.00 (\$30.00)



Receipt ID

Date November 21, 2004
 Customer Sornali Charansek
 Address 1774 27th Ave, San Francisco, CA 94122
 Phone
 Email

1774 27th Ave
 San Francisco, CA 94122
 Tel: 415.399.1000
 Fax: 415.399.1001
 www.apple.com



Apple Inc.

EXHIBIT 4

CHAROENSAK 000002

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Viewing Batch 2 out of 3

Order Date	Order	Titles Included in order	Total Price
06/19/06	M223643301	Pearl Jam	\$9.99
06/19/06	M21893912	Outlaws	\$9.99
05/16/06	M20584907	Because of You	\$1.99
05/17/06	M203447180	Blow the Whistle (Main Version), Shogun-Lungs and Lubbels for the Film Circus George	\$10.99
05/02/06	M197890303	Because of You	\$0.99
03/24/06	M177618907	Both Sides of the Gun	\$12.99
03/22/06	M176530023	The Blower's Daughter Gift for kiyavong@gmail.com (Redeemed: 03/25/06 08:21 AM)	\$0.99
02/17/06	M15664067	Friday I'm in Love	\$0.99
02/14/06	M156642830	BB aka Come Down On Me, BB aka Only Time, The Fruity Track	\$2.97
01/18/06	M14265532	Homage to Paganini, Come, Nervous Tension, Kneel Before Your God, A Tune for Jack, His Majest...	\$8.91
01/17/06	M13830551	Shake That Monkey	\$0.99

Viewing Batch 1 out of 3

Order Date	Order	Titles Included in order	Total Price
12/22/06	M30280480	Santa Claus Is Comin' to Town, Merry Christmas Baby, Streets of Philadelphia, All I Want for Christmas...	\$9.91
11/01/06	M30141532	Every Man for Himself	\$1.99
10/24/06	M29453115	Over the Rainbow	\$0.99
07/31/06	M245792289	Sex 'n' Money (Featuring Pharell Williams)	\$0.99
07/20/06	M29853434	Gift Certificate for Nancy	\$10.00
07/09/06	M234425348	"?", Three Minutes, Live Together, Die Alone, Pt. 1, Live Together, Die Alone, Pt. 2	\$7.95
07/08/06	M23032730	The Other 45 Days	\$1.99
07/06/06	M232754035	...And Found, Abandoned	\$3.99
07/05/06	M32186642	Man of Science, Man of Faith (Premiere), Acriti, Orientation, Everybody Hates Hugo	\$7.99
06/28/06	M22889786	Step in the Name of Love, Crazy	\$1.99

Secure Connection

Date: 1/23/08 07:00 PM
 Order: M34044458

Item	Artist	Type	Price
Ve Fly Right	Jim Jones	Song	\$0.99
Hips Don't Lie (Featuring Wycle Jean)	Shakira	Song	\$0.99

Subtotal: \$1.98
 Tax: \$0.00
 Credit Card Total: \$1.98

Latest Purchase History

CHAROENSAK 000003

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Order Date	Order	Items Included In order	Total Price
01/04/07	M13048243	It-Fight That Learn Before You Land	\$8.98
12/27/06	M130022727	Gold Digger (Featuring Jamie Foxx), Jesus Walks	\$1.98
12/22/06	M128868875	St Corazon, Eno No Es Niñ, Fiesta Brava, Dress In Candy, La Guapercha, Father On Down the ...	\$11.98
10/01/06	M89370420	Blue Hawaii	\$8.98
07/11/06	M77457463	Casino Ever: Anthology	\$8.98
03/01/06	M40488503	How We Do	\$8.98
01/04/06	M35183760	Headbanger, Disco Inferno, Yo-Yo Ma Plays Ennio Moricone	\$11.97
12/29/05	M34181288	Loyal to the Game	\$8.98
12/19/05	M32828204	The Christmas Song (Merry Christmas to You), White Christmas, White Christmas, White Christmas	\$2.97
12/09/05	M31432150	The Bridge of San Luis Rey (Unabridged)	\$12.95

Viewing Batch 3 out of 3

Previous Purchases

Item	Artist	Type	Price
Via Fly High	Jim Jones	Song	\$0.98
Hip Hop 1.0 (Featuring Wycle D'Jean)	Shalva	Song	\$0.98

Date: 12/20/06 07:00 PM
 Order: M340444458

Latest Purchase

Secure Connection

CHAROENSAK 00007

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Read a Problem
Done

Subtotal: \$0.00
Tax: \$0.00

Name	Artist	Type	Price
Get It Like You Like I	Ben Harper	Song	\$10.00
Pattern (Part) Talk About Murder While Im ...	Ben Harper	Song	
Back Road	Ben Harper	Song	
Grand Migration	Ben Harper	Song	
Both Sides of the Coin	Ben Harper	Song	
Happy Birthday to Your Eyes	Ben Harper	Song	
Cry, What Hold You Now	Ben Harper	Song	
More Than Sorry	Ben Harper	Song	
Peace in Motion	Ben Harper	Song	
Sweet Nothing (Remix)	Ben Harper	Song	
Never Leave Lonely Alone	Ben Harper	Song	
Picture in a Frame	Ben Harper	Song	
Waiting for You	Ben Harper	Song	
Morning Workin	Ben Harper	Song	
Run Ships of the Dawn	Ben Harper	Album	
Run from Sorry	Ben Harper	Album	

Secure Connection
Date: 03/25/05 08:31 AM
Order: M177861280
Invoice: 528186234

Purchase History

Subtotal: \$0.99
Tax: \$0.01
Credit Card Total: \$0.99

Name	Artist	Type	Price
The Shutdown	Ben Harper	Album	\$0.99

Secure Connection
Date: 10/26/05 1:04 PM
Order: M18244857
Invoice: 521497207

Purchase History

Subtotal: \$2.97
Tax: \$0.00
Credit Card Total: \$2.97

Name	Artist	Type	Price
Eye of the Tiger	Ben Harper	Song	\$0.99
Run, I Breathe, I Believe (The Good, the Bad, ...	Ben Harper	Song	
Run, I Breathe, I Believe (The Good, the Bad, ...	Ben Harper	Song	

Secure Connection
Date: 10/25/05 12:59 PM
Order: M108251288
Invoice: 521492284

Purchase History

EXHIBIT 5

EXHIBIT 6

ROSEN 000003

Apple Store, Short Hills

1200 Morris TPKE STE 0102

Short Hills, NJ 07078

Short Hills@apple.com

973-467-4800

www.apple.com/retail/shorthills

September 20, 2006

MARIANNA ROSEN

Contour Showcase Sport for iPod

30GB

\$ 29.95

Part Number G541LL/A

Warranty effective through Sep. 18,

2008

Return Date: Oct. 04, 2006

Customer Service - 800-462-6678

iPod, 30GB - Black

\$ 249.00

Part Number MA46LL/A

Serial Number M63563V9M

Warranty effective through Sep. 19,

2007

Return Date: Oct. 04, 2006

\$ 24.90 fee if opened

For Support, Visit -

APPLE.COM/SUPPORT

iPod On Stage II UD Black

\$ 129.95

Part Number K199VCA

Warranty effective through Sep. 19,

2007

Return Date: Oct. 04, 2006

For Support Contact -

WWW.HARMANKARDON.COM

Sub-Total

\$ 408.90

Tax @ 7.0%

\$ 28.62

Total

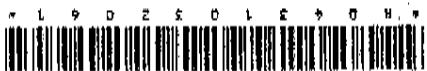
\$ 437.52

Amount Paid Via Master Card (A)

\$ 437.52

XXXXXXXXXXXX9578

020109



Tell us about your experience at the Apple Store. Visit
www.apple.com/feedback/retail.html

EXHIBIT 7

ROSEN 000016

The screenshot shows the iTunes application window. The main area displays a playlist of 11 songs. The songs are listed in reverse chronological order, with the most recent at the top. The playlist includes songs by artists like 'The Roots', 'Puccini', 'M255998871', 'M255998005', 'M246158993', 'M246157523', 'M230259046', 'M225948263', and 'M211911029'. The interface includes navigation buttons for 'Previous', 'Next', and 'Viewing Batch 1 out of 4'. The sidebar on the right contains sections for 'LIBRARY' (Music, Movies, TV Shows, Podcasts, Radio), 'STORE' (iTunes Store), 'DEVICES', and 'PLAYLISTS' (Party Shuffle, 60's Music, Music Videos). The top of the window shows the title bar 'Screen Capture' and standard window controls.

Order	Date	Item
11/25/06	M315734632	Like It Was, Nice She Aint, Bang, Children and Art, Beautiful Girls, The Miracle Song
10/03/06	M283474244	It Takes Two
09/25/06	M278621285	Listen to the Rain On the Roof
09/14/06	M271369317	Puccini: Turandot
08/19/06	M255998871	Forever, Eights, Somyday, Find, Wave Force, Point Zero, Mind Games
08/19/06	M255998005	The Colours, Easter Island, Easter Island (Cyrnus X Mix), Mongoose
08/10/06	M246158993	Here It Is, By the Rivers Dark, Alexandra Leaving, You Have Loved Enough, Boogie Street
08/10/06	M246157523	In My Secret Life, Closing Time
07/01/06	M230259046	If I Had a Hammer, A Hard Rain's A Gonna Fall, Staggy Lee, Gates of Eden, It's All Over N
06/23/06	M225948263	Living With Wer, Juicebox
05/28/06	M211911029	Russian Girls, Tennessee Stud

ROSEN 000017

The screenshot shows the iTunes Store interface during a purchase confirmation. The main area displays a list of items with their respective prices:

Item	Price
Like 8 Was, Nice She Aint, Bang, Children and Art, Beautiful Girls, The Miracle Song	\$1.99
It Takes Two	\$1.99
Listen to the Rain On the Roof	\$1.99
Puccini: Turandot	\$19.98
Forever, Eights, Someday, Find, Wave Force, Point Zero, Mind Games	\$10.99
The Colours, Easter Island (Cygnus X Mix), Mongoose	\$0.99
Here it is, By the Rivers Dark, Alexandra Leving, You Have Loved Enough, Boogie Street	\$0.00
In My Secret Life, Closing Time	\$1.99
If I Had a Hammer, A Hard Rain's A Gonna Fall, Stagger Lee, Gates of Eden, It's All Over Now, Baby...	\$0.00
Living With War, Juicebox	\$11.99
Russian Girls, Tennessee Stud	\$1.98

Below the list, the total price is shown as \$12.76. The interface also includes a sidebar with navigation options: Library, Music, Movies, TV Shows, Podcasts, Radio, iTunes Store, Devices, Playlists, and Selected Items. The bottom of the screen features playback controls and a search bar.

ROSEN 000018

The screenshot shows the iTunes application window. The main area displays a list of music tracks with columns for Order Date, Order, and Titles included in order. The tracks are listed in reverse chronological order. Below the list are navigation buttons for 'Previous', 'Next', and 'Viewing Batch 2 out of 4'. The sidebar on the right contains sections for 'LIBRARY' (Music, Movies, TV Shows, Podcasts, Radio), 'STORE' (iTunes Store), 'DEVICES' (The Essential...), and 'PLAYLISTS' (Party Shuffle, 60's Music, Music Videos, Selected Item). The top of the window shows the title bar 'iTunes' and standard OS window controls.

Order Date	Order	Titles included in order
05/28/06	MZ11903312	Hurricane, Jockeyman, Maggie's Farm, Mr. Tambourine Man, Positively 4th Street, Bad, Bad
05/22/06	MZ06815915	Remember, Pt. 2, Wish You Were Here, Another Brick in the Wall, Pt. 1, Another Brick in th
05/16/06	MZ05671810	No One is Alone
05/09/06	M201897419	I Know Things Now
05/03/06	M198484683	It Wasnt Meant to Happen
04/18/06	M190496897	Dont Look At Me
04/05/06	M183683138	Everybody Says Dont
03/29/06	M180180498	Could I Leave You?
03/15/06	M172662202	There is No Other Way
02/23/06	M161933953	Silly People, Thank You So Much
02/01/06	M14982635	Help Wanted / Reel Blower, Bubblestand / Ripped Pants, Jellyfish / Plankton
01/30/06	M146679196	Ferdinand the Bull, Good Scouts

Previous Purchases

Viewing Batch 2 out of 4

Previous Next

Titles included in order

Order Date Order Titles included in order

Office Party
Shorts International
Video

LIBRARY
Music
Movies
TV Shows
Podcasts
Radio

STORE
iTunes Store

DEVICES
The Essential...
Party Shuffle
60's Music
Music Videos
Selected Item

PLAYLISTS

Account Information
Purchase History
Search iTunes Store

File Edit Controls View Store Advanced Help

ROSEN 000019

Apple iTunes Store interface showing a purchase confirmation screen. The main area displays a list of items included in the order, including tracks like "Help Wanted / Reel Blower, Bubbstand / Ripped Pants, Jellyfish / Plendon" and "Hurricane, Jockeyman, Maggie's Farm, Mr. Tambourine Man, Positively 4th Street, Bad, Bad Leroy Brown, Remember, Pt. 2, Wish You Were Here, Another Brick in the Wall, Pt. 1, Another Brick in the Wall, Pt. 2". The total price is \$39.98. The interface also shows a sidebar with navigation options like "LIBRARY", "STORE", "PLAYLISTS", and "DEVICES".

Item Name	Price
Hurricane, Jockeyman, Maggie's Farm, Mr. Tambourine Man, Positively 4th Street, Bad, Bad Leroy Brown, Remember, Pt. 2, Wish You Were Here, Another Brick in the Wall, Pt. 1, Another Brick in the Wall, Pt. 2	\$0.99
No One is Alone	\$1.99
I Know Things Now	\$1.99
It Wasnt Meant to Happen	\$1.99
Dont Look At Me	\$1.99
Everybody Says Dont	\$1.99
Could I Leave You?	\$1.99
There is No Other Way	\$1.99
Silly People, Thank You So Much	\$3.98
Help Wanted / Reel Blower, Bubbstand / Ripped Pants, Jellyfish / Plendon	\$5.97
Ferinand the Bull, Good Scouts	\$3.98
Total Price	\$39.98

Subtotal: \$1.99
Tax: \$0.14
Credit Card Total: \$2.13

Viewing Batch 2 out of 4

Titles included in order

Shots International Video

LIBRARY: Music, Movies, TV Shows, Podcasts, Radio

STORE: iTunes Store

PLAYLISTS: Party Shuffle, 60's Music, Music Videos

DEVICES: The Essential...

Selected Item

Account for location: Purchase History

Special iTunes Store

File Edit Controls View Store Advanced Help

ROSEN 000020

The screenshot displays the iTunes Store interface. At the top, there are navigation icons and a search bar. The main content area shows a list of music purchases with columns for Order Date, Order, and Titles included in order. Below the list are buttons for 'Previous Purchases', 'Previous', 'Next', and 'Viewing Batch 3 out of 4'. The right sidebar contains sections for 'Selected Item', 'PLAYLISTS', 'DEVICES', 'STORE', and 'LIBRARY'. The bottom of the window features playback controls and the iTunes logo.

Order Date	Order	Titles included in order
01/25/06	M148022780	There's Something About a War
01/16/06	M141411752	Is This It, We're Gonna Be All Right
01/08/06	M137377937	One More Kiss
12/23/05	M127811489	Sorry, Forbidden Love, Blown' in the Wind, Five Feet High and Rising, Knockin' On Heaven Hung Up
12/17/05	M125183263	For the Birds, Boundin', Knick Knack, Tin Toy, Gert's Game
12/12/05	M120754035	Coming Home
12/05/05	M119804681	Wish I Could Forget You, Color and Light, The Sun Wont Set, That's Good, That's Bad
11/30/05	M118963645	Next (Premiere), You Could Drive a Person Crazy, My Heart Belongs to Daddy, They Aske
09/08/05	M92286167	Stronger Than Pride, No Ordinary Love, Your Love is King, Jezebel, The Sweetest Taboo,
08/09/05	M84192706	Kontome, Emotan, Underwater World, 9 PM (Till I Come), Don't Stop, Movin' Melodies, Sunk
03/16/05	M49977050	Romance for Guitar and String Orchestra, The Three Tenors in Concert

Navigation buttons: Previous Purchases, Previous, Next, Viewing Batch 3 out of 4

Right Sidebar:

- Selected Item
- Music Videos
- 60's Music
- Party Shuffle
- PLAYLISTS
- The Essential...
- DEVICES
- iTunes Store
- STORE
- Radio
- Podcasts
- TV Shows
- Movies
- Music
- LIBRARY

Bottom Bar: File, Edit, Controls, View, Store, Advanced, Help, iTunes logo, playback controls

ROSEN 000021

The screenshot displays the iTunes Store interface. At the top, there are navigation buttons: "Clone" and "Report a Problem". Below these is a list of music items with their titles and prices. The items listed include:

- There's Something About a War: \$1.99
- Is This It, We're Gonna Be All Right: \$2.98
- One More Kiss: \$1.99
- Sorry, Forbidden Love, Blowin' in the Wind, Five Feet High and Rising, Knockin' On Heaven's Door, P...: \$35.64
- Hung Up: \$0.99
- For the Birds, Boundin', Knock Knock, Tin Toy, Gert's Game: \$9.95
- Coming Home: \$1.99
- I Wish I Could Forget You, Color and Light, The Sun Won't Set, That's Good, That's Bad: \$9.95
- Next (Premiere), You Could Drive a Person Crazy, My Heart Belongs to Daddy, They Asked Me Why I...: \$7.96
- Stronger Than Pride, No Ordinary Love, Your Love Is King, Jezebel, The Sweetest Taboo, Teardrop...: \$17.82
- Konoma, Emotion, Underwater World, 9 PM (Till I Come), Don't Stop, Movin' Melodies, Sunburn: \$24.84
- Romance for Guitar and String Orchestra, The Three Tenors in Concert: \$10.98

Below the list, it says "Total Price" and "Items included in order". A progress indicator shows "Viewing Batch 3 out of 4". At the bottom left, there is a "Credit Card Total: \$21.13" and a "Tax: \$0.14".

The right sidebar contains navigation options: "STORE" (iTunes Store), "LIBRARY" (Music, Movies, TV Shows, Podcasts, Radio), "DEVICES" (The Essential...), and "PLAYLISTS" (Party Shuffle, 60's Music, Music Videos). A "Selected Items" section is also visible.

The bottom control bar includes a search field, a "Search iTunes Store" button, and playback controls (play, pause, stop, next, previous) with a progress slider.

ROSEN 000022

The screenshot shows the iTunes Store interface. At the top, there are navigation icons and a search bar. The main content area displays a list of music purchases with columns for Order Date, Order, and Item. Below the list are navigation buttons for 'Previous Purchases' and 'Latest Purchase'. A sidebar on the right contains categories like 'STORE', 'LIBRARY', 'DEVICES', and 'PLAYLISTS'. The bottom of the screen features a media control bar with play, pause, and skip buttons, and a volume slider.

Order Date	Order	Item
12/17/04	M32297315	Get Busy
07/18/04	M17445787	Flashbeats Dub, I Will Survive, Bad Girls, Come n' Gimme Your (Orgasmix), Come n' Gimme No
03/26/04	M8916917	Born Too Slow (NileRed Dub), Born Too Slow (Deepsky's Green Absinthe Mix), Zeus No
03/13/04	M7875169	Motion
03/13/04	M7873742	Salvation
03/11/04	M7719948	Close to You, Jai's Grove, Postales, Esta Noche, Ready, Steady, Go, Hypnotised, Southe

Navigation buttons: Previous, Next, Viewing Batch 4 out of 4, Titles included in order.

Categories in sidebar: Music, 60's Music, Party Shuffle, The Essential..., DEVICES, iTunes Store, STORE, Radio, Podcasts, TV Shows, Movies, Music, LIBRARY.

Media control bar: Play, Pause, Skip, Volume slider.

ROSEN 00023

Selected Items

- Get Busy \$0.99
- Flashbeats Dub, I Will Survive, Bad Girls, Come n' Gimme Your (L...
- Born Too Slow (Mudred Dub), Born Too Slow (Deepsky's Green Absurthe Mix), Zeus No Like Tech...
- Kation \$0.99
- Salvation \$0.99
- Close to You, Jeff's Groove, Postales, Esta Noche, Ready, Steady, Go, Hypnotised, Southern Sun \$9.90

Total Price \$21.13

Viewing Batch 4 out of 4

Titles included in order

Artist	Type	Price
Shorts International	Video	\$1.99

Subtotal: \$1.99
 Tax: \$0.14
 Credit Card Total: \$2.13

Date: 12/11/06 04:08 PM
 Order: M324829791
 Invoice: 5423468350

Account Information > Purchase History > Search iTunes Store

LIBRARY
 Music
 Movies
 TV Shows
 Podcasts
 Radio

STORE
 iTunes Store

DEVICES
 The Essential...

PLAYLISTS
 Party Shuffle
 60's Music
 Music Videos

Selected Items