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10 Attorneys for Nominal Defendant
 11 APPLE COMPUTER, INC.

12 **UNITED STATES DISTRICT COURT**
 13 **NORTHERN DISTRICT OF CALIFORNIA**
 14 **SAN JOSE DIVISION**

15 KELLEY BERGMAN, derivatively on behalf
 16 of APPLE COMPUTER, INC.,

Plaintiff,

17 v.

18 FRED D. ANDERSON, WILLIAM V.
 CAMPBELL, TIMOTHY D. COOK,
 19 MILLARD DREXLER, STEVEN P. JOBS,
 RONALD B. JOHNSON, ARTHUR D.
 20 LEVINSON, MITCHELL MANDICH,
 PETER OPPENHEIMER, JONATHAN
 21 RUBINSTEIN, AVADIS TEVANIAN, JR.,
 JEROME B. YORK, and DOES 1 through 20,
 22 inclusive,

Defendants,

23 - and -

24 APPLE COMPUTER, INC.,

25 Nominal Defendant.

Case No. C 06-05374 JW

**STIPULATION AND ~~PROPOSED~~
 ORDER EXTENDING TIME FOR
 DEFENDANTS TO RESPOND TO
 COMPLAINT AND REFERRING
 THIS CASE TO JUDGE JEREMY
 FOGEL**

1 IT IS HEREBY STIPULATED by and between Plaintiff Kelley Bergman and Nominal
2 Defendant Apple Computer, Inc., as follows:

3 WHEREAS, Bergman filed his Complaint on August 31, 2006;

4 WHEREAS, counsel are engaged in discussing the possibility of consolidation of this
5 matter with related cases and/or the subsequent filing of a consolidated complaint;

6 WHEREAS, the undersigned parties wish to further judicial efficiency by deferring
7 responsive pleadings until such time as consolidation issues are addressed;

8 WHEREAS, the undersigned parties believe and agree that pursuant to L.R. 3-12(a) the
9 instant action is related to the following actions deemed related and currently assigned to Judge
10 Jeremy Fogel: (1) *Karant v. Jobs, et al.*, Case No. C06-04128 JF; (2) *Holbert v. Anderson, et al.*,
11 Case No. C06-04454 JF; (3) *Pirelli Armstrong Tire Corporation Retiree Medical Benefits Trust v.*
12 *Anderson, et al.*, Case No. C06-04493 JW; (4) *Port Authority of Allegheny County Retirement*
13 *and Disability Allowance Plan for Employees Represented by Local 85 of the Amalgamated*
14 *Transit Union v. Jobs, et al.*, Case No. C06-04510 PJH; (5) *Alecci v. Anderson, et al.*, Case No.
15 C06-04649; and (6) *Priebe v. Jobs, et al.*, Case No. C06-04703 WHA.

16 NOW, THEREFORE, pursuant to L.R. 6-1, the undersigned parties stipulate as follows:

17 All defendants who have been served to date, and all defendants who shall subsequently
18 accept service and request to be covered by this stipulation, shall have an extension of time to
19 answer or otherwise respond to 30 days after the filing of a consolidated complaint, or in the
20 event that the Court denies a motion for consolidation, the above-described defendants shall
21 answer or otherwise respond to Bergman's Complaint no later than 30 days after such denial.
22 The parties further agree that pursuant to L.R. 3-12(a), this case is related to the above-described
23 cases assigned to Judge Jeremy Fogel, and therefore in the interest of judicial economy and
24 efficiency, the parties respectfully request that this case be referred to Judge Jeremy Fogel.
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1 IT IS SO STIPULATED.

2 Dated: September 5, 2006

GEORGE A. RILEY
DAVID M. FURBUSH
LUANN L. SIMMONS
O'MELVENY & MYERS LLP

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By: /s/ Luann L. Simmons

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Luann L. Simmons

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Attorneys for Nominal Defendant
APPLE COMPUTER, INC.

8

9 Dated: September 5, 2006

JOSEPH W. COTCHETT
BRUCE L. SIMON
MARK C. MOLUMPHY
KELLY L. SOMMERFELD
COTCHETT, PITRE, SIMON &
MCCARTHY

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13

By: /s/ Mark C. Molumphy

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Mark C. Molumphy

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Attorneys for Plaintiff
KELLEY BERGMAN

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CERTIFICATION OF CONCURRENCE

17

I attest under penalty of perjury that concurrence in the filing of this document has been
18 obtained from Mark C. Molumphy.

19

Dated: September 5, 2006

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GEORGE A. RILEY
DAVID M. FURBUSH
LUANN L. SIMMONS
O'MELVENY & MYERS LLP

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By: /s/ Luann L. Simmons

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Luann L. Simmons

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Attorneys for Nominal Defendant
APPLE COMPUTER, INC.

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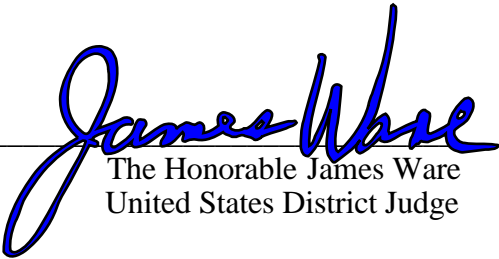
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~~PROPOSED~~ ORDER

Pursuant to stipulation, IT IS SO ORDERED.

Dated: 9/8/06


The Honorable James Ware
United States District Judge

MPI:987182.1