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11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA  
13 SAN JOSE DIVISION  
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15 COUPONS, INC.,  
16 Plaintiff,  
17 v.  
18 JOHN STOTTLEMIRE and DOES 1-10,  
19 Defendants.

Case No. 5:07-CV-03457 HRL

NOTICE OF MOTION AND MOTION  
OF THE ELECTRONIC FRONTIER  
FOUNDATION FOR LEAVE TO FILE  
AMICUS CURIAE BRIEF IN  
SUPPORT OF DEFENDANT'S  
MOTION TO DISMISS

Date: April 22, 2008  
Time: 10:00 A.M.  
Place: Courtroom 2, 5th Floor  
Judge: Hon. Howard R. Lloyd

1 TO PLAINTIFFS, DEFENDANTS AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that on April 22, 2008, at 10:00 AM in Courtroom 2 of  
3 the United States District Court for the Northern District of California, 280 South 1st Street, San  
4 Jose, California, proposed *Amicus Curiae* Electronic Frontier Foundation (“EFF”) will, and  
5 hereby does, move for leave to appear and file the accompanying *amicus curiae* brief in the  
6 above-captioned case in support of Defendant John Stottlemire’s pending Motion to Dismiss.  
7 This Motion is based on this Notice of Motion and the accompanying Declaration of Jennifer  
8 Lynch, submitted herewith.

9 EFF is a member-supported, nonprofit public interest organization devoted to  
10 maintaining the traditional balance that copyright law strikes between the interests of copyright  
11 owners and the interests of the public. Founded in 1990, EFF represents more than 13,000  
12 contributing members including consumers, hobbyists, computer programmers, entrepreneurs,  
13 students, teachers, and researchers united in their reliance on a balanced copyright system that  
14 ensures adequate protection for copyright owners while ensuring access to information in the  
15 digital age.

16 In working to ensure that the public’s traditional rights are preserved as we move  
17 into the digital era, EFF has participated as counsel or *amicus curiae* in many of the leading  
18 cases testing the anticircumvention provisions of the Digital Millennium Copyright Act  
19 (“DMCA”). EFF was counsel for *amicus curiae* Consumer’s Union in *Chamberlain v. Skylink*,  
20 381 F.3d 1198 (Fed. Cir. 2004), which held that a consumer’s right to use his automatic garage  
21 door trumped the manufacturer’s right to lock in the consumer to a single brand of door opener,  
22 even when anti-circumvention measures were involved. EFF also participated in *Lexmark v.*  
23 *Static Control Components*, 387 F.3d 522 (6th Cir. 2004), which held that a consumer’s right to  
24 use remanufactured toner cartridges for a computer printer was not abridged when the original  
25 cartridge manufacturer attempted to invoke the DMCA to protect the communication between  
26 the printer and the cartridge.

27 Plaintiffs’ Complaint is premised on a broad interpretation of what constitutes  
28 access and rights controls under 17 U.S.C. § 1201. Plaintiff alleges, incorrectly, that pure speech

