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UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN JOSE DIVISION

PAUL HOLMAN and LUCY RIVELLO,  
 individually and on behalf of all others  
 similarly situated,

Plaintiffs,

v.

APPLE, INC., AT&T MOBILITY, LLC, and  
 DOES 1 through 50, inclusive,

Defendants.

CASE NO. C 07-05152 JW

**NOTICE OF PENDENCY OF OTHER  
 ACTION OR PROCEEDING**

**[PURSUANT TO L.R. 3-13]**

1 Defendant Apple Inc. (“Apple”) hereby notifies the Court, pursuant to Civil Local  
2 Rule 3-13, of the pendency of two actions which involve the same or similar subject matter and  
3 substantially all of the same parties as the instant case.

4 On October 5, 2007, plaintiff Timothy P. Smith, on behalf of himself and all  
5 others similarly situated, filed a complaint against Apple in the Superior Court for the State of  
6 California, County of Santa Clara, Case No. 1-07-CV-095781 (“*Smith v. Apple*”). As is true with  
7 the instant case, the *Smith* Complaint alleges that Apple’s agreement with AT&T Mobility for  
8 iPhone wireless services, Apple’s version 1.1.1 software release which allegedly disabled some  
9 unlocked iPhones, and other allegedly restrictive practices with respect to the iPhone constitute  
10 unlawful conduct. The Complaint alleges violations of California’s Cartwright Act (California  
11 Business and Professions Code §§ 16720 and 16727), California Business and Professions Code  
12 § 17200, *et seq.* (unfair competition), and common law monopolization.

13 On August 27, 2007, plaintiff Herbert H. Kliegerman, on behalf of himself and  
14 others similarly situated, filed a Complaint against Apple in the Supreme Court of the State of  
15 New York, County of New York, Index No. 111681/2007 (“*Kliegerman v. Apple*”). The  
16 Complaint was subsequently removed, on September 27, 2007, to the United States District  
17 Court for the Southern District of New York, Case No. 1-07-CV-08404-PKC. The *Kliegerman*  
18 Complaint alleges that Apple failed to adequately warn iPhone purchasers that the iPhone was  
19 locked to only accept AT&T SIM cards, that SIM card unlocking codes would not be provided to  
20 iPhone owners, and that iPhone owners would incur roaming charges when traveling abroad.  
21 The Complaint alleges violations of New York General Business Law § 349.

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