

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

NO. C 07-05152 JW  
NO. C 07-05662 RMW

In Re Apple & AT&TM Anti-Trust Litigation

**ORDER RELATING CASES;  
CONSOLIDATING CASES; AND  
SETTING CASE MANAGEMENT  
CONFERENCE**

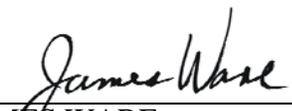
---

Presently before the Court is Defendant Apple, Inc. (“Apple”) Administrative Motion to Consider Whether Cases Should be Related, filed on November 9, 2007. Apple moves the Court to consider whether Timothy Smith, et. al., v. Apple, Inc. et. al., No. C 07-05662 RMW, is related to the above-entitled action. Having considered Apple's submissions, the Court finds the two actions are “related cases” within the meaning of Civ. L.R. 3-12 because they involve substantially the same transaction and parties. Both actions allege causes of actions for anti-trust violations, monopolization, and unfair business practices stemming from Apple’s exclusive agreement with AT&T Mobility, LLC (“AT&TM”) regarding Apple’s iPhone. The Smith action also includes purchasers of music and ringtones from Apple’s iTunes store. However, the causes of action related to this additional group are not substantial when compared to the majority of the causes of action which pertain to the alleged anti-trust violations. Accordingly, the Court, *sua sponte*, consolidates the two actions.

1           Since Holman is the first to filed case, it shall be the lead case. Plaintiffs' counsel for both  
2 actions are appointed Co-Lead Counsel. All future filings shall be filed in C 07-05152 JW and bear  
3 the following caption: *In Re Apple & AT&TM Anti-Trust Litigation*.

4           The Court vacates all previous deadlines and case schedules. A Consolidated Amended  
5 Complaint shall be filed within thirty (30) days from the date of this Order. The parties shall appear  
6 for an Initial Case Management Conference on **January 28, 2008 at 10:00 A.M.** Pursuant to the  
7 Civil Local Rules of Court, the parties shall meet and confer, and file a Joint Case Management  
8 Statement by January 18, 2008.

9  
10 Dated: November 30, 2007

  
\_\_\_\_\_  
JAMES WARE  
United States District Judge

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

- 2 Adrian Frank Davis adrian.davis@lw.com
- Alfred Carroll Pfeiffer Al.Pfeiffer@lw.com
- 3 Arthur William Lazear awl@hoffmanandlazeare.com
- Christopher S. Yates chris.yates@lw.com
- 4 Daniel Allen Sasse dsasse@crowell.com
- Daniel Murray Wall dan.wall@lw.com
- 5 Donald M. Falk dfalk@mayerbrown.com
- H. Tim Hoffman hth@hoffmanandlazeare.com
- 6 Max Folkenflik max@fmlaw.net
- Morgan Matthew Mack mmm@hoffmanandlazeare.com
- 7 David Eldon Crowe dcrowe@crowell.com
- M. Van Smith mvsmith@sbcglobal.net

8  
9 **Dated: November 30, 2007**

**Richard W. Wieking, Clerk**

10  
11 **By: /s/ JW Chambers**  
**Elizabeth Garcia**  
**Courtroom Deputy**

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28