

1 M. Van Smith (CA Bar No. 32007)
 2 Damian R. Fernandez (CA Bar No. 206662)
 3 **LAW OFFICE OF DAMIAN R. FERNANDEZ**
 4 14510 Big Basin Way, Suite A, PMB 285
 5 Saratoga, California 95070-6091
 6 Telephone: (408) 355-3021
 7 Facsimile: (408) 904-7391
 8 Email: mvsmith@sbcglobal.net
 9 damianfernandez@gmail.com

7 Max Folkenflik (*pro hac vice*)
 8 **FOLKENFLIK & McGERITY**
 9 1500 Broadway, 21st Floor
 10 New York, NY 10036
 11 Telephone: (212) 757-0400
 12 Facsimile: (212) 757-2010
 13 Email: max@fmlaw.net

12 Co-Lead Counsel for Plaintiffs and the Proposed Classes
 13 [*Additional counsel on signature page*]

14 **UNITED STATES DISTRICT COURT**
 15 **NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION**

16
 17 In Re Apple & AT&TM Anti-Trust Litigation
 18
 19
 20
 21
 22
 23
 24

NO. C 07-05152 JW

**DECLARATION BY PLAINTIFFS’ CO-
 LEAD COUNSEL DAMIAN R.
 FERNANDEZ AND MAX
 FOLKENFLIK IN SUPPORT OF
 STIPULATION ENLARGING TIME
 FOR PLAINTIFFS TO FILE A
 CONSOLIDATED AMENDED
 COMPLAINT**

(CIVIL LOCAL RULE 6-2(a).)

Judge: Honorable James Ware

25 The undersigned counsel declare:

- 26 1. We are the Co-Lead Counsel for plaintiffs and the purported class in this action.

27 We have personal knowledge of each matter stated herein. We make this declaration in support of

1 Counsel's stipulation to enlarge Plaintiffs' time to file a consolidated amended complaint from
2 December 30, 2007 to January 18, 2008 which is concurrently filed with this declaration.

3 2. On November 30, 2007, the Court *sua sponte* ordered that the Consolidated
4 Amended Complaint be filed by December 30, 2007. Additional time is needed for counsel to work
5 together in completing the Consolidated Amended Complaint because the due date occurs within
6 the holiday season which causes scheduling and coordination issues between plaintiffs' counsel.

7 4. **Previous Modifications of Time.** Counsel for plaintiffs have not previously
8 requested a modification of time to file the Consolidated Amended Complaint.

9 5. **Effect on Schedule for the Case.** The requested time modification has the following
10 effect on the schedule for this case:

<u>Event</u>	<u>Date</u>	<u>New Date</u>
Consolidated Amended Complaint	December 30, 2007	January 18, 2008
Joint Case Management Conference Statement	January 18, 2008	Unchanged
Case Management Conference	January 28, 2008, 10:00 AM	Unchanged

11
12
13
14
15
16
17 Further, in the concurrently filed Stipulation Enlarging Time to File a Consolidated
18 Amended Complaint, counsel for the parties stipulated to the following schedule:

<u>Pleading</u>	<u>Due Date</u>
Answer or Motion	February 25, 2008
Opposition Briefs	March 28, 2008
Reply Briefs	April 11, 2008

19
20
21
22
23 I declare under penalty of perjury that the foregoing is true and correct.

24 Dated: December 22, 2007

Respectfully submitted,

LAW OFFICE OF DAMIAN R. FERNANDEZ

25
26
27 By: /s/ Damian R. Fernandez
M. Van Smith
Damian R. Fernandez

1 **CERTIFICATE OF SERVICE**

2 I am over the age of 18 years, an active member of the State Bar of California, and not a
3 party to this cause. My business address is Law Office of Damian R. Fernandez, 14510 Big Basin
4 Way, Suite A, PMB 285, Saratoga, California 95070-6091.

5 On **December 26, 2007**, I served the document(s) described as:

- 6 **▪ DECLARATION BY DAMIAN R. FERNANDEZ IN SUPPORT OF STIPULATION**
7 **ENLARGING TIME FOR PLAINTIFFS TO FILE A CONSOLIDATED AMENDED**
8 **COMPLAINT**

9 to the parties listed below and in the following manner described preceding each list of recipients:

10 **BY NOTICE OF ELECTRONIC FILING**

11 The following persons were served **electronically** by simultaneously filing the attached
12 document(s) with the United States District Court, Northern District of California, Case No. 07-
13 05152-JW:

14 **Attorneys for Apple**

- | | |
|--------------------------------|---------------------|
| ➤ Adrian Frank Davis | adrian.davis@lw.com |
| ➤ Alfred Carroll Pfeiffer, Jr. | Al.Pfeiffer@lw.com |
| ➤ Daniel Murray Wall | dan.wall@lw.com |
| ➤ Christopher S. Yates | chris.yates@lw.com |

15 **Attorneys For AT&T Mobility**

- | | |
|-------------------------|----------------------|
| ➤ David Eldon Crowe | dcrowe@crowell.com |
| ➤ Donald M. Falk | dfalk@mayerbrown.com |
| ➤ Jeffrey H. Howard | jhoward@crowell.com |
| ➤ Christopher E. Ondeck | condeck@crowell.com |
| ➤ Daniel Allen Sasse | dsasse@crowell.com |
| ➤ Wm. Randolph Smith | wrsmith@crowell.com |

16 **Co-Lead Counsel for Plaintiffs**

- | | |
|---------------------------|-------------------------|
| ➤ Max Folkenflik | max@fmlaw.net |
| ➤ H. Tim Hoffman | hth@hoffmanandlazar.com |
| ➤ Arthur William Lazear | awl@hoffmanandlazar.com |
| ➤ Morgan Matthew Mack | mmm@hoffmanandlazar.com |
| ➤ Alfred C. Pfeiffer, Jr. | al.pfeiffer@lw.com |

17 **BY ELECTRONIC EMAIL**

18 The following persons were served by **regular electronic mail** because they have not
19 registered for Electronic Case Filing with this Court:

20 **Co-Lead Counsel for Plaintiffs**

- | | |
|---------------------|---------------------|
| ➤ Margaret McGerity | mmcgerity@fmlaw.net |
|---------------------|---------------------|

21 **Attorneys For AT&T Mobility**

- | | |
|-------------------------|-----------------------------|
| ➤ Archis A. Parasharami | aparasharami@mayerbrown.com |
|-------------------------|-----------------------------|

22 ///

