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

Stacie Somers,
Plaintiff,
v.
Apple, Inc.,
Defendant.


NO. C 07-06507 JW

**ORDER SPECIALLY SETTING
EVIDENTIARY HEARING AND
HEARING ON PLAINTIFF'S MOTION
FOR CLASS CERTIFICATION**

Presently before the Court is Plaintiff's Motion for Class Certification. (Docket Item No. 39.) Oral argument on this motion is currently scheduled for June 1, 2009. Having reviewed the parties' filings in preparation for the June 1 hearing, the Court finds that the primary disputed issue is whether Plaintiff has proffered a method for class-wide proof of damages. Plaintiff has submitted an affidavit of her expert, Dr. Gary French, in which Dr. French purports to offer four possible methods of calculating class-wide indirect purchaser damages. (See Docket Item No. 45, Ex. 1.) The Court is unable to determine, based solely on Dr. French Affidavit and Defendant's critique of Dr. French's proposed methodologies, whether or not Dr. French has proffered a method that is capable of meeting Plaintiff's class certification burden under Rule 23.

Accordingly, the Court continues the June 1 hearing to **June 5, 2009 at 10 a.m.** for an evidentiary hearing on the issue of Plaintiff's damages calculation methodology and oral argument on Plaintiff's Motion for Class Certification. The parties shall produce all appropriate witnesses for examination, including Dr. French.

Dated: May 20, 2009



JAMES WARE
United States District Judge

United States District Court
For the Northern District of California

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

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Dated: May 20, 2009

Richard W. Wieking, Clerk

By: /s/ JW Chambers
Elizabeth Garcia
Courtroom Deputy