

1 Crystal G. Howard (SBN 224627)
SIMMONSCOOPER LLC
2 100 N. Sepulveda Blvd., Suite 1350
El Segundo, CA 90245
3 Telephone: (310) 332-3555
Facsimile: (310) 332-3655
4 Email: choward@simmonscooper.com

5 Attorneys for Plaintiff
Digital Background Corporation
6

7
8 UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

9
10 _____) Case No.: C 08-03639 RS
11 DIGITAL BACKGROUND)
CORPORATION,)
12)
13 *Plaintiff,*) JOINT STIPULATION TO DISMISS
14 vs.) WITH PREJUDICE
15 APPLE, INC.)
16 *Defendant.*)
_____)

17 JOINT STIPLUATION TO DISMISS WITH PREJUDICE

18 On this day, August 4, 2008, Plaintiff DIGITAL BACKGROUND
19 CORPORATION and Defendant APPLE, INC. announce to the Court that they
20 have settled their respective claims for relief asserted in this cause, and request that
21 the Court dismiss this action in its entirety with prejudice. A proposed order
22 providing this relief is filed herewith.
23
24
25
26
27
28

1 WHEREFORE, the parties jointly request that all claims for relief asserted
2 against APPLE INC. by DIGITAL BACKGROUND CORPORATION and against
3 DIGITAL BACKGROUND CORPORATION by APPLE INC. herein be
4 dismissed with prejudice, and that all attorneys' fees, costs of court, and expenses
5 shall be borne by each party incurring the same.
6
7

<u>Attorneys for Plaintiff</u>	<u>Attorneys for Defendant</u>
8 9 By: <u>/s/ Crystal G. Howard</u> 10 Crystal G. Howard 11 SimmonsCooper LLC 12 100 N. Sepulveda Blvd. 13 Suite 1350 14 El Segundo, CA 90245 (310) 322-3555 (310) 322-3655 – <i>facsimile</i> E-mail: choward@simmonscooper.com	By: <u>/s/ James F. Valentine</u> James F. Valentine Howrey LLP 1950 University Avenue East Palo Alto, CA 94303 (650) 798-3500 (650) 798-3600 – <i>facsimile</i> E-mail: valentinej@howrey.com

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

PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 100 N. Sepulveda Blvd., Suite 1350, El Segundo, California, 90245.

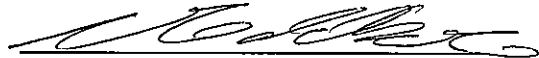
On August 4, 2008, I served the foregoing document described as **JOINT STIPULATION** on each interested party, as stated below.

I (BY MAIL) I placed a true copy of the foregoing document in a sealed envelope addressed to each interested party, as stated on the attached service list. I placed each such envelope, with postage thereon fully prepaid, for collection and mailing with SimmonsCooper LLC, 100 N. Sepulveda Blvd., Suite 1350, El Segundo, California 90245. I am readily familiar with SimmonsCooper LLC's practice for collection and processing of correspondence for mailing with the United States Postal Service. Under that practice, the correspondence would be deposited in the United States Postal Service on that same day in the ordinary course of business.

Executed on August 4, 2008, at 100 N. Sepulveda Blvd., El Segundo, California.

I declare under penalty of perjury that the foregoing is true and correct.

Natalie Goldberg



Served upon:
James F. Valentine
Howrey LLP
1950 University Avenue, 4th Floor
East Palo Alto, CA 94303
(650) 798-3500
(650) 798-3600 - *facsimile*
E-mail: valentinej@howrey.com

Alan Norman
Thompson Coburn LLP
One US Bank Plaza
St. Louis, MO 63101-1611
(314) 552-6000
(314) 552-7000 - *facsimile*
Email: anorman@thompsoncoburn.com

1 Crystal G. Howard (SBN 224627)
SIMMONSCOOPER LLC
2 100 N. Sepulveda Blvd., Suite 1350
El Segundo, CA 90245
3 Telephone: (310) 332-3555
Facsimile: (310) 332-3655
4 Email: choward@simmonscooper.com

5 Attorneys for Plaintiff
Digital Background Corporation
6

7 UNITED STATES DISTRICT COURT
8 NORTHERN DISTRICT OF CALIFORNIA

9 _____)
10 DIGITAL BACKGROUND) Case No.: C 08-03639 RS
11 CORPORATION,)
12)
13 *Plaintiff,*) [PROPOSED] ORDER OF DISMISSAL
14 vs.) WITH PREJUDICE
15 APPLE, INC.)
16 *Defendant.*)
_____)

17 [PROPOSED] ORDER OF DISMISSAL WITH PREJUDICE

18 On this day, Plaintiff DIGITAL BACKGROUND CORPORATION and
19 Defendant APPLE INC., announced to the Court that they have settled their
20 respective claims for relief asserted in this case. The Court, having considered this
21 request, is of the opinion that their request for dismissal should be granted.
22
23
24
25
26
27
28

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

IT IS THEREFORE ORDERED that all claims for relief asserted against APPLE INC. by DIGITAL BACKGROUND CORPORATION and against DIGITAL BACKGROUND CORPORATION by APPLE INC. herein are dismissed, with prejudice.

IT IS FURTHER ORDERED that all attorneys' fees, costs of court and expenses shall be borne by each party incurring the same.

Dated: _____

The Honorable Richard Seeborg
United States District Judge