

1 TOWNSEND AND TOWNSEND AND CREW LLP  
 2 JAMES G. GILLILAND, JR. (State Bar No. 107988)  
 3 MEHRNAZ BOROUMAND SMITH (State Bar No. 197271)  
 4 MEGAN M. CHUNG (State Bar No. 232044)  
 5 J. JEB B. OBLAK (State Bar No. 241384)  
 6 Two Embarcadero Center Eighth Floor  
 7 San Francisco, CA 94111  
 Telephone: (415) 576-0200  
 Facsimile: (415) 576-0300  
 Email: jggilliland@townsend.com  
 mboroumand@townsend.com  
 mmchung@townsend.com  
 jboblak@townsend.com

8 Attorneys for Plaintiff and Counterdefendant  
 9 APPLE INC.

10 UNITED STATES DISTRICT COURT  
 11 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 12 SAN FRANCISCO DIVISION

14 APPLE INC.,

15 Plaintiff,

16 v.

17 PSYSTAR CORPORATION, a Florida  
 18 corporation, and DOES 1-10, inclusive,

Defendants.

19 AND RELATED COUNTERCLAIMS.

Case No. 08-3251 WHA

**DECLARATION OF MEHRNAZ BOROUMAND SMITH IN SUPPORT OF MISCELLANEOUS ADMINISTRATIVE REQUEST FOR AN ORDER PERMITTING THE FILING UNDER SEAL OF (1) PORTIONS OF APPLE INC.’S REPLY BRIEF IN SUPPORT OF ITS MOTION TO DISMISS OR ENJOIN, (2) CERTAIN EXHIBITS TO THE REPLY DECLARATION OF J. JEB B. OBLAK IN SUPPORT THEREOF; (3) REPLY DECLARATION OF DR. JOHN P. J. KELLY AND EXHIBITS THERETO IN SUPPORT THEREOF**

25 I, Mehrnaz Boroumand Smith, declare as follows:

26 1. I am an attorney licensed to practice law in the State of California and am admitted  
 27 to practice before this Court. I am a partner in the law firm of Townsend and Townsend and Crew  
 28 LLP, and am one of the attorneys representing Plaintiff and Counterdefendant Apple Inc.

DECL. OF MEHRNAZ BOROUMAND SMITH ISO MISC. ADMIN. REQ. FOR AN ORDER PERMITTING THE FILING UNDER SEAL OF (1) PORTIONS OF APPLE INC.’S REPLY BRIEF ISO ITS MOTION TO DISMISS OR ENJOIN, (2) CERTAIN EXHIBITS TO THE REPLY DECL. OF J. JEB B. OBLAK IN SUPP. THEREOF; (3) REPLY DECL. OF DR. JOHN P. J. KELLY AND EXHIBITS THERETO IN SUPP. THEREOF  
 CASE NO. 08-3251 WHA

1 (“Apple”) in the above captioned matter. I make this declaration on personal knowledge and if  
2 called as a witness could and would competently testify with respect to the matters stated herein.

3 2. On March 2, 2009, the Court entered a Stipulated Protective order in this case.

4 3. Pursuant to the Stipulated Protective Order entered in this case and Civil Local  
5 Rule 79-5(c), the following documents:

- 6 o Portions of Reply Brief In Support Of Apple Inc.’s Motion To Dismiss Or Enjoin  
7 Prosecution Of The Recently-Filed Florida Action And To Re-Open Discovery For  
8 Limited Purposes
- 9 o Exhibits 1-6 to Reply Declaration Of J. Jeb B. Oblak In Support Of Apple Inc.’s  
10 Motion To Dismiss Or Enjoin Prosecution Of The Recently-Filed Florida Action  
11 And To Re-Open Discovery For Limited Purposes
- 12 o Reply Declaration Of Dr. John P. J. Kelly In Support Of Apple Inc.’s Motion To  
13 Dismiss Or Enjoin and exhibits thereto

14 are sealable because they contain confidential information of Apple and of Psystar Corporation,  
15 which has been designated “CONFIDENTIAL” and “CONFIDENTIAL-ATTORNEYS’ EYES  
16 ONLY.” Since the confidential information has been disclosed in this case under the terms of the  
17 Stipulated Protective Order, the confidential information and documents have not been disclosed  
18 to the public and are maintained in such manner to ensure that they are not disclosed to the public.

19 4. Apple will lodge with the Clerk a sealed copy of these documents pursuant to Civil  
20 L.R. 79-5(c).

21 I declare under penalty of perjury under the laws of the United States that the foregoing is  
22 true and correct to the best of my knowledge and belief.

23 Executed on September 21, 2009, at San Francisco, California.

24 /s/Mehrnaz Boroumand Smith  
25 MEHRNAZ BOROUMAND SMITH

26 62224148 v1

1 **CERTIFICATE OF SERVICE**

2 I, Diane G. Sunnen, declare I am employed in the City and County of San Francisco,  
3 California in the office of a member of the bar of this court at whose direction this service was  
4 made. I am over the age of eighteen and not a party to this action. My business address is  
Townsend and Townsend and Crew LLP, Two Embarcadero Center, Eighth Floor, San Francisco,  
California, 94111.

5 I served the following documents exactly entitled: **DECLARATION OF MEHRNAZ**  
6 **BOROUMAND SMITH IN SUPPORT OF MISCELLANEOUS ADMINISTRATIVE**  
7 **REQUEST FOR AN ORDER PERMITTING THE FILING UNDER SEAL OF**  
8 **(1) PORTIONS OF APPLE INC.’S REPLY BRIEF IN SUPPORT OF ITS MOTION TO**  
9 **DISMISS OR ENJOIN, (2) CERTAIN EXHIBITS TO THE REPLY DECLARATION OF J.**  
10 **JEB B. OBLAK IN SUPPORT THEREOF; (3) REPLY DECLARATION OF DR. JOHN P. J.**  
11 **KELLY AND EXHIBITS THERETO IN SUPPORT THEREOF** on the interested parties in this  
12 action following the ordinary business practice of Townsend and Townsend and Crew LLP, as  
13 follows:

14 K.A.D. Camara email: [camara@camarasibley.com](mailto:camara@camarasibley.com)  
15 Camara & Sibley LLP  
16 2339 University Boulevard  
Houston, TX 77005  
Phone: 713-893-7973  
Fax: 713-583-1131

17 David Vernon Welker email: [david.welker@werolaw.com](mailto:david.welker@werolaw.com)  
18 Welker & Rosario  
19 2230 Skillern Drive  
20 Boise, Idaho 83709  
21 Phone: 949-378-2900  
22 Fax: 717-924-6627

23  [By First Class Mail] I am readily familiar with my employer’s practice for  
24 collecting and processing documents for mailing with the United States Postal Service. On the date  
25 listed herein, following ordinary business practice, I served the within document(s) at my place of  
26 business, by placing a true copy thereof, enclosed in a sealed envelope, with postage thereon fully  
27 prepaid, for collection and mailing with the United States Postal Service where it would be  
28 deposited with the United States Postal Service that same day in the ordinary course of business.

[By Overnight Courier] I caused each envelope to be delivered by a commercial  
carrier service for overnight delivery to the offices of the addressee(s).

[By Hand] I directed each envelope to the party(ies) so designated on the service list  
to be delivered by courier this date.

[By Facsimile Transmission] I caused said document to be sent by facsimile  
transmission to the fax number indicated for the party(ies) listed above.

[By Electronic Transmission] I caused said document to be sent by electronic  
transmission to the e-mail address indicated for the party(ies) listed above via the court’s ECF  
notification system.

26 I declare under penalty of perjury under the laws of the United States of America that the  
27 foregoing is true and correct, and that this declaration was executed on September 21, 2009, at San  
28 Francisco, California.

/s/Diane G. Sunnen  
Diane G. Sunnen

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