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11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

14 DAVID WALSH, an individual, on behalf
of himself, and on behalf of all persons
15 similarly situated,

16 Plaintiff,

17 vs.

18 APPLE, INC.; and Does 1 to 10,

20 Defendants.

CASE No. 3:08-cv-01410-JM-POR

JOINT MOTION TO TRANSFER CASE
TO THE NORTHERN DISTRICT OF
CALIFORNIA AND TO PERMIT
PLAINTIFF TO FILE SECOND
AMENDED COMPLAINT

Judge: Hon. Jeffrey T. Miller
Court: Courtroom 16 (5th Flr.)

26 The parties jointly move and stipulate as follows:

27 WHEREAS, Plaintiff David Walsh brings this action against Defendant Apple, Inc.

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JOINT MOTION TO TRANSFER CASE TO THE NORTHERN DISTRICT OF CALIFORNIA AND TO PERMIT
PLAINTIFF TO FILE SECOND AMENDED COMPLAINT

Case No. 3:08-cv-01410-JM-POR

1 and Does 1-10 on behalf of himself and a putative class of current and former Network
2 Engineer and other employees allegedly similarly situated;

3 WHEREAS, Plaintiff served a summons and copy of his Class and Collective Action
4 Complaint on Defendant Apple, through its agent for service, on or about August 8, 2008,
5 and filed his First Amended Class and Collective Action Complaint ("First Amended
6 Complaint") on or about September 9, 2008;

7 WHEREAS, on or about September 23, 2008, Defendant filed a Motion to Transfer
8 Venue [Doc. No. 7], a Motion to Strike [Doc. No. 6], and a Motion for a More Definite
9 Statement [Doc. No. 10] ("Motions"), which are currently set for hearing on November 14,
10 2008;

11 WHEREAS, Defendant's Motion to Transfer Venue contends that this action should
12 be transferred to the San Jose Division of the Northern District of California pursuant to 28
13 U.S.C § 1404(a), and Defendant's Motion to Strike and Motion for a More Definite
14 Statement contend that the First Amended Complaint is defective and/or indefinite in certain
15 respects;

16 WHEREAS, Defendant Apple, Inc. is a California corporation with headquarters in
17 Cupertino, California, located in the San Jose Division of the Northern District of
18 California;

19 WHEREAS, the parties have met and conferred regarding transferring this action to
20 the San Jose Division of the Northern District of California;

21 WHEREAS, the parties have agreed that transferring this action to the San Jose
22 Division of the Northern District of California is appropriate under 28 U.S.C. § 1404(a),
23 which authorizes a district court to transfer an action to another district court for the
24 convenience of the parties and witnesses and in the interest of justice;

25 WHEREAS, transfer of this action will promote judicial economy and the
26 convenience of the parties;

27 WHEREAS, the parties have further agreed that Plaintiff may file a Second Amended
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1 Complaint to address certain of the issues raised in the Defendant's Motions and that
 2 Defendant may respond to the Second Amended Complaint thirty (30) days after the
 3 Plaintiff files and serves the Second Amended Complaint;

4 IT IS HEREBY STIPULATED that the above-captioned action should be transferred
 5 to the San Jose Division of the Northern District of California, that Plaintiff shall have leave
 6 to file a Second Amended Complaint following the transfer of the action, that Defendant's
 7 Motions set for hearing on November 14, 2008 shall be taken off calendar, and that
 8 Defendant shall have 30 days after the filing and service of the Second Amended Complaint
 9 to answer or otherwise respond to the Second Amended Complaint.

10
 11 DATED: October 21, 2008

BLUMENTHAL & NORDREHAUG

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 13 By: /s/Kyle R. Nordrehaug
 Kyle R. Nordrehaug
 Attorneys for Plaintiff David Walsh

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 15 DATED: October 21, 2008

ORRICK, HERRINGTON & SUTCLIFFE LLP

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 17 By: Joseph C. Liburt
 Joseph C. Liburt
 Attorneys for Defendant Apple, Inc.