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 8 APPLE INC.

9 UNITED STATES DISTRICT COURT  
 10 NORTHERN DISTRICT OF CALIFORNIA  
 11 SAN JOSE DIVISION

13 GIORGIO GOMELSKY,  
 14 on behalf of himself and  
 all others similarly situated,  
 15 Plaintiff,  
 16 v.  
 17 APPLE INC.,  
 18 Defendant.

Case No. C-08-04969 PVT

**DECLINATION TO PROCEED  
 BEFORE A MAGISTRATE  
 JUDGE AND REQUEST FOR  
 REASSIGNMENT TO A UNITED  
 STATES DISTRICT JUDGE**

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**REQUEST FOR REASSIGNMENT TO A UNITED STATES DISTRICT JUDGE**

The undersigned party hereby declines to consent to the assignment of this case to a United States Magistrate Judge for trial and disposition and hereby requests the reassignment of this case to a United States District Judge.

Dated: December 15, 2008

PENELOPE A. PREVOLOS  
ANDREW D. MUHLBACH  
ALEXEI KLESTOFF  
MORRISON & FOERSTER LLP

By: /s/ Penelope A. Preovolos  
Penelope A. Preovolos

Attorneys for Defendant  
APPLE INC.