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5 [ADDITIONAL COUNSEL ON SIGNATURE PAGE]

6 Attorneys for Plaintiff,  
 7 and all others similarly situated

8 **UNITED STATES DISTRICT COURT**  
 9 **NORTHERN DISTRICT OF CALIFORNIA**  
**SAN JOSE DIVISION**

10 ARAM HOVSEPIAN, individually and  
 11 on behalf of all others similarly situated,

12 Plaintiff,

13 vs.

14 APPLE, INC.,

15 Defendant.  
 16  
 17  
 18

Case No. C08-05788 JF

**STIPULATION AND [PROPOSED]  
 ORDER FOR EXTENSION OF  
 TIME FOR PLAINTIFF TO FILE  
 AMENDED COMPLAINT IN LIEU  
 OF OPPOSITION TO  
 DEFENDANT’S MOTION TO  
 DISMISS, AND FOR DEFENDANT  
 TO FILE RESPONSIVE PLEADING  
 TO PLAINTIFF’S AMENDED  
 COMPLAINT**

Date: April 24, 2009  
 Time: 9:00 a.m.  
 Dept. Crtm. 3, 5<sup>th</sup> Floor

19 Plaintiff Aram Hovsepian, individually and on behalf of all others similarly  
 20 situated (“Plaintiff”), and Defendant, Apple, Inc. (“Defendant”), through their  
 21 respective attorneys, hereby set forth as follows:

22 WHEREAS, Defendant filed a Motion to Dismiss Plaintiff’s Complaint  
 23 pursuant to Federal Rule of Civil Procedure Rule 12(b), which is set for hearing  
 24

1 before this Court on April 24, 2009;

2 WHEREAS, Defendant's opposition is due on or before April 3, 2009;

3 WHEREAS, Federal Rule of Civil Procedure Rule 15(a) allows Plaintiff to  
4 amend his complaint once as a matter of right before a responsive pleading is filed;

5 WHEREAS, Defendant's Rule 12(b) Motion is not considered to be a  
6 responsive pleading under the F.R.C.P.;

7 WHEREAS, Plaintiff has met and conferred with Defendant and has  
8 proposed that, in lieu of opposing Defendant's motion, Plaintiff will amend his  
9 complaint, Defendant will withdraw its Motion to Dismiss and the hearing  
10 scheduled for April 24, 2009 will be taken off calendar;

11 WHEREAS, Plaintiff has asked Defendant for an additional two weeks from  
12 the date when Plaintiff's opposition to the motion was due, in order to draft and  
13 file his amended complaint (the "Amended Complaint");

14 WHEREAS, in exchange therefor, Plaintiff has agreed to allow Defendant  
15 45 days to file a responsive pleading to the Amended Complaint;

16 **BASED THEREON, THE PARTIES HEREBY STIPULATE AND**  
17 **AGREE AS FOLLOWS:**

18 In lieu of opposing Defendant's Motion to Dismiss, Plaintiff agrees to file an  
19 Amended Complaint on or before April 17, 2009.

20 Defendant agrees that, upon the Court's approval of this Stipulation,  
21 Defendant's Motion to Dismiss shall be withdrawn.

22 The hearing scheduled for April 24, 2009 will be taken off calendar.

23 Defendant shall have 45 days from the date Plaintiff files his Amended  
24

1 Complaint in which to file a responsive pleading.

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3 **IT IS SO STIPULATED.**

4 Dated: April 3, 2009

Respectfully Submitted,

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By: /s/  
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3 *Attorneys for Plaintiff, ARAM HOVSEPIAN,*  
4 *and all others similarly situated*

5 Dated: April 3, 2009

6 **PAUL, HASTINGS, JANOFSKY &**  
7 **WALKER LLP**

8 /s/ Thomas A. Counts

9 Thomas A. Counts

10 Tammy Lee Kissman

11 David M. Walsh

12 **PAUL, HASTINGS, JANOFSKY &**  
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18 Attorneys for Defendant, APPLE, INC

19 **ECF CERTIFICATION**

20 Pursuant to General Order No. 45, § X.B. the filing attorney attests that he has  
21 obtained concurrence regarding the filing of this document from each of the  
22 signatories to the document

23 Dated: April 3, 2009

24 /s/

Jonathan Shub, Esq.

**PURSUANT TO STIPULATION IT IS SO ORDERED:**

DATED: 4/9/09



Honorable Jeremy Fogel,  
United States District Court Judge