1	DAVID M. WALSH (SB# 120761) davidwalsh@paulhastings.com		
2	PAUL, HASTINGS, JANOFSKY & WALKER LLP 515 South Flower Street		
3	Twenty-Fifth Floor Los Angeles, CA 90071		
4	Telephone: (213) 683-6000 Facsimile: (213) 627-0705		
5	THOMAS A. COUNTS (SB# 148051) tomcounts@paulhastings.com		
6	ERIC A. LONG (SB# 244147) ericlong@paulhastings.com PAUL, HASTINGS, JANOFSKY & WALKER LLP		
7	55 Second Street Twenty-Fourth Floor Sen Ermeisee, CA, 04105, 2441		
8	San Francisco, CA 94105-3441 Telephone: (415) 856-7000 Faccimile: (415) 856-7100		
9	Facsimile: (415) 856-7100		
10	Attorneys for Defendant APPLE INC.		
11	UNITED STATES DISTRICT COURT		
12	NORTHERN DISTRICT OF CALIFORNIA		
13	SAN JOSE DIVISION		
14			
15	ARAM HOVSEPIAN, individually and on behalf of all others similarly situated,	CASE NO. C 08-05788 JF	
16	Plaintiff,	CASE NO. TO BE RELATED: C 09-01064 RS	
17	VS.		
18	APPLE INC. and DOES 1-10 inclusive,	DEFENDANT APPLE INC.'S UNOPPOSED ADMINISTRATIVE MOTION TO HAVE	
19	Defendant.	CASES RELATED	
20		[CIVIL L.R. 3-12 AND 7-11]	
21	ROMAN HUF, on behalf of himself and all	Complaint Filed: December 31, 2008	
22	other similarly situated,	Hon. Jeremy Fogel	
23	Plaintiff,		
24 25	VS.		
25 26	APPLE INC., Defendant.		
20 27			
27			
20		APPLE INC.'S UNOPPOSED ADMIN. MTN.	
	Case No. C 08-05788 JF	TO HAVE CASES RELATED	

1	NOTICE OF MOTION AND MOTION		
2	PLEASE TAKE NOTICE THAT, pursuant to Civil Local Rules 3-12 and 7-11, Defendant		
3	Apple Inc. ("Apple") requests an order from this Court that the following pending actions are		
4	related: Aram Hovsepian v. Apple Inc., Case No. C 08-05788 JF, and Roman Huf v. Apple Inc.,		
5	Case No. C 09-01064 RS.		
6	These actions are related pursuant to Local Rule 3-12 because they involve substantially		
7	the same transaction or event. Relating the cases will avoid unduly burdensome duplication of		
8	labor and expense, as well as the risk of conflicting results. Pursuant to L.R. 7 11(a), counsel for		
9	Apple has conferred with counsel for Plaintiff Roman Huf regarding this motion, and Huf's		
10	counsel does not oppose the relating of the two cases.		
11	This Motion is based on Civil Local Rules 3-12 and 7-11; this Notice of Motion and		
12	Motion; the attached Memorandum of Points and Authorities; and the Stipulation and [Proposed]		
13	Order Relating Cases, filed concurrently herewith; and the pleadings, papers and other documents		
14	on file in this action and in the Huf v. Apple action along with any evidence and argument		
15	presented at the hearing in this matter.		
16	MEMORANDUM OF POINTS AND AUTHORITIES		
17	I. INTRODUCTION AND BACKGROUND		
18	Hovsepian v. Apple ("Hovsepian Action") and the recently-filed case, Huf v. Apple ("Huf		
19	Action"), involve allegations relating to the same alleged defect (vertical lines in the computer		
20	display) in the same computer (Apple's iMac). Further, both cases involve plaintiffs who		
21	experienced the alleged defect after the expiration of the identical limited one-year warranty. ¹		
22	¹ On December 31, 2008, Plaintiff Aram Hovsepian filed a class action complaint against Apple alleging,		
23	among other things, violation of California's Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 <i>et seq.</i> (the "UCL"), breach of the implied warranty of merchantability, and unjust enrichment. (Docket No. 1.) Plaintiff		
24	Hovsepian alleges that he experienced "vertical lines" on the display screen of his iMac after Apple's limited, one- year warranty expired. (Docket No. 1 at ¶¶ 8-12, 52.) Plaintiff filed an amended complaint on April 17, 2009.		
25	Apple's response is due by June 1, 2009. No discovery has taken place in the Hovsepian Action. On March 11, 2009, Plaintiff Roman Huf filed a class action complaint against Apple alleging similar causes of		
26	action. Plaintiff Huf also alleges he experienced "vertical lines" on the display screen of his iMac after Apple's limited, one-year warranty expired. (Huf Cmplt. at ¶¶ 1, 26-29.) On May 4, 2009, Apple filed its Motion to Dismiss and Motion to Strike the Huf complaint. The <i>Huf</i> Action has been assigned to the Honorable Magistrate Judge Richard Seeborg. (Docket No. 1.) On May 8, 2009, concurrently with this motion, Apple filed a declination to		
27			
28	proceed before a magistrate judge and requested reassignment to a United States District Court Judge. No discovery has taken place in the <i>Huf</i> Action.		
	-1- APPLE INC. 'S UNOPPOSED ADMIN. MTN. TO HAVE CASES RELATED		

1 Finally, on May 4, 2009, counsel for Apple contacted counsel for Huf and requested that plaintiff 2 stipulate to deeming the Hovsepian and Huf Actions related. (Counts Decl. at ¶ 5.) Counsel for 3 Huf did not object to the cases being deemed related. Id.

4

II.

LEGAL ARGUMENT

5 The Hovsepian Action and the Huf Action concern the same defendant, virtually identical 6 transactions, overlapping putative class periods, and overlapping causes of action. Both actions 7 involve allegations of the same alleged defect in the same type of computer. (Hovsepian & Huff 8 Cmplts. at ¶ 1.) In addition, both actions allege that plaintiffs experienced these same defects 9 after the expiration of Apple's limited, one-year warranty. (Hovsepian Cmplt. at ¶ 15; Huf 10 Cmplt. at ¶ 26-29.) The class periods overlap. (Hovsepian Cmplt. at ¶ 32; Huf Cmplt. at ¶ 5.) 11 Finally, both actions allege violations of the UCL and unjust enrichment. (Hovsepian Cmplt. at 12 ¶¶ 56-71, 86-95; Huf Cmplt. at ¶¶ 39-45, 54-59.)

13 In addition, it is likely that there will be an unduly burdensome duplication of labor and 14 expense if the cases are conducted before different judges. Having two different judges govern 15 discovery disputes relating to the same allegations would be unduly burdensome. See Fin. 16 Fusion, Inc. v. Ablaise Ltd., 2006 U.S. Dist. LEXIS 97911, at *10 (N.D. Cal. Dec. 15, 2006) 17 (relating two actions because "different judges govern[ing] discovery disputes [related to similar 18 issues]... would be an unduly burdensome duplication of labor[.]") Finally, there is a risk of 19 conflicting results if the cases are not related. Id.

20 III.

24

25

26

27

CONCLUSION

21 Apple respectfully requests that the Court order the Huf Action be deemed related to the 22 Hovsepian Action. 23 DATED: May 8, 2009

PAUL, HASTINGS, JANOFSKY & WALKER LLP

/s/ Thomas A. Counts By: THOMAS A. COUNTS

Attorneys for Defendant APPLE INC.

-2-

28 LEGAL US W # 61491419.4

Case No. C 08-05788 JF