

1 PENELOPE A. PREVOLOS (CA SBN 87607)  
 (PPreovolos@mofo.com)  
 2 ANDREW D. MUHLBACH (CA SBN 175694)  
 (AMuhlbach@mofo.com)  
 3 ANNE M. HUNTER (CA SBN 221455)  
 (AHunter@mofo.com)  
 4 ALEXEI KLESTOFF (CA SBN 224016)  
 (AKlestoff@mofo.com)  
 5 MORRISON & FOERSTER LLP  
 425 Market Street  
 6 San Francisco, California 94105-2482  
 Telephone: 415.268.7000  
 7 Facsimile: 415.268.7522

8 *Attorneys for Defendant*  
 APPLE INC.

9  
 10 HELEN I. ZELDES (CA SBN 220051)  
 (helenz@zhlaw.com)  
 ALREEN HAEGGQUIST (CA SBN 221858)  
 11 (alreenh@zhlaw.com)  
 ZELDES & HAEGGQUIST, LLP  
 12 625 Broadway, Suite 906  
 San Diego, CA 92101  
 13 Telephone: 619/342-8000  
 Facsimile: 619/342-7272

14 *Attorneys for Plaintiffs Naotaka Kitagawa, et al.*

15 [Additional counsel listed on signature page.]

17 UNITED STATES DISTRICT COURT  
 18 NORTHERN DISTRICT OF CALIFORNIA  
 19 SAN JOSE DIVISION

21 **NAOTAKA KITAGAWA, JR., TIMOTHY J.  
 BROAD and JESSE REISMAN, on behalf of  
 22 themselves and all others similarly situated,**

23 **Plaintiffs,**

24 **v.**

25 **APPLE, INC., and, DOES 1 THROUGH 50,  
 inclusive,**

26 **Defendants**

Case No. 09-cv-01911-JW

**STIPULATED REQUEST TO  
 CONTINUE CASE  
 MANAGEMENT CONFERENCE  
 AND [PROPOSED] ORDER**

The Honorable James Ware  
 Date: September 28, 2009

1 TO THE HONORABLE COURT AND TO ALL PARTIES AND THEIR  
2 ATTORNEYS OF RECORD:

3 WHEREAS the Case Management Conference in this case is currently scheduled for  
4 September 28, 2009, at 10:00 a.m.;

5 WHEREAS the parties' deadline for filing the Joint Case Management Conference  
6 Statement is Friday, September 18, 2009;

7 WHEREAS a similar<sup>1</sup> action - *Tracey Hackwith, et al. v. Apple Inc.*, Northern District of  
8 California, San Jose Division, Case No. 09-cv-03862 RMW ("*Hackwith*") - was filed on May 15,  
9 2009, in the Central District of California and was transferred to the Northern District of  
10 California on August 24, 2009;<sup>2</sup>

11 WHEREAS on September 4, 2009, Apple Inc. ("Apple") filed an administrative motion  
12 ("Apple's Motion") to consider whether the *Hackwith* case should be related to this action  
13 pursuant to Local Rule 3-12;

14 WHEREAS on September 10, 2009, the *Hackwith* plaintiffs filed a Notice of Non-  
15 Opposition to Apple's Motion;<sup>3</sup>

16 WHEREAS Apple's Motion is pending; and

17 WHEREAS if the two cases are deemed related, it would serve the interests of judicial  
18 economy if all parties in both cases participated in the Rule 26(f) meet and confer, contributed to  
19 the Joint CMC statement, and attended the Case Management Conference;

20  
21  
22  
23 \_\_\_\_\_  
24 <sup>1</sup> Apple does not by this Stipulation concede any of the factual allegations of the cases or  
that certification of the putative classes is proper under Federal Rules of Civil Procedure, Rule 23.

25 <sup>2</sup> Judge Fairbank of the Central District of California granted Apple's motion to transfer  
26 the *Hackwith* case to the Northern District of California on August 12, 2009; the case was  
transferred on August 24, 2009.

27 <sup>3</sup> Counsel for the *Hackwith* plaintiffs filed their Notice of Non-Opposition in the *Hackwith*  
28 docket.

1 NOW, THEREFORE, the parties hereby stipulate and request that the Court enter an order  
2 continuing the Case Management Conference in the *Kitagawa* matter, currently scheduled for  
3 September 28, 2009, until October 19, 2009 at 10:00 a.m.

4 Dated: September 18, 2009

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

8

By: /s/ Andrew D. Muhlbach  
Andrew D. Muhlbach

9

Attorneys for Defendant  
APPLE INC.

10

11

12 Dated: September 18, 2009

ZELDES & HAEGGQUIST, LLP

13

14

By: /s/ Helen I. Zeldes  
Helen I. Zeldes

15

Attorneys for Plaintiffs

16

17

STEVEN A. SKALET (*admitted pro hac vice*)  
CRAIG L. BRISKIN (*admitted pro hac vice*)  
MEHRI & SKALET, PLLC

18

19

Attorneys for Plaintiffs

20

21 I hereby attest that I have on file all holograph signatures for any signatures indicated by a  
22 “conformed” signature (/s/) within this filed document.

22

23 Dated: September 18, 2009

MORRISON & FOERSTER LLP

23

24

By: /s/ Andrew D. Muhlbach  
Andrew D. Muhlbach

25

Attorneys for Defendant  
APPLE INC.

26

27

28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**[PROPOSED] ORDER**

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Date: \_\_\_\_\_

\_\_\_\_\_  
Hon. James Ware  
United States District Judge