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

JONATHAN LALO, individually and On Be-  
half of a Class of Similarly Situated Individu-  
als,

Plaintiff,

v.

APPLE INC, a California Corporation;  
BACKFLIP, a Delaware Corporation;  
DICTIONARY.COM, a California  
Corporation; PANDORA, INC., a California  
Corporation; THE WEATHER CHANNEL, a  
Georgia Corporation,

Defendants.

Case No. CV-10-5878 LHK (PSG)

**STIPULATION AND [Proposed] CASE  
MANAGEMENT ORDER NO. 1**

DUSTIN FREEMAN, JARED PARSLEY,  
COLE PARR, and PRECIOUS ARRANG-  
TON, on behalf of themselves and all similar-  
ly situated,

Plaintiffs,

v.

APPLE, INC., a Delaware Corporation;  
GOGII, INC., a Delaware Corporation; PAN-  
DORA MEDIA, INC., a California Corpora-

Case No. CV-10-5881 LHK (PSG)

1 tion; BACKFLIP STUDIOS, INC., a Dela-  
2 ware Corporation; THE WEATHER CHAN-  
3 NEL, INC., a Georgia Corporation; DIC-  
4 TIONARY.COM, LLC., a California Corpora-  
5 tion; OUTFIT7 LTD, a Foreign Corporation;  
6 ROOM CANDY, INC., a California Corpora-  
7 tion; SUNSTORM INTERACTIVE, Inc., an  
8 Indiana Corporation,  
9 Defendants.

10 ANTHONY CHIU, individually and on behalf  
11 of all others similarly situated,  
12 Plaintiff,  
13 v.  
14 APPLE, INC., a California Corporation, and  
15 DOES 1 to 50 inclusive,  
16 Defendants.

Case No. CV-11-0407 LHK

17 DANIEL RODIMER, et al.  
18 Plaintiffs

Case No. CV-11-0700 PSG

19 v.  
20 APPLE, INC., FLURRY, INC., MEDIALETS,  
21 INC., PINCH MEDIA, INC., QUATTRO  
22 WIRELESS, INC., IAC/INTERACTIVE  
23 CORP., DICTIONARY.COM, PANDORA,  
24 INC., and THE WEATHER CHANNEL  
25 Defendants.

26 **STIPULATION AND [PROPOSED] CASE MANAGEMENT ORDER NUMBER 1**

27 Subject to the Court’s review and approval, IT IS HEREBY STIPULATED AND  
28 AGREED AND ORDERED as follows:

WHEREAS, the related actions *Lalo, et al. v. Apple Inc., et al.*, CV-10-5878-LHK;  
*Freeman, et al. v. Apple Inc., et al.*, CV-10-5881-LHK, *Chiu v. Apple, Inc., et al.*, CV-11-0407-  
LHK and *Rodimer v. Apple, Inc., et al.*, CV 11-0700 PSG (collectively, the “Actions”) are  
pending before this Court; and,

1 WHEREAS, counsel for the various plaintiffs have each concluded that it is in the best  
2 interests of the respective parties and absent putative class members that the above-captioned  
3 actions be consolidated for all purposes and proceed as contemplated herein; and,

4 WHEREAS, all parties that have appeared, through their respective counsel have stipu-  
5 lated to the terms provided herein;

6 WHEREAS, it is anticipated that additional related actions may be transferred to, re-  
7 moved to, or filed in this Court; and,

8 WHEREAS, the existence of common questions of law and fact in the Actions now  
9 pending before this Court, the interests of fair and efficient administration of the Actions, the  
10 avoidance of unnecessary duplicative efforts and the avoidance of inconsistency in outcomes,  
11 warrants the consolidation of the Actions, establishment of an organizational structure for  
12 plaintiffs' counsel, and the setting of a status conference to discuss, among other things, sched-  
13 ules for the filing of pleadings, motion practice and discovery, and good cause appearing there-  
14 fore:

15 **IT IS HEREBY ORDERED AS FOLLOWS:**

16 **I. CONSOLIDATION AND TREATMENT OF SUBSEQUENT ACTIONS**

17 1. The Court finds that *Lalo, et al. v. Apple Inc., et al.*, CV-10-5878-LHK; *Free-*  
18 *man, et al. v. Apple Inc., et al.*, CV-10-5881-LHK, *Chiu v. Apple, Inc.*, CV-11-0407-LHK and  
19 *Rodimer, et al. v. Apple, Inc., et al.* CV-11-0700-PSG present substantially similar issues of law  
20 and fact, have been previously related, and are hereby consolidated into *Lalo, et al. v. Apple*  
21 *Inc., et al.*, CV-10-5878, and are referred to herein as the Consolidated Action. Each document  
22 filed by a party to this litigation shall bear the following caption:

23 \_\_\_\_\_  
24 In re iPhone Application Litigation No. CV-10-5878 LHK (PSG)  
25 \_\_\_\_\_

26 2. The terms of this Order shall apply to the Consolidated Action and to any and all  
27 actions later instituted in, removed to, or transferred to this Court that involve the same or sub-  
28 stantially similar issues of law and fact, subject to the following procedures:

1 a. When such a case is filed in, removed to, or transferred to this Court, the  
2 Clerk of Court shall:

3 (1) place a copy of this Order in the separate file for such action;

4 (2) provide a copy of this Order by mail or electronically pursuant to the  
5 local rules to counsel for plaintiff(s) in the newly filed or transferred action and  
6 to any defendant(s) in the newly filed or transferred action; and

7 (3) make an appropriate entry on the docket for the Consolidated Action.

8 b. Each new case that arises out of the subject matter of the Consolidated Action  
9 which is filed in this Court or transferred to this Court, shall be consolidated with the  
10 Consolidated Action and this Order shall apply thereto, unless a party in such newly-  
11 filed or transferred action objects to consolidation, as provided for herein, or any provi-  
12 sion of this order, within ten (10) days after the date upon which a copy of this Order is  
13 served on counsel for such party, by filing an application for relief and this Court deems  
14 it appropriate to grant such application.

15 3. Counsel shall call to the attention of the Court and the Clerk the filing or trans-  
16 fer of any case that might properly be consolidated with the Consolidated Action. Mailing or  
17 other delivery of a copy of this Order by Defendants' counsel or Plaintiffs' Interim Class Coun-  
18 sel (see II. Below), as appropriate, to the counsel in any newly filed or transferred actions shall  
19 constitute valid notice thereof for purposes of establishing its applicability to such action in ac-  
20 cordance herewith.

21 **II. ORGANIZATION OF PLAINTIFFS' COUNSEL**

22 1. Plaintiffs shall use their best efforts to self-organize and recommend to the  
23 Court counsel to serve as Interim Class Counsel under FRCP 23(g). Such recommendation  
24 shall be submitted to the Court with papers supporting the qualifications for such Interim Class  
25 Counsel within ten days of the entry of this Order. Any Plaintiff may oppose such recommen-  
26 dation by filing an opposition within 10 days of notice of consolidation of their case or the fil-  
27 ing of said recommendation, whichever is later.

1           2.     Interim Class Counsel, acting on behalf of Plaintiffs, shall have the following  
2 duties:

- 3           a.     To coordinate all proceedings, including preparing, structuring, and pre-  
4           presenting pretrial and other management related orders;
- 5           b.     To encourage full cooperation and efficiency among all counsel;
- 6           c.     To create any necessary committees and appoint committee chairs and  
7           otherwise delegate responsibilities for specific tasks in a manner to as-  
8           sure that pretrial and trial preparation is conducted effectively, efficient-  
9           ly, and economically;
- 10          d.     To delegate work responsibilities and monitor the activities of counsel to  
11          assure that schedules are met and unnecessary expenditures of time and  
12          expense are avoided;
- 13          e.     To act as spokespersons at all court conferences;
- 14          f.     To call meetings of themselves and/or other counsel as appropriate or  
15          necessary from time to time;
- 16          g.     To initiate and conduct settlement negotiations with counsel for the vari-  
17          ous Defendants;
- 18          h.     To determine Plaintiffs' position on all matters arising during this litiga-  
19          tion (after such consultation with other counsel as they deem appropri-  
20          ate) and present such position orally and/or in writing to the Court and  
21          opposing parties;
- 22          i.     To consult with and employ experts, as necessary;
- 23          j.     To initiate, coordinate and conduct discovery;
- 24          k.     To represent Plaintiffs at trial and on any appeal of this matter;
- 25          l.     To negotiate and execute agreements with local counsel or other cooper-  
26          ating attorneys;
- 27
- 28

1 m. To determine the appropriate fee allocation among Plaintiffs' counsel as  
2 they contributed to resolution or otherwise provided benefit to the class;  
3 and

4 n. To perform such other duties as are necessary in connection with the  
5 prosecution of this litigation.

6 3. Interim Class Counsel shall be the contact between Plaintiffs' counsel  
7 and Defendant's counsel as well as the spokesperson for Plaintiffs' counsel. All agreements  
8 reached with the Interim Class Counsel shall be binding on all other Plaintiffs' counsel in the  
9 Consolidated Action.

10 4. Interim Class Counsel are hereby designated as the counsel for Plaintiffs  
11 in the Consolidated Action upon whom all notices, orders, pleadings, motions, discovery, and  
12 memoranda relating to the Consolidated Action shall be served, and Defendants shall effect  
13 service of papers on Plaintiffs in the Consolidated Action by serving Interim Class Counsel.

14 5. No motion or request for discovery shall be served or filed by Plaintiffs,  
15 or other pretrial proceedings initiated by Plaintiffs, except by or with the authorization of Inter-  
16 im Class Counsel.

17 6. The organizational structure set forth in this section applies to all Plain-  
18 tiffs' counsel in the Consolidated Action, including any action subsequently governed by this  
19 Order.

20 7. No communications among Plaintiffs' counsel shall be taken as a waiver  
21 of any privilege or protection to which they would otherwise be entitled.

22 **III. FILING OF PLEADINGS**

23 Within 30 days of appointment by the Court, Interim Class Counsel shall file an amend-  
24 ed consolidated pleading. Defendants' shall move or respond to the consolidated complaint  
25 within 45 days thereafter. If defendants shall move to dismiss, Interim Class Counsel shall  
26 have 30 days to respond and Defendants shall have 20 days thereafter to file a reply. Defend-  
27 ants shall have no obligation to respond to any prior filed pleading in the actions consolidated  
28 herein. No other deadlines shall be superseded by entry of this Order.



PARISI & HAVENS LLP

Dated: March 3, 2011

By:           s/David C. Parisi          

DAVID C. PARISI

One of the Attorneys for Plaintiff Freeman,  
Individually and on Behalf of a Class of  
Similarly Situated Individuals

DAVID C. PARISI  
dcparsi@parisihavens.com  
PARISI & HAVENS LLP  
15233 Valleyheart Drive  
Sherman Oaks, CA 91403  
Telephone (818) 990-1299  
Facsimile (818) 501-7852

JEREMY R. WILSON  
[jeremy@wtfirm.com](mailto:jeremy@wtfirm.com)  
WILSON TROSCLAIR & LOVINS  
302 N. Market St., Suite 501  
Dallas, Texas 75202  
Telephone: (214) 430-1930

NABIL MAJED NACHAWATI, II  
[mn@fnlawfirm.com](mailto:mn@fnlawfirm.com)  
FEARS NACHAWATI  
4925 Greenville Avenue, Suite 715  
Dallas, Texas 75206  
Telephone: (214) 890-0711  
Facsimile: (214) 890-0712

MILBERG LLP

Dated: March 7, 2011

By:           s/Jeff S. Westerman          

Jeff S. Westerman

One of the Attorneys for Plaintiff Chiu,  
Individually, and on Behalf of a Class of  
Similarly Situated Individuals

JEFF S. WESTERMAN  
SABRINA S. KIM  
[jwesterman@milberg.com](mailto:jwesterman@milberg.com)  
[skim@milberg.com](mailto:skim@milberg.com)  
MILBERG LLP  
One California Plaza  
300 South Grand Avenue, Ste 3900  
Los Angeles, California 90071  
Telephone: (213) 617-1200  
Facsimilie: (213) 617-1975



AUDET & PARTNERS LLP

Dated: March 4, 2011

By:           s/William M. Audet            
William M. Audet  
One of the Attorneys for Plaintiff Rodimer,  
Individually, and on Behalf of a Class of  
Similarly Situated Individuals

WILLIAM M. AUDET  
JONAS P. MANN  
MICHAEL A. MCSHANE  
waudet@audetlaw.com  
jmann@audetlaw.com  
mmcshane@audetlaw.com  
AUDET & PARTNERS LLP  
221 Main Street, Suite 1460  
San Francisco, California 94105  
Telephone: (415) 568-2555  
Facsimile: (415) 568-2556

JOSEPH H. MALLEY  
[malleylaw@gmail.com](mailto:malleylaw@gmail.com)  
LAW OFFICE OF JOSEPH H. MALLEY  
1045 North Zang Blvd.  
Dallas, Texas 75208  
Telephone: (214) 943-6100

RICHARD A. LOCKERIDGE  
ROBERT K. SHELQUIST  
*rlockridge@locklaw.com*  
*rshelquist@locklaw.com*  
Lockridge Grindal Nauen P.L.L.P.  
100 Washington Ave., S., Suite 2200  
Minneapolis, MN 55401  
Telephone (612) 339-6900  
Facsimile (612) 339-0981

ATTORNEYS FOR PLAINTIFFS

HOGAN LOVELLS US LLP

Dated: March 4, 2011

By: s/Michael L. Charlson  
Michael L. Charlson  
On Behalf of Defendant Apple, Inc.

MICHAEL L. CHARLSON (Cal. Bar No. 122125)  
HOGAN & HARTSON  
Michael.charlson@hoganlovells.com  
525 University Avenue, 4<sup>th</sup> Fl  
Palo Alto, CA 94301  
Telephone: (650) 463-4000  
Facsimile: (650) 463-4199

CHRISTOPHER WOLF (Admitted *Pro Hac Vice*)  
HOGAN LOVELLS US LLP  
Columbia Square  
555 Thirteenth Street, NW  
Washington, DC 20004  
Telephone: (202) 637-5600

CLAYTON C. JAMES (Admitted *Pro Hac Vice*)  
HOGAN LOVELLS US LLP  
One Tabor Center  
1200 Seventeenth Street  
Denver, CO 80204  
Telephone: (303) 899-7300

ATTORNEYS FOR DEFENDANT APPLE, INC.

COOLEY LLP

Dated: March 7, 2011

By: s/Michael G. Rhodes  
Michael G. Rhodes  
On Behalf of Defendants Backflip Studios, The  
Weather Chanel, and Medialets

MICHAEL G. RHODES  
[rhodesmg@cooley.com](mailto:rhodesmg@cooley.com)  
MICHAEL D. BROWN  
mbrown@cooley.com  
COOLEY LLP  
101 California Street, 5<sup>th</sup> Fl  
San Francisco, CA 94111

1 Telephone: (415) 693-2000  
2 Facsimile: (415) 693-2222

3 ATTORNEYS FOR DEFENDANTS BACKFLIP STUDIOS,  
4 THE WEATHER CHANNEL, AND MEDIALETS

5 DURIE TANGRI LLP

6  
7 Dated: March 4, 2011

8 By: s/Michael H. Page  
9 Michael H. Page

10 On Behalf of Defendant Pandora, Inc.,  
11 IAC/Interactive Corp., Dictionary.com, LLC and  
12 Yelp

13 MICHAEL H. PAGE  
14 JOSEPH C. GRATZ  
15 mpage@durietangri.com  
16 jgratz@durietangri.com  
17 DURIE TANGRI LLP  
18 217 Leidesdorff Street  
19 San Francisco, CA 94111  
20 Telephone: (415) 362-6666  
21 Facsimile: (415) 236-6300

22 ATTORNEYS FOR DEFENDANT PANDORA, INC.,  
23 IAC/INTERACTIVE CORP., DICTIONARY.COM, LLC AND YELP

SHEPPARD MULLIN RICHTER &  
HAMPTON LLP

Dated: March 8, 2011

By: s/Sacha Von Mende Henry  
Sascha Von Mende Henry

On behalf of Defendant Gogii, Inc.

SASCHA VON MENDE HENRY  
JONATHAN D. MOSS  
[shenry@sheppardmullin.com](mailto:shenry@sheppardmullin.com)  
[jmoss@sheppardmullin.com](mailto:jmoss@sheppardmullin.com)  
SHEPPARD MULLIN RICHTER & HAMPTON LLP  
333 South Home Street, 43d Fl  
Los Angeles, CA 90071-1422  
Telephone: (213) 620-1780  
Facsimile: (213) 620-1398

ATTORNEYS FOR DEFENDANT GOGII, INC.

FENWICK & WEST LLP

Dated: March 9, 2011

By: s/Laurence F. Pulgram  
Laurence F. Pulgram

On Behalf of Defendant Groupon, Inc.

LAURENCE F. PULGRAM  
[lpulgram@fenwick.com](mailto:lpulgram@fenwick.com)  
FENWICK & WEST LLP  
555 California Street, 12<sup>th</sup> Fl  
San Francisco, CA 94104  
Telephone: (415) 875-2390  
Facsimile: (415) 281-1350

ATTORNEYS FOR DEFENDANT GROUPON, INC.

SHERMAN & STERLING LLP

Dated: March 9, 2011

By: s/James Donato

James Donato

On Behalf of Defendant Webmd Health Services  
Group, Inc

JAMES DONATO  
jdonato@sherman.com  
SHERMAN & STERLING LLP  
515 Market Street  
San Francisco, CA 94105  
Telephone: (415) 616-1143  
Facsimile: (415) 616-1343

ATTORNEYS FOR DEFENDANT WEBMD HEALTH  
SERVICES GROUP, INC.

**PURSUANT TO THE STIPULATION, IT IS SO ORDERED.**

Dated: \_\_\_\_\_

\_\_\_\_\_  
UNITED STATES DISTRICT COURT JUDGE