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14 Attorneys for Defendant
 15 APPLE INC., a California corporation

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

19 In re iPhone Application Litigation

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

21 **DEFENDANT APPLE INC.'S**
MOTION TO ENLARGE TIME
TO RESPOND TO COMPLAINT

23 The Honorable Lucy H. Koh

1 Pursuant to Civil Local Rule 6-3, Defendant Apple Inc. (“Apple”) respectfully requests
2 that the Court enlarge the time in which Apple must respond to the First Consolidated Class
3 Action Complaint (“Consolidated Complaint”).¹ Plaintiffs filed their Consolidated Complaint on
4 April 21, 2011, following the Court’s April 7, 2011 Order Regarding Case Schedule and Case
5 Management (Dkt. No. 66) (the “Scheduling Order”). The Scheduling Order requires that
6 defendants respond to the Consolidated Complaint within 30 days, or by May 23, 2011.

7 With their Consolidated Complaint, Plaintiffs dropped many defendants and added five
8 new defendants. Those new defendants have only recently been served with the Consolidated
9 Complaint, and many have not yet appeared. None of those new defendants—nor two defendants
10 who were named in earlier complaints but never served—will respond until June 13, 2011.

11 As the Court is aware, Apple moved to stay these actions until resolution of Apple’s
12 pending motion with the Judicial Panel on Multidistrict Litigation to transfer the related actions to
13 the United States District Court for the Northern District of California for coordinated or
14 consolidated pretrial treatment pursuant to 28 U.S.C. §1407 (the “MDL Motion”). As Apple
15 explained in its Motion to Stay (Dkt. No. 72), a stay of these actions pending the MDL
16 determination is warranted to conserve judicial resources because the MDL Motion is likely to be
17 granted, rendering pre-coordination proceedings duplicative and inefficient. A stay is also
18 warranted to prevent potentially conflicting rulings on issues common to these and the seven
19 other actions now at issue in the MDL proceedings.

20 The Court ordered that Apple’s Motion to Stay be heard on May 25, 2011 in conjunction
21 with the Initial Case Management Conference (Dkt. No. 74). Apple believes that it would be
22 inefficient to file its response to the Consolidated Complaint two days beforehand. As it stands,
23 Apple would be put to the time and expense of drafting and filing a motion to dismiss the
24 Consolidated Complaint when these actions may be stayed shortly thereafter and likely before
25 Plaintiffs’ opposition is filed. More significantly, if the MDL Motion is granted, then other cases
26 would be transferred to this district and consolidated or coordinated with these actions. That

27 _____
28 ¹ Apple sought, but did not receive, Plaintiffs’ agreement to this request. Decl. of Maren J. Clouse in Supp. of Def. Apple Inc.’s Motion to Enlarge Time to Respond to Compl., ¶ 3.

1 would likely require the Court to consider additional motions directed at subsequent pleadings
2 that result from further consolidation or coordination, and moot any response to the Consolidated
3 Complaint.

4 Apple instead requests an enlargement of time to June 13, 2011 in which to file a response
5 to the Consolidated Complaint. That timing would give the Court the opportunity to rule on
6 Apple's Motion to Stay. If the motion is granted, then the actions will be stayed pending the
7 MDL determination, and the Court will not have expended scarce judicial resources considering
8 Apple's motion to dismiss and Plaintiffs' response to no effect. If the motion is denied, then
9 Apple will proceed to file its motion to dismiss shortly thereafter. An enlargement of time to
10 June 13, 2011 would also align the timing of Apple's motion with those of most other defendants.
11 That would allow for more effective case administration if the Motion to Stay is denied, with all
12 defendants progressing through motion practice at the same pace, allowing the Court to consider
13 all the motions at the same time and to hold a single hearing.

14 Because Apple believes it is more efficient to await the Court's ruling on the Motion to
15 Stay before filing its motion to dismiss, and because it would be more efficient for all defendants
16 to respond to the Consolidated Complaint on the same schedule, Apple respectfully requests that
17 the Court grant its motion to enlarge time in which to file a response to the Consolidated
18 Complaint until June 13, 2011.

19
20 Dated: May 16, 2011

HOGAN LOVELLS US LLP

21 By: /s/ Michael L. Charlson

22 Michael L. Charlson

23 Attorneys for Defendant
24 APPLE INC., a California corporation