

United States District Court  
For the Northern District of California

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

CHRISTINA JENKINS, ET AL.,	)	Case No.: 11-CV-001828-LHK
	)	
v.	)	ORDER DENYING REQUEST TO
	)	CONSOLIDATE WITHOUT
APPLE, INC.,	)	PREJUDICE; SETTING BRIEFING
	)	SCHEDULE ON MOTION TO
Defendant.	)	REMAND
	)	

On May 12, 2011, counsel for Plaintiffs filed an Objection to Apple’s Proposed Order Consolidating this action (the “Jenkins Action”) with the *In Re iPhone Application Litigation* Action, Case Number 10-CV-05878-LHK. See Dkt. #14. On May 16, 2011, Apple submitted a Response to Plaintiffs, noting that under the March 15, 2011 Order Consolidating Cases in the *In Re iPhone Application Litigation* (the “Consolidation Order”), Plaintiffs did not file their objection within the ten-day limit set out in the Consolidation Order. See Dkt. #16.

Although Apple is correct that Plaintiffs’ objection was not timely filed in accordance with the Consolidation Order, the Court agrees with Plaintiffs that consolidation of the Jenkins Action is premature given Plaintiffs’ recently filed motion to remand for lack of subject matter jurisdiction. See Dkt. #17. If the Court determines it does have subject matter jurisdiction over the Jenkins Action, it will consolidate it with the *In Re iPhone Application Litigation*. If, on the other hand, the Court determines that it does not have subject matter jurisdiction, the Court will remand the action to Santa Clara County Superior Court.

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Plaintiffs' motion to remand is noticed for a hearing on July 21, 2011. The Court finds this motion appropriate for expedited briefing. Accordingly, Apple's Opposition is due by June 17, 2011, and Plaintiffs' Reply is due by June 29, 2011.

**IT IS SO ORDERED.**

Dated: May 24, 2011



LUCY H. KOH  
United States District Judge