

# EXHIBIT C

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ADR

11 *Counsel for Plaintiff Colette Osetek*

12  
13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA  
15 SAN JOSE DIVISION

JW

17  
18 COLETTE OSETEK, individually and on  
19 behalf of all others similarly situated,

CV 10- 4253  
Case No.

HPL

20 Plaintiff,

CLASS ACTION COMPLAINT

21 v.

DEMAND FOR JURY TRIAL

22 APPLE, INC.,

23 Defendant.

24  
25  
26  
27 Plaintiff Colette Osetek brings this action against defendant Apple, Inc. ("Apple") on behalf  
28 of herself and all others similarly situated, and alleges upon information and belief, except as to her  
own acts, as follows:

Class Action Complaint

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SUMMARY OF CLAIMS

1  
2 1. This is a class action lawsuit arising from Apple’s false and misleading  
3 representations in connection with its marketing and sale of the iPad Wi-Fi + 3G (the “iPad 3G”), a  
4 version of Apple’s iPad wireless tablet computer. The sole feature that distinguishes the iPad 3G  
5 from the standard iPad model is its ability to connect to a 3G cellular network maintained by AT&T  
6 Inc. (“AT&T”) so that users can access data from the Internet without a Wi-Fi connection.

7 2. In the months leading up to the release of the iPad 3G in April 2010, and continuing  
8 throughout the class period, Apple falsely represented to consumers that if they purchased the iPad  
9 3G—for \$130 more than the standard iPad—they would have the option of selecting an “unlimited”  
10 data service plan on AT&T’s 3G network, allowing them to utilize their iPad to download an  
11 unlimited amount of data for a fixed price.

12 3. The “unlimited” aspect of the plan was a centerpiece of Apple’s marketing of the  
13 iPad 3G. Since its introduction, the iPad has been touted by Apple as the ideal mobile device for  
14 downloading, storing, and viewing data-rich applications, such as movies and video games.  
15 However, using an iPad to download such content from a 3G cellular network could quickly become  
16 expensive, as users who exceeded the limits of their monthly 3G data plan would be hit with  
17 overcharge fees.

18 4. To assuage these concerns, Apple uniformly but deceptively represented to  
19 consumers that a flexible, unlimited data plan would be available to purchasers of the iPad 3G on a  
20 pre-paid, no-contract basis, so that iPad 3G purchasers could activate the unlimited data plan for  
21 months when they needed it, and pay a cheaper 250-megabyte (“MB”) monthly rate at other times.  
22 This toggling feature was very appealing to consumers accustomed to long term fixed contracts for  
23 wireless access.

24 5. Underscoring the significance of the flexible data plan, when the product was  
25 launched, Apple CEO Steve Jobs told the world that Apple had a “breakthrough deal” with AT&T  
26 to provide the unlimited, no-contract 3G data plan to iPad 3G purchasers, a deal that Apple  
27 continued to tout as a material benefit of the iPad 3G in its marketing strategy.  
28

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1 6. But just weeks after these representations were made, and after hundreds of  
2 thousands of iPad 3Gs were sold at the premium price, on or about June 7, 2010, the “breakthrough  
3 deal” was scrapped, and replaced with ordinary limited data plans, leaving plaintiff and the Class  
4 holding the bag—an iPad device of significantly reduced value and utility.

5 7. Apple’s bait and switch and violates California law. Plaintiff, on behalf of a class of  
6 similarly situated purchasers, asserts claims for relief under Cal. Bus. & Prof. Code §§ 17200 and  
7 17500, and the Consumer Legal Remedies Act (Civ. Code §§ 1750 et seq.). Plaintiff seeks  
8 restitution and injunctive relief, along with interest, the costs and expenses of litigation, including  
9 attorneys’ fees, and all further relief available.

10 **PARTIES**

11 8. Plaintiff Colette Osetek is a citizen of Dorchester, Suffolk County, Massachusetts.

12 9. Defendant Apple is a corporation that designs and markets personal computers,  
13 software, and consumer electronics, including mobile devices such as the iPhone and iPod. Apple is  
14 a California corporation with its headquarters in Cupertino, California.

15 **JURISDICTION AND VENUE**

16 10. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d). This is a  
17 civil action filed under Federal Rule of Civil Procedure 23, plaintiff and numerous members of the  
18 class are citizens of a state different from Apple, and the aggregate amount in controversy exceeds  
19 \$5,000,000, exclusive of interest and costs. 28 U.S.C. § 1332(d)(2), (6).

20 11. Venue is proper in the Northern District of California pursuant to 28 U.S.C.  
21 § 1391(a) in that: (1) Apple resides in this judicial district; (2) a substantial part of the events or  
22 omissions giving rise to the claims asserted herein occurred in this judicial district; and (3) Apple is  
23 subject to personal jurisdiction in the Northern District of California.

24 12. Intra-district Assignment: Pursuant to Northern District of California Civil Local  
25 Rules 3-2 and 3-5, assignment to the San Jose Division of the Northern District of California is  
26 appropriate. Defendant Apple is headquartered in Santa Clara County, and thus a substantial part of  
27 the events or omissions which give rise to the claims occurred in Santa Clara County.

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FACTUAL ALLEGATIONS

1  
2 13. On January 27, 2010, Apple announced the upcoming release of the iPad, its highly  
3 anticipated tablet computer, via a presentation by CEO Steve Jobs in San Francisco, which was  
4 covered by hundreds of journalists. The presentation was also made available on Apple’s website.

5 14. Jobs announced that while all iPads would come equipped with Wi-Fi connectivity,  
6 Apple would be selling a more expensive version of the iPad that would be able to connect to, and  
7 download data from, AT&T’s 3G cellular network.

8 15. During the launch, Jobs touted a “breakthrough deal” with AT&T as a major feature  
9 of the iPad 3G. In this deal, iPad owners would be able to pay \$14.99 for 250MB of data per month,  
10 or pay \$29.99 for a month’s worth of “unlimited data.” Jobs further announced that “there’s no  
11 contract. It’s prepay.” His statements were accompanied and reinforced by a giant video monitor  
12 image displaying “Breakthrough deal with AT&T” and “No contract – cancel anytime.”

13 16. From January 27, 2010 to June 7, 2010, Apple’s advertising and marketing for the  
14 iPad 3G prominently featured the availability of this flexible and “unlimited” data plan for the iPad  
15 3G. For example, on Apple’s website, where consumers could purchase the various iPad models  
16 directly from Apple’s online store, Apple touted the iPad 3G with taglines like “No-contract, 3G  
17 service” and statements such as “no long-term contract required.”

18 17. Apple’s website further stated:

19 In the United States, *3G service is available through a breakthrough deal with AT&T. You*  
20 *can choose the amount of data per month you want to buy—250MB or unlimited.* If you  
21 choose the 250MB plan, you’ll receive onscreen messages as you get close to your monthly  
22 data limit so you can decide whether to turn off 3G or upgrade to the unlimited plan. *Best*  
23 *of all, there’s no long-term contract.* So if you have a business trip or vacation  
24 approaching, just sign up for the month you’ll be traveling and cancel when you get back.  
25 You don’t need to visit a store to get 3G service. You can sign up, check your data usage,  
26 manage your account, or cancel your service—all from your iPad. (emphasis added).

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1 18. Thus, according to Apple, purchasers of the iPad 3G would be able to later upgrade  
2 to the unlimited data plan, whether or not they initially signed up for it, and would be able to switch  
3 in and out of the unlimited data plan on a monthly basis in the future, as their data needs demanded.

4 19. On or about April 3, 2010, Apple began selling its standard iPad product with Wi-Fi  
5 capability. The iPad 3G was not yet made available for sale, though Apple allowed consumers to  
6 pre-order the iPad 3G starting on or about March 12, 2010.

7 20. On or about April 30, 2010, Apple began selling the 3G-enabled iPads. The iPad 3G  
8 cost approximately \$130 more than iPad models without 3G capability. In the first two months  
9 alone, Apple sold more than 2 million iPads, a substantial portion of which had 3G capability, and  
10 carried the premium price.

11 21. On April 30, 2010, plaintiff herein purchased a 64 GB iPad 3G at an Apple Store in  
12 Braintree, Massachusetts. The price was \$829.00, plus sales tax.

13 22. Prior to making her purchase of the iPad 3G, plaintiff researched both the standard  
14 Wi-Fi version of the iPad and the iPad 3G version. Plaintiff became aware of Apple's  
15 representations, including those on Apple's website, that: (a) of the two data plans available for the  
16 iPad 3G, one of the plans provided for "unlimited" 3G data downloading for a fixed monthly rate;  
17 and (b) taking advantage of the unlimited 3G data plan did not require a long-term contract; rather,  
18 she would be able to switch back and forth between the unlimited 3G data plan and the less-  
19 expensive 250MB plan based on her changing data needs, including the flexibility to upgrade to the  
20 unlimited data plan even during a month that she had signed up for the 250MB data plan. These  
21 representations were material to plaintiff's purchasing decision.

22 23. Less than 5 weeks later, on or about June 2, 2010, the flexible, unlimited data plan  
23 for 3G coverage was discontinued.

24 24. Suddenly, iPad 3G purchasers would no longer be able to choose to pay a fixed  
25 monthly rate for unlimited data from the 3G network, but rather would be required to choose  
26 between two, new limited-data plans. As a result, many of the applications that Jobs trumpeted as  
27 being ideal for iPad use—such as watching full-length movies and playing video games—would  
28



1 cause iPad 3G purchasers to significantly exceed the limits of the limited-data plans, thus resulting  
2 in overages and corresponding additional charges to customers.

3 25. On information and belief, iPad 3G purchasers, like plaintiff, who had already signed  
4 up for the unlimited 3G data plan as of June 7, 2010, would be able to retain their unlimited data  
5 plan. However, this “grandfathering” rule works only so long as they continue to subscribe to the  
6 unlimited plan each month; once the plan is deactivated, the unlimited data option disappears  
7 forever. Thus, despite Apple’s express representations that the 3G-data plan would be both  
8 “unlimited” and “no-contract,” a *de facto* long-term contract is now required to keep the promised  
9 benefit of unlimited 3G data.

10 26. The “grandfather” rule does not help purchasers of iPad 3Gs who pre-ordered or  
11 bought their iPad 3Gs before June 7, 2010, but failed to sign up for the unlimited 3G data plan by  
12 that date. On information and belief, these purchasers are completely shut out from the unlimited  
13 3G data plan, despite Apple’s promise that an unlimited 3G data plan would be available on an as-  
14 needed basis.

15 27. Furthermore, no purchasers of an iPad 3G will have the option of switching in and  
16 out of the unlimited plan, as they were expressly promised.

17 28. By failing to deliver on its promise of a device with a flexible, no-contract,  
18 unlimited-data plan, Apple stripped plaintiff and the class of a key benefit of purchasing the more  
19 expensive iPad 3G. Without the availability of a flexible unlimited data plan, the iPad 3Gs  
20 purchased by plaintiff and class members are of significantly reduced value and utility.

21 29. Apple’s representations regarding the continued availability of a flexible, unlimited  
22 data service plan was material. In deciding whether to shell out an additional \$130 to obtain the 3G-  
23 enabled iPad, consumers like plaintiff and the Class expected that they could use the iPad as it had  
24 been marketed—to allow for the downloading and use of megabyte-intensive applications, such as  
25 full-length movies, videos, and games—without having to worry about or pay overage fees. So too,  
26 reasonable consumers would have been attracted to the iPad 3G by the promise that they could  
27 switch in and out of the unlimited data plan, rather than being locked in to a long-term contract.  
28

1 30. Indeed, commentators and purchasers of iPad 3G devices have noted that the promise  
2 of a flexible, no-contract, unlimited 3G data plan was material to their purchases. For example,  
3 upon hearing the news that the flexible, no-contract, unlimited plan was to be discontinued on June  
4 7, 2010, information technology expert Bruce F. Webster wrote on his blog:

5 When the iPad was announced, a major aspect of that announcement was the \$30/month  
6 unlimited data plan from AT&T for the iPad.

7 Now, only two months after the iPad actually started shipping, AT&T is ending that plan  
8 as of June 7th, *and I find it very hard to believe that Apple didn't know this would*  
9 *happen, possibly before the iPad started shipping.*

10 I ordered an iPad from the Apple Store back on May 22nd; it still has not shipped, which  
11 means that I am unlikely to get it before June 7th, and therefore will not even be able to  
12 "grandfather" in under the \$30/unlimited plan. There must be at least a few hundred  
13 thousand (if not more) people in the same position, all of whom ordered (and paid  
14 money) with the expectation of the availability of the \$30/month unlimited data plan, but  
15 who will find that this data plan is no longer available when their iPads finally arrive. I  
16 do consider this classic bait-and-switch (and I'm not the only one). . . ."  
17 (<http://brucefwebster.com/2010/06/02/appleatt-bait-and-switch/>) (emphasis added).

18 31. Similarly, on June 3, 2010, Dan Frakes wrote on Macworld.com:

19 [W]hen the iPad was announced, Apple and AT&T made a big deal about the fact that  
20 iPad owners would be able to choose either a \$15 250 MB-per-month plan or a \$30  
21 unlimited-data plan. *And both companies made an especially big deal about the fact that*  
22 *these would be pre-paid, no-contract plans—you could activate 3G service when needed,*  
23 *paying only for those months you actually use it.*

24 This no-contract aspect of the iPad 3G's data plans was one of the iPad's best surprises,  
25 and it was such a breath of fresh mobile-contract air that it provided a compelling reason  
26 to purchase the more-expensive 3G-capable. *Indeed, I know more than a few people*  
27 *who, given the promise of no-contract, only-when-I-need-it, unlimited-data 3G wireless,*  
28 *stretched their budgets and spent the additional \$130 for an iPad that was otherwise*



1 identical to the Wi-Fi model. It was a too-tempting deal for people who don't regularly  
2 need 3G data, but looked forward to turning it on for, say, the annual family vacation."  
3 (<http://www.macworld.com/article/151734/2010/06/attipadbaitswitch.html>) (emphasis  
4 added).

5 32. Apple's statements regarding its "breakthrough deal" for 3G coverage and  
6 subsequent availability of a flexible, no-contract, unlimited 3G data plan were false and misleading.  
7 Apple made its false and misleading representations with the intent to induce consumers to purchase  
8 iPad 3Gs, and to pay a significantly higher price for this 3G-enabled version of the iPad.

9 33. Plaintiff and the class have suffered economic losses as a result of Apple's  
10 misconduct. Due to the policy changes effected on June 7, 2010, plaintiff does not have the option  
11 to switch back and forth between the unlimited 3G data plan and the 250MB plan, as Apple  
12 expressly represented in its marketing and advertising.

13 34. Plaintiff has been injured as a result of Apple's conduct alleged herein. Specifically,  
14 plaintiff paid more than she otherwise would have for her iPad device, and the device she paid for is  
15 considerably less useful and valuable than Apple represented it to be.

16 **CLASS ACTION ALLEGATIONS**

17 35. Plaintiff brings this nationwide class action on behalf of herself and the Class defined  
18 as follows (the "Class"):

19 All persons in the United States who purchased or ordered an Apple iPad Wi-Fi + 3G  
20 between January 27, 2010 and June 7, 2010.

21 36. Excluded from this Class is any person related to or affiliated with Apple, Inc.

22 37. The proposed Class is sufficiently numerous. Upon information and belief, the total  
23 number of Class members is at least in the hundreds of thousands and the members of the Class are  
24 geographically dispersed across the United States. Consequently, joinder of the individual Class  
25 members would be impracticable.

26 38. There are many questions of law and fact common to plaintiff and the proposed  
27 Class, and those questions substantially predominate over any individualized questions that may  
28

1 affect individual class members. Common questions of fact and law include, but are not limited to,  
2 the following:

- 3 a. whether Apple’s representations regarding the unlimited data plan for the iPad 3G  
4 were false or misleading;
- 5 b. whether Apple’s representations regarding the unlimited 3G data plan were material;
- 6 c. whether Apple’s conduct alleged herein constitutes false advertising in violation of  
7 Cal. Bus. & Prof. Code §§ 17500, *et seq.*;
- 8 d. whether Apple’s conduct alleged herein constitutes violation of Cal. Bus. & Prof.  
9 Code §§ 17200, *et seq.*;
- 10 e. whether Apple’s representations regarding the unlimited data plan for the iPad 3G  
11 were likely to mislead or deceive, and are therefore fraudulent, within the meaning of the UCL;
- 12 f. whether Apple’s conduct alleged herein constitutes unfair and/or unlawful business  
13 acts or practices within the meaning of the UCL;
- 14 g. whether Apple’s conduct constitutes unfair or deceptive acts or practices within the  
15 meaning of the CLRA;
- 16 h. whether plaintiff and the Class are entitled to restitution, equitable relief, interest,  
17 attorneys’ fees and costs, and other relief, and, if so, the amount and nature of such relief;

18 39. Plaintiff’s claims are typical of the claims of the Class. Plaintiff and all Class  
19 members have been similarly affected by Apple’s common course of conduct. Plaintiff and other  
20 class members must prove the same facts in order to establish the same claims.

21 40. Plaintiff will fairly and adequately represent and protect the interests of the Class.  
22 Plaintiff has retained counsel with substantial experience in prosecuting complex and class action  
23 litigation. Plaintiff and her counsel are committed to vigorously prosecuting this action on behalf of  
24 the class, and have the financial resources to do so. Neither plaintiff nor her counsel has any  
25 interests adverse to those of the proposed Class.

26 41. Plaintiff and the members of the Class have suffered as a result of defendant’s  
27 unlawful and wrongful conduct. A class action is superior to other available methods for the fair  
28

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1 and efficient adjudication of the present controversy, because joinder of all members of the Class  
2 would be impractical.

3 42. Furthermore, for many, if not most, class members, a class action is the only feasible  
4 mechanism for legal redress for the harm alleged.

5 43. Even if individual class members had the resources to pursue individual litigation, it  
6 would be unduly burdensome to the courts in which the individual litigation would proceed.  
7 Individual litigation would cause delay and undue expense to all parties affected by defendant's  
8 common course of conduct.

9 44. The class action device will allow a single court to provide the benefits of unitary  
10 adjudication, judicial economy, and the fair and equitable handling of all class members' claims in a  
11 single forum.

12 45. The conduct of this action as a class action will conserve the resources of the parties  
13 and of the judicial system, and will protect the rights of the class members.

14 46. Adjudication of individual class members' claims against the defendant would, as a  
15 practical matter, be dispositive of the interests of other class members not parties to the adjudication  
16 and could substantially impair or impede the ability of other class members to protect their interests.

17  
18 **FIRST CLAIM FOR RELIEF**

19 **(Violations of Cal. Bus. & Prof. Code Section 17200, *et seq.*—**

20 **Unfair, Unlawful, and Fraudulent Business Acts and Practices)**

21 47. Plaintiff, individually and on behalf of the Class, incorporates by reference the  
22 allegations set forth in the preceding paragraphs.

23 48. Business & Professions Code § 17200 prohibits all unlawful, unfair or fraudulent  
24 business practices and/or acts. The statute is liberally construed and applied to protect the public.

25 49. Plaintiff has standing to bring this action as plaintiff has suffered injury in fact and  
26 has lost money or property as a result of Apple's actions as set forth above.

27 50. Class members have suffered injury in fact and have lost money or property as a  
28 result of Apple's actions as set forth above.

1 51. Apple's conduct constitutes "unfair" business acts in violation of Cal. Bus. & Prof.  
2 Code § 17200, *et seq.* Apple's business practices alleged herein are "unfair" because they offend  
3 established public policy and/or are immoral, unethical, oppressive, unscrupulous and/or  
4 substantially injurious to its customers. Such conduct includes, among other things,  
5 (a) misrepresenting to plaintiff and the Class that purchasers of the iPad 3G would be able to  
6 subscribe to a flexible, no-contract, unlimited 3G data plan; (b) denying plaintiff and the Class the  
7 benefit of the option to switch in and out of the unlimited data plan in the future as their data needs  
8 require.

9 52. Apple's acts and practices, as alleged herein, were "unlawful" within the meaning of  
10 Cal. Bus. & Prof. Code §§ 17200 *et seq.* because they violated, among other laws, Cal. Bus. & Prof.  
11 Code §§ 17500, *et seq.*, and the Consumer Legal Remedies Act, as set forth below.

12 53. Apple's misrepresentations and omissions, as alleged herein, were "fraudulent"  
13 because they were likely to deceive consumers, including plaintiff and the Class.

14 54. Apple's misrepresentations and omissions, as alleged herein, were objectively  
15 material in that a reasonable person would attach importance to such information in making his or  
16 her decision to purchase the iPad 3G. Therefore, reliance by plaintiff and the Class may be  
17 presumed as a matter of law.

18 55. As a result of Apple's conduct, plaintiff and the Class spent more money on the iPad  
19 device than they otherwise would have, and the value and utility of the device they received was  
20 diminished.

21 56. Plaintiff and the Class seek injunctive relief and an order requiring Apple to make  
22 full restitution of all moneys it has wrongfully obtained from plaintiff and the Class, along with all  
23 other relief allowable under Cal. Bus. & Prof. Code §§ 17200 *et seq.*

24 **SECOND CLAIM FOR RELIEF**

25 **(Violations of Cal. Bus. & Prof. Code §§ 17500, *et seq.*—**

26 **False Advertising)**

27 57. Plaintiff, individually and on behalf of the Class, incorporates by reference the  
28 allegations set forth in the preceding paragraphs.

Class Action Complaint

1 58. Cal. Bus. & Prof. Code §§ 17500, *et seq.* has been broadly construed to proscribe not  
2 only advertising that is false, but also advertising that is either actually misleading or which has a  
3 capacity, likelihood or tendency to deceive or confuse the public.

4 59. Plaintiff has standing to bring this action as plaintiff has suffered injury in fact and  
5 has lost money or property as a result of Apple's false or deceptive advertising.

6 60. Class members have suffered injury in fact and have lost money or property as a  
7 result of Apple's false, misleading, or deceptive advertising.

8 61. During the relevant period, Apple's advertising and marketing concerning the data  
9 plans available for the iPad 3G violated Cal. Bus. & Prof Code §§ 17500, *et seq.* Specifically,  
10 Apple made false and misleading statements to consumers, on its website and elsewhere, that  
11 purchasers of the iPad 3G would be able to subscribe to, and switch in and out of, an unlimited data  
12 plan as their monthly data needs demanded, whether or not they initially signed up for the unlimited  
13 data plan.

14 62. Apple represented falsely or misleadingly that the company had entered into a  
15 "breakthrough deal with AT&T" to offer this flexible, no-contract, unlimited data plan.

16 63. Apple's representations were false and misleading, in that the representations were  
17 either untrue or, if not wholly false, actually misled consumers or had the capacity, tendency, or  
18 likelihood to deceive the general public regarding the benefits of purchasing an iPad 3G and the  
19 nature of the unlimited data plan options.

20 64. Apple's false and/or misleading representations alleged herein were objectively  
21 material in that a reasonable person would attach importance to them in making his or her decision  
22 to purchase the iPad 3G. Therefore, reliance by plaintiff and the Class may be presumed as a matter  
23 of law.

24 65. Upon information and belief, Apple's false advertising continued throughout the  
25 class period.

26 66. At the time it made and disseminated the statements alleged herein, Apple knew or  
27 should have known that the statements were untrue or misleading, and acted in violation of Cal. Bus.  
28 & Prof. Code §§ 17500, *et seq.*

1 67. As a result of the foregoing, plaintiff and each member of the Class are entitled to  
2 restitution and injunctive relief and all other relief allowable under Business and Professions Code  
3 Section 17500, *et seq.*

4 **THIRD CLAIM FOR RELIEF**

5 **(Violations of the Consumer Legal Remedies Act, Cal. Civ. Code §§ 1750, *et seq.*)**

6 68. Plaintiff, individually and on behalf of the Class, incorporates by reference the  
7 allegations set forth in the preceding paragraphs.

8 69. The Consumer Legal Remedies Act (“CLRA”) prohibits unfair or deceptive acts or  
9 practices undertaken by any person in a transaction intended to result or which results in the sale or  
10 lease of goods or services to any consumer. The statute is liberally construed to protect the public.

11 70. The iPad 3G is a “good” within the meaning of Cal. Civ. Code §§ 1761(a) and 1770.

12 71. Apple is a “person” within the meaning of Cal. Civ. Code §§ 1761(c) and 1770.

13 72. Purchasers of iPad 3Gs, including plaintiff and the Class, are “consumers” within the  
14 meaning of Cal. Civ. Code §§ 1761(d) and 1770.

15 73. Plaintiff’s and each class members’ purchases of an iPad 3G constitute “transactions”  
16 within the meaning of Cal. Civ. Code §§ 1761(e) and 1770.

17 74. Apple’s practices, acts, representations, and course of conduct with respect to their  
18 marketing, advertising, and sale of iPad 3Gs violated the following sections of the Consumers Legal  
19 Remedies Act:

20 a. Cal. Civ. Code § 1770(a)(5): Representing to plaintiff and the Class that Apple’s  
21 goods and services had characteristics and benefits they did not have;

22 b. Cal. Civ. Code § 1770(a)(9): Advertising goods and services to plaintiff and the Class  
23 with the intent not to sell them as advertised;

24 c. Cal. Civ. Code § 1770(a)(14): Representing that their transactions with plaintiff and  
25 the Class conferred benefits and rights on plaintiff and the Class, and obligations on Apple, which  
26 were not, in fact, conferred; and

27 d. Cal. Civ. Code § 1770(a)(16): Representing to plaintiff and the Class that the subject  
28 of a transaction has been supplied in accordance with a previous representation when it has not.



1 75. Apple's misrepresentations and omissions as to the availability of a flexible, no-  
2 contract, unlimited data plan available for iPad 3G purchasers, as described herein, were likely to  
3 mislead a reasonable consumer acting reasonably under the circumstances to his or her detriment.

4 76. Plaintiff and the Class reasonably interpreted Apple's representations and omissions  
5 to mean that they would be able to subscribe to, and switch in and out of, the unlimited data plan in  
6 the future as their monthly data needs demanded, whether or not they initially signed up for the  
7 unlimited data plan.

8 77. Apple's misrepresentations and omissions alleged herein were objectively material in  
9 that a reasonable person would attach importance to the existence or non-existence of the flexible,  
10 no-contract, unlimited data plan in making his or her decision to purchase the iPad 3G. Therefore,  
11 reliance by plaintiff and the Class may be presumed as a matter of law.

12 78. Plaintiff and the Class relied to their detriment on Apple's misrepresentations and  
13 suffered damage as a result of Apple's misconduct.

14 79. In engaging in the intentional misrepresentations, deceit, and omissions alleged  
15 herein, Apple acted fraudulently and maliciously, as its conduct was designed to maximize Apple's  
16 economic gain by causing substantial injury to plaintiff and the Class, in willful and conscious  
17 disregard of the rights of plaintiff and the Class as established by California law and applicable  
18 regulations.

19 80. As a result of Apple's violations of the CLRA, plaintiff and the Class are entitled to  
20 injunctive relief and the recovery of all attorneys' fees, costs, and expenses of conducting this  
21 action.

22 81. Pursuant to Cal. Civ. Code § 1782(a), plaintiff will serve Apple with notice of its  
23 alleged violations of the CLRA by certified mail return receipt requested. If, within thirty days after  
24 the date of such notification, Apple fails to provide appropriate relief for its violations of the CLRA,  
25 plaintiff will amend this Complaint to seek monetary (both compensatory and punitive) damages  
26 and/or restitution under the CLRA.  
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1 82. Notwithstanding any other statements in this complaint, plaintiff does not seek  
2 monetary damages and/or restitution in conjunction with her CLRA claim, and will not do so, until  
3 this thirty-day period has passed.

4 **PRAYER FOR RELIEF**

5 Plaintiff, on behalf of herself and the Class, requests that the Court enter an order or  
6 judgment against defendant as follows:

- 7 1. Certification of the proposed Class;
- 8 2. A declaration that defendant has engaged in the conduct alleged herein;
- 9 3. An injunction ordering Apple to cease and desist from engaging in the unfair,  
10 unlawful, and/or deceptive practices described herein;
- 11 4. Restitution and disgorgement for relief of Apple’s violations of Business &  
12 Professions Code §§ 17200 *et seq.* and 17500 *et seq.*, in an amount according to proof, including  
13 without limitation, all profits, benefits, and other compensation obtained by Apple from its  
14 deceptive, misleading, and unlawful conduct alleged here;
- 15 5. Pre-judgment and post-judgment interest;
- 16 6. Reasonable attorney’s fees and expenses and the costs of this action; and
- 17 7. All other and further relief as the Court deems necessary, just and proper.

18 **JURY DEMAND**

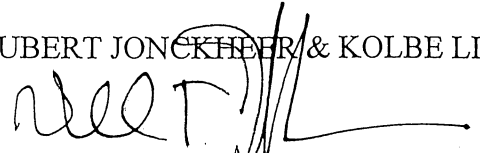
19 Plaintiff hereby demands a trial by jury.  
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SCHUBERT JONCKHEER & KOLBE LLP  
Three Embarcadero Center, Suite 1650  
San Francisco, CA 94111  
(415) 788-4220

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Dated: September 20, 2010

SCHUBERT JONCKHEER & KOLBE LLP



ROBERT C. SCHUBERT (S.B.N. 62684)  
WILLEM F. JONCKHEER (S.B.N. 178748)  
JASON A. PIKLER (S.B.N. 245722)  
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PETER A. LAGORIO  
LAW OFFICE OF PETER A. LAGORIO  
63 Atlantic Avenue  
Boston, Massachusetts 021110  
Telephone: (617) 367-4200  
Facsimile: (617) 227-3384

*Counsel for Plaintiff*

SCHUBERT JONCKHEER & KOLBE LLP  
Three Embarcadero Center, Suite 1650  
San Francisco, CA 94111  
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**CIVIL COVER SHEET**

JS 44 (Rev. 12/07) (CAND Rev 1/10)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

<p><b>I. (a) PLAINTIFFS</b> Collette Osetek, on behalf of herself and all others similarly situated,</p>	<p><b>DEFENDANTS</b> Apple Inc., a California corporation</p>
<p>(b) County of Residence of First Listed Plaintiff Suffolk County, MA (EXCEPT IN U.S. PLAINTIFF CASES)</p>	<p>County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p>
<p>(c) Attorney's (Firm Name, Address, and Telephone Number)  Willem F. Jonckheer (SBN 178748) Schubert Jonckheer &amp; Kolbe LLP Three Embarcadero Center, Suite 1650 San Francisco, CA 94111 Tel: (415) 788-4220</p>	<p>Attorneys (If Known)</p>

E-filing

JW

CV 10 - 4253

<p><b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <p>(For Diversity Cases Only)</p> <table style="width:100%;"> <tr> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4	Citizen of Another State	<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES		
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<table style="width:100%;"> <tr> <td style="width:50%;"> <input type="checkbox"/> 310 Airplane  <input type="checkbox"/> 315 Airplane Product Liability  <input type="checkbox"/> 320 Assault, Libel &amp; Slander  <input type="checkbox"/> 330 Federal Employers' Liability  <input type="checkbox"/> 340 Marine  <input type="checkbox"/> 345 Marine Product Liability  <input type="checkbox"/> 350 Motor Vehicle  <input type="checkbox"/> 355 Motor Vehicle Product Liability  <input type="checkbox"/> 360 Other Personal Injury                             </td> <td style="width:50%;"> <input type="checkbox"/> 362 Personal Injury—Med. Malpractice  <input type="checkbox"/> 365 Personal Injury—Product Liability  <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b>  <input checked="" type="checkbox"/> 370 Other Fraud  <input type="checkbox"/> 371 Truth in Lending  <input type="checkbox"/> 380 Other Personal Property Damage  <input type="checkbox"/> 385 Property Damage Product Liability                             </td> </tr> </table>	<input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input checked="" type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input checked="" type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability					
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))		
		<b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609			

**V. ORIGIN** (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	Transferred from <input type="checkbox"/> 5 another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation	Appeal to District <input type="checkbox"/> 7 Judge from Magistrate Judgment
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**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
Cal. Bus. & Prof. Code section 17200, et seq.

Brief description of cause:  
Unfair business practices and false advertising of the Apple iPad's prepaid data plan

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

**DEMAND \$** \_\_\_\_\_

CHECK YES only if demanded in complaint:  
**JURY DEMAND:**  Yes  No


**VIII. RELATED CASE(S) IF ANY**

PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

**IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE AND "X" IN ONE BOX ONLY)**

SAN FRANCISCO/OAKLAND  SAN JOSE  EUREKA

DATE: September 20, 2010

SIGNATURE OF ATTORNEY OF RECORD: 

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44****Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

**I. (a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

**II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

**III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

**IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

**V. Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

**VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.**

Example:

U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

**VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

**VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of California

Colette Osetek, on behalf of herself and all others  
similarly situated,

Plaintiff

v.

Apple Inc.,

Defendant

E filing

ADR

Civil Action No.

CV 10 - 4253

JW

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Apple Inc.  
One Infinite Loop  
Cupertino, CA 95014

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Willem F. Jonckheer (SBN 178748)  
Schubert Jonckheer & Kolbe LLP  
Three Embarcadero Center, Suite 1650  
San Francisco, CA 94111  
(415) 788-4220

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Tiffany Salinas-Harwell

Signature of Clerk or Deputy Clerk

Date: SEP 20 2010



Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 .

I declare under penalty of perjury that this information is true.

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

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

ORIGINAL  
 FILED

2010 SEP 20 P 3 57

No. C 10-04253 JW

ORDER SETTING INITIAL CASE  
 MANAGEMENT CONFERENCE  
 AND ADR DEADLINES

COLETTE OSETEK,  
 Plaintiff (s),  
 v.  
 APPLE, INC.,  
 Defendant(s).

E-filing

ADR

IT IS HEREBY ORDERED that this action is assigned to the Honorable James Ware. When serving the complaint or notice of removal, the plaintiff or removing defendant must serve on all other parties a copy of this order and all other documents specified in Civil Local Rule 4-2. Counsel must comply with the case schedule listed below unless the Court otherwise orders.

IT IS FURTHER ORDERED that this action is assigned to the Alternative Dispute Resolution (ADR) Multi-Option Program governed by ADR Local Rule 3. Counsel and clients shall familiarize themselves with that rule and with the material entitled "Dispute Resolution Procedures in the Northern District of California" on the Court ADR Internet site at [www.adr.cand.uscourts.gov](http://www.adr.cand.uscourts.gov). A limited number of printed copies are available from the Clerk's Office for parties in cases not subject to the court's Electronic Case Filing program (ECF).

IT IS FURTHER ORDERED that plaintiff or removing defendant serve upon all parties the brochure entitled "Consenting To A Magistrate Judge's Jurisdiction In The Northern District Of California," additional copies of which can be downloaded from the following Internet site: <http://www.cand.uscourts.gov>.

**CASE SCHEDULE -ADR MULTI-OPTION PROGRAM**

Date	Event	Governing Rule
9/20/2010	Complaint filed	
3/28/2011	*Last day to: <ul style="list-style-type: none"> <li>meet and confer re: initial disclosures, early settlement, ADR process selection, and discovery plan</li> <li>file ADR Certification signed by Parties and Counsel (form available at <a href="http://www.cand.uscourts.gov">http://www.cand.uscourts.gov</a>)</li> <li>file either Stipulation to ADR Process or Notice of Need for ADR Phone Conference (form available at <a href="http://www.cand.uscourts.gov">http://www.cand.uscourts.gov</a>)</li> </ul>	FRCivP 26(f) & ADR L.R.3-5  Civil L.R. 16-8 (b) & ADR L.R. 3-5(b)  Civil L.R. 16-8 (c) & ADR L.R. 3-5(b) & (c)

4/8/2011	Last day to file Rule 26(f) Report, complete initial disclosures or state objection in Rule 26(f) Report and file Case Management Statement per attached Standing Order re Contents of Joint Case Management Statement (also available at <a href="http://www.cand.uscourts.gov">http://www.cand.uscourts.gov</a> )	<u>FR CivP 26(a)(1)</u> <u>Civil L.R. 16-9</u>
4/18/2011	INITIAL CASE MANAGEMENT CONFERENCE (CMC) in Courtroom 8, 4th Floor, SJ at 10:00 AM	<u>Civil L.R. 16-10</u>

\*If the Initial Case Management Conference is continued, the other deadlines are continued accordingly.