

EXHIBIT F

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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

ADAM WEISBLATT, JOE HANNA, DAVID
 TURK, and COLETTE OSETEK individually and
 on behalf of all others similarly situated,

Plaintiffs,

v.

APPLE INC., AT&T MOBILITY LLC, and Does
 1-10,

Defendants.

Case Nos. 5:10-cv-02553 RMW,
 5:10-cv-02588-RMW,
 5:10-cv-04253-RMW

CLASS ACTION

**ANSWER TO MASTER
 CONSOLIDATED COMPLAINT**

The Hon. Ronald M. Whyte

Master Consolidated Complaint filed:
 December 10, 2010

1 Defendant APPLE INC. (“Apple”), by and through its attorneys, answers the Master
2 Consolidated Complaint (“Complaint”) filed by Plaintiffs Adam Weisblatt, Joe Hanna, David
3 Turk, and Collette Osetek as follows:

4 **NATURE OF THE ACTION**

5 1. Responding to paragraph 1 of the Complaint, Apple denies each and every
6 averment contained in paragraph 1.

7 2. Responding to paragraph 2 of the Complaint, Apple denies each and every
8 averment contained in paragraph 2.

9 3. Responding to paragraph 3 of the Complaint, Apple denies each and every
10 averment contained in paragraph 3.

11 4. Responding to paragraph 4 of the Complaint, Apple denies each and every
12 averment contained in paragraph 4.

13 5. Responding to paragraph 5 of the Complaint, Apple states that insofar as the
14 averments in paragraph 5 state conclusions of law, no response thereto is required. Except as
15 expressly stated, Apple denies each and every averment contained in paragraph 5.

16 **JURISDICTION AND VENUE**

17 6. Responding to paragraph 6 of the Complaint, Apple states that insofar as the
18 averments in paragraph 6 state conclusions of law, no response thereto is required. Except as
19 expressly stated, Apple denies each and every averment contained in paragraph 6.

20 7. Responding to paragraph 7 of the Complaint, Apple states that its executive offices
21 and corporate headquarters are located in Cupertino, California. Apple further states that it is
22 incorporated in California and that it is registered to do business in the State of California.
23 Insofar as the averments in paragraph 7 state conclusions of law, no response thereto is required.

24 8. Responding to paragraph 8 of the Complaint, Apple states that it does business in
25 the Northern District of California and that its headquarters are located in Santa Clara County,
26 California. Insofar as the averments in paragraph 8 state conclusions of law, no response thereto
27 is required.

1 15. Responding to paragraph 15 of the Complaint, Apple states that it is incorporated
2 in California. Apple further states that its executive offices and corporate headquarters are
3 located in Cupertino, Santa Clara County, California. Except as otherwise stated, Apple denies
4 each and every averment contained in paragraph 15.

5 16. Responding to paragraph 16 of the Complaint, Apple states that its products and
6 services include the Mac line of desktop and portable computers, iPhone, the iPod line of portable
7 digital music and video players, Apple TV, Xserve, a portfolio of consumer and professional
8 software applications, the Mac OS X operating system, third-party digital content and
9 applications through the iTunes Store, and a variety of accessory, service and support offerings.
10 Apple further states that it sells its products worldwide through its online stores, its retail stores,
11 its direct sales force, and third-party wholesalers, retailers, and value-added resellers. Except as
12 expressly stated, Apple denies each and every averment contained in paragraph 16.

13 17. Responding to paragraph 17 of the Complaint, Apple states that it is without
14 knowledge or information to form a belief as to the truth of the averments contained in paragraph
15 17 and on that basis denies the averments.

16 18. Responding to paragraph 18 of the Complaint, Apple states that it is without
17 knowledge or information to form a belief as to the truth of the averments contained in paragraph
18 18 and on that basis denies the averments.

19 19. Responding to paragraph 19 of the Complaint, Apple states that it is without
20 knowledge or information to form a belief as to the truth of the averments contained in paragraph
21 19 and on that basis denies the averments.

22 20. Responding to paragraph 20 of the Complaint, Apple states that AT&T provides
23 wireless data support for iPad 3G. Except as expressly stated, Apple denies each and every
24 averment contained in paragraph 20.

25 21. Responding to paragraph 21 of the Complaint, Apple is without knowledge or
26 information to form a belief as to the truth of the averments contained in paragraph 21 and on that
27 basis denies the averments.

ALLEGATIONS APPLICABLE TO ALL COUNTS

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2 22. Responding to paragraph 22 of the Complaint, Apple states that its CEO, Steve
3 Jobs, announced the iPad at a press event on January 27, 2010. Apple further states that it
4 announced the iPad comes in two versions—one with Wi-Fi (“iPad Wi-Fi”) and the other with
5 both Wi-Fi and 3G (“iPad 3G”). Except as expressly stated, Apple denies each and every
6 averment contained in paragraph 22.

7 23. Responding to paragraph 23 of the Complaint, Apple states that the iPad is 0.5
8 inches thick, 9.56 inches in height, and 7.47 inches in width and weighs approximately 1.5
9 pounds. Apple further states that the iPad features a 9.7-inch, LED-backlit display with IPS
10 technology. Apple further states that the iPad is powered by an Apple-designed A4 chip. Apple
11 further states that iPad comes in two versions—one with Wi-Fi (“iPad Wi-Fi”) and the other with
12 both Wi-Fi and 3G (“iPad 3G”). Apple further states that the suggested retail price for the iPad
13 Wi-Fi is \$499 for the 16 GB model, \$599 for the 32 GB model, and \$699 for the 64 GB model.
14 Except as expressly stated, Apple denies each and every averment contained in paragraph 23.

15 24. Responding to paragraph 24 of the Complaint, Apple states that the iPad Wi-Fi
16 went on sale in retail stores on April 3, 2010. Except as expressly stated, Apple denies each and
17 every averment contained in paragraph 24.

18 25. Responding to paragraph 25 of the Complaint, Apple states that the iPad 3G went
19 on sale in retail stores on April 30, 2010. Apple further states that the iPad Wi-Fi differs from the
20 iPad 3G insofar as the iPad 3G is supported by AT&T’s network. Except as expressly stated,
21 Apple denies each and every averment contained in paragraph 25.

22 26. Responding to paragraph 26 of the Complaint, Apple states that the suggested
23 retail price for the iPad Wi-Fi is \$499 for the 16 GB model, \$599 for the 32 GB model, and \$699
24 for the 64 GB model. Apple further states that the suggested retail price for the iPad 3G is \$629
25 for the 16 GB model, \$729 for the 32 GB model, and \$829 for the 64 GB model. Apple further
26 states that to the extent that paragraph 26 references documents attached to the Complaint, the
27 documents speak for themselves. Except as expressly stated, Apple denies each and every
28 averment contained in paragraph 26.

1 27. Responding to paragraph 27 of the Complaint, Apple states that customers in the
2 United States were able to pre-order iPad Wi-Fi or iPad 3G beginning on March 12, 2010. Apple
3 further states that to the extent paragraph 27 references documents attached to the Complaint, the
4 documents speak for themselves. Except as expressly stated, Apple denies each and every
5 averment contained in paragraph 27.

6 28. Responding to paragraph 28 of the Complaint, Apple states that, as of May 31,
7 2010, it had sold more than two million iPad Wi-Fi and iPad 3G units worldwide. Apple states
8 that to the extent paragraph 28 references a website, the website speaks for itself. Except as
9 expressly stated, Apple denies each and every averment contained in paragraph 28.

10 29. Responding to paragraph 29 of the Complaint, Apple states that the documents
11 attached to the Complaint speak for themselves. Apple further states that to the extent paragraph
12 29 references documents attached to the Complaint, the documents speak for themselves. Except
13 as expressly stated, Apple denies each and every averment contained in paragraph 29.

14 30. Responding to paragraph 30 of the Complaint, Apple states that AT&T offers data
15 service plans to support iPad 3G. Apple states that its CEO, Steve Jobs, announced the iPad on
16 January 27, 2010. Apple further states that to the extent paragraph 30 references a video on a
17 website, the video speaks for itself. Except as expressly stated, Apple denies each and every
18 averment contained in paragraph 30.

19 31. Responding to paragraph 31 of the Complaint, Apple states that to the extent
20 paragraph 31 references a website, the website speaks for itself. Except as expressly stated,
21 Apple denies each and every averment contained in paragraph 31.

22 32. Responding to paragraph 32 of the Complaint, Apple states that to the extent
23 paragraph 32 references websites, the websites speak for themselves. Except as expressly stated,
24 Apple denies each and every averment contained in paragraph 32.

25 33. Responding to paragraph 33 of the Complaint, Apple denies each and every
26 averment contained in paragraph 33.

27 34. Responding to paragraph 34 of the Complaint, Apple states that to the extent
28 paragraph 34 references documents attached to the Complaint, the documents speak for

1 themselves. Except as expressly stated, Apple denies each and every averment contained in
2 paragraph 34.

3 (a) Responding to paragraph 34(a) of the Complaint, Apple states that the document
4 attached to the Complaint as Exhibit C speaks for itself. Except as expressly stated, Apple denies
5 each and every averment contained in paragraph 34(a).

6 (b) Responding to paragraph 34(b) of the Complaint, Apple states that the document
7 attached to the Complaint as Exhibit C speaks for itself. Except as expressly stated, Apple denies
8 each and every averment contained in paragraph 34(b).

9 (c) Responding to paragraph 34(c) of the Complaint, Apple states that the document
10 attached to the Complaint as Exhibit A speaks for itself. Except as expressly stated, Apple denies
11 each and every averment contained in paragraph 34(c).

12 (d) Responding to paragraph 34(d) of the Complaint, Apple states that the document
13 attached to the Complaint as Exhibit A speaks for itself. Except as expressly stated, Apple denies
14 each and every averment contained in paragraph 34(d).

15 (e) Responding to paragraph 34(e) of the Complaint, Apple states that the document
16 attached to the Complaint as Exhibit A speaks for itself. Except as expressly stated, Apple denies
17 each and every averment contained in paragraph 34(e).

18 35. Responding to paragraph 35 of the Complaint, Apple states that to the extent
19 paragraph 35 references documents attached to the Complaint, the documents speak for
20 themselves. Except as expressly stated, Apple denies each and every averment contained in
21 paragraph 35.

22 36. Responding to paragraph 36 of the Complaint, Apple states that to the extent that
23 paragraph 36 references documents attached to the Complaint, the documents speak for
24 themselves. Except as expressly stated, Apple denies each and every averment contained in
25 paragraph 36.

26 37. Responding to paragraph 37 of the Complaint, Apple states that insofar as the
27 averments in paragraph 37 state conclusions of law, no response is thereto is required. Apple
28 further states that it is without knowledge or information sufficient to form a belief as to the truth

1 of the averments in paragraph 37, and on that basis denies such averments. Except as expressly
2 stated, Apple denies each and every averment contained in paragraph 37.

3 38. Responding to paragraph 38 of the Complaint, Apple states that insofar as the
4 averments in paragraph 38 state conclusions of law, no response is thereto is required. Apple
5 further states that it is without knowledge or information sufficient to form a belief as to the truth
6 of the averments of paragraph 38 at this time, and on that basis Apple denies each and every
7 averment contained in paragraph 38.

8 39. Responding to paragraph 39 of the Complaint, Apple denies each and every
9 averment contained in paragraph 39.

10 40. Responding to paragraph 40 of the Complaint, Apple is without knowledge or
11 information sufficient to form a belief as to the truth of the averments contained in paragraph 40,
12 and on that basis denies the averments. Insofar as the averments in paragraph 40 state
13 conclusions of law, no response thereto is required. Except as expressly stated, Apple denies
14 each and every averment contained in paragraph 40.

15 41. Responding to paragraph 41 of the Complaint, Apple denies each and every
16 averment contained in paragraph 41.

17 42. Responding to paragraph 42 of the Complaint, Apple states that to the extent that
18 paragraph 42 references documents attached to the Complaint, the documents speak for
19 themselves. Apple further states that it without knowledge or information sufficient to form a
20 belief as to the truth of the averments contained in paragraph 42. Except as expressly stated,
21 Apple denies each and every averment contained in paragraph 42.

22 43. Responding to paragraph 43 of the Complaint, Apple states that to the extent that
23 paragraph 43 references documents attached to the Complaint, the documents speak for
24 themselves. Except as expressly stated, Apple denies each and every averment contained in
25 paragraph 43.

26 44. Responding to paragraph 44 of the Complaint, Apple is without knowledge or
27 information sufficient to form a belief as to the truth of the averments contained in paragraph 44
28 and on that basis denies the averments.

1 81. Responding to paragraph 81 of the Complaint, Apple states that it is without
2 knowledge or information sufficient to form a belief as to the truth of the averments of paragraph
3 81 at this time, and on that basis denies each and every averment.

4 82. Responding to paragraph 82 of the Complaint, Apple states that it is without
5 knowledge or information sufficient to form a belief as to the truth of the averments of paragraph
6 82 at this time, and on that basis denies each and every averment.

7 83. Responding to paragraph 83 of the Complaint, Apple states that it is without
8 knowledge or information sufficient to form a belief as to the truth of the averments of paragraph
9 83 at this time, and on that basis denies each and every averment.

10 84. Responding to paragraph 84 of the Complaint, Apple states that it is without
11 knowledge or information sufficient to form a belief as to the truth of the averments of paragraph
12 84 at this time, and on that basis denies each and every averment.

13 **CLASS ACTION ALLEGATIONS**

14 85. Responding to paragraph 85 of the Complaint, Apple states that Plaintiffs purport
15 to bring a class action against Apple and seek to represent a purported class as stated. Apple
16 denies that class treatment is appropriate.

17 86. Responding to paragraph 86 of the Complaint, Apple states that Plaintiffs purport
18 to bring a class action against Apple. Apple denies that class treatment is appropriate.

19 87. Responding to paragraph 87 of the Complaint, Apple states that Plaintiffs purport
20 to bring a class action against Apple. Apple denies that class treatment is appropriate.

21 88. Responding to paragraph 88 of the Complaint, Apple denies each and every
22 averment contained in paragraph 88, including each individual sub-paragraph (a) – (l).

23 89. Responding to paragraph 89 of the Complaint, Apple denies each and every
24 averment contained in paragraph 89. Insofar as the averments in paragraph 89 state conclusions
25 of law, no response thereto is required.

26 90. Responding to paragraph 90 of the Complaint, Apple states that Plaintiffs purport
27 to bring a class action against Apple. Apple denies that that class treatment is appropriate. Apple
28 further denies each and every averment contained in paragraph 90.

1 111. Responding to paragraph 111 of the Complaint, Apple denies each and every
2 averment contained in paragraph 111.

3 112. Responding to paragraph 112 of the Complaint, Apple denies each and every
4 averment contained in paragraph 112.

5 113. Responding to paragraph 113 of the Complaint, Apple denies each and every
6 averment contained in paragraph 113.

7 114. Responding to paragraph 114 of the Complaint, Apple denies each and every
8 averment contained in paragraph 114.

9 115. Responding to paragraph 115 of the Complaint, Apple denies each and every
10 averment contained in paragraph 115.

11 116. Responding to paragraph 116 of the Complaint, Apple denies each and every
12 averment contained in paragraph 116.

13 117. Responding to paragraph 117 of the Complaint, Apple denies each and every
14 averment contained in paragraph 117.

15 118. Responding to paragraph 118 of the Complaint, Apple denies each and every
16 averment contained in paragraph 118.

17 119. Responding to paragraph 119 of the Complaint, Apple denies each and every
18 averment contained in paragraph 119.

19 120. Responding to paragraph 120 of the Complaint, Apple denies each and every
20 averment contained in paragraph 120. Apple denies that Plaintiffs or the members of the
21 purported class have been injured or damaged in any way and further denies that Plaintiffs or the
22 members of the purported class are entitled to relief of any kind.

23 121. Responding to paragraph 121 of the Complaint, Apple states that insofar as
24 Plaintiffs' averments in paragraph 121 state conclusions of law, no response thereto is required.
25 Except as expressly stated, Apple denies each and every averment contained in paragraph 121.
26 Apple denies that Plaintiffs or the members of the purported class have been injured or damaged
27 in any way and further denies that Plaintiffs or the members of the purported class are entitled to
28 relief of any kind.

THIRD CAUSE OF ACTION
(Negligent Misrepresentation)

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2 122. Responding to paragraph 122 of the Complaint, Apple realleges and incorporates
3 by reference each and every preceding paragraph of this Answer as if fully set forth herein.

4 123. Responding to paragraph 123 of the Complaint, Apple denies each and every
5 averment contained in paragraph 123.

6 124. Responding to paragraph 124 of the Complaint, Apple denies each and every
7 averment contained in paragraph 124.

8 125. Responding to paragraph 125 of the Complaint, Apple denies each and every
9 averment contained in paragraph 125.

10 126. Responding to paragraph 126 of the Complaint, Apple denies each and every
11 averment contained in paragraph 126.

12 127. Responding to paragraph 127 of the Complaint, Apple denies each and every
13 averment contained in paragraph 127.

14 128. Responding to paragraph 128 of the Complaint, Apple denies each and every
15 averment contained in paragraph 128.

16 129. Responding to paragraph 129 of the Complaint, Apple states that insofar as
17 Plaintiffs' averments in paragraph 129 state conclusions of law, no response thereto is required.
18 Except as expressly stated, Apple denies each and every averment contained in paragraph 129.

19 130. Responding to paragraph 130 of the Complaint, Apple denies each and every
20 averment contained in paragraph 130.

21 131. Responding to paragraph 131 of the Complaint, Apple denies each and every
22 averment contained in paragraph 131.

23 132. Responding to paragraph 132 of the Complaint, Apple denies each and every
24 averment contained in paragraph 132. Apple further denies that Plaintiffs or the members of the
25 purported class have been injured or damaged in any way and further denies that Plaintiffs or the
26 members of the purported class are entitled to relief of any kind.
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1 141. Responding to paragraph 141 of the Complaint, Apple states that insofar as
2 Plaintiffs' averments in paragraph 141 state conclusions of law, no response thereto is required.
3 Except as expressly stated, Apple denies each and every averment contained in paragraph 141.

4 142. Responding to paragraph 142 of the Complaint, Apple states that insofar as
5 Plaintiffs' averments in paragraph 142 state conclusions of law, no response thereto is required.
6 Except as expressly stated, Apple denies each and every averment contained in paragraph 142.

7 143. Responding to paragraph 143 of the Complaint, Apple states that insofar as
8 Plaintiffs' averments in paragraph 143 state conclusions of law, no response thereto is required.
9 Except as expressly stated, Apple denies each and every averment contained in paragraph 143.

10 144. Responding to paragraph 144 of the Complaint, Apple states that insofar as
11 Plaintiffs' averments in paragraph 144 state conclusions of law, no response thereto is required.
12 Except as expressly stated, Apple denies each and every averment contained in paragraph 144.

13 145. Responding to paragraph 145 of the Complaint, Apple denies each and every
14 averment contained in paragraph 145.

15 146. Responding to paragraph 146 of the Complaint, Apple states that insofar as
16 Plaintiffs' averments in paragraph 146 state conclusions of law, no response thereto is required.
17 Except as expressly stated, Apple denies each and every averment contained in paragraph 146.

18 147. Responding to paragraph 147 of the Complaint, Apple denies each and every
19 averment contained in paragraph 147.

20 148. Responding to paragraph 148 of the Complaint, Apple states that Plaintiffs seek
21 injunctive relief against Apple. Except as expressly stated, Apple denies each and every
22 averment contained in paragraph 148. Apple denies that Plaintiffs or the members of the
23 purported class have been injured or damaged in any way and further denies that Plaintiffs or the
24 members of the purported class are entitled to relief of any kind.

25 149. Responding to paragraph 149 of the Complaint, Apple states that Plaintiffs seek
26 damages against Apple. Except as expressly stated, Apple denies each and every averment
27 contained in paragraph 149. Apple denies that Plaintiffs or the members of the purported class
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1 have been injured or damaged in any way and further denies that Plaintiffs or the members of the
2 purported class are entitled to relief of any kind.

3 150. Responding to paragraph 150 of the Complaint, Apple states that insofar as
4 Plaintiffs' averments in paragraph 150 state conclusions of law, no response thereto is required.
5 Apple further states that to the extent that paragraph 150 references documents attached to the
6 Complaint, the documents speak for themselves. Except as expressly stated, Apple denies each
7 and every averment contained in paragraph 150.

8 151. Responding to paragraph 151 of the Complaint, Apple states that insofar as
9 Plaintiffs' averments in paragraph 151 state conclusions of law, no response thereto is required.
10 Apple further states that it is without knowledge or information sufficient to form a belief as to
11 the truth of the averments of paragraph 151 at this time, and on that basis denies each and every
12 averment. Apple further denies that Plaintiffs or the members of the purported class have been
13 injured or damaged in any way and further denies that Plaintiffs or the members of the purported
14 class are entitled to relief of any kind.

15 **FIFTH CAUSE OF ACTION**
16 **(Violation of Cal. Bus. & Prof. Code Section 17200, *et seq.*—Unlawful, Fraudulent, and**
17 **Unfair Business Acts and Practices)**

18 152. Responding to paragraph 152 of the Complaint, Apple realleges and incorporates
19 by reference each and every preceding paragraph of this Answer as if fully set forth herein.

20 153. Responding to paragraph 153 of the Complaint, Apple states that insofar as
21 Plaintiffs' averments in paragraph 153 state conclusions of law, no response thereto is required.
22 Except as expressly stated, Apple denies each and every averment contained in paragraph 153.

23 154. Responding to paragraph 154 of the Complaint, Apple states that insofar as
24 Plaintiffs' averments in paragraph 154 state conclusions of law, no response thereto is required.
25 Except as expressly stated, Apple denies each and every averment contained in paragraph 154.

26 155. Responding to paragraph 155 of the Complaint, Apple states that insofar as
27 Plaintiffs' averments in paragraph 155 state conclusions of law, no response thereto is required.
28 Except as expressly stated, Apple denies each and every averment contained in paragraph 155.

1 175. Responding to paragraph 175 of the Complaint, Apple denies each and every
2 averment contained in paragraph 175. Apple further denies that Plaintiffs or the members of the
3 purported class have been injured or damaged in any way and further denies that Plaintiffs or the
4 members of the purported class are entitled to relief of any kind.

5 **PRAYER FOR RELIEF**

6 Apple denies that Plaintiffs' purported class is certifiable or that Plaintiffs or the members
7 of the purported class suffered injury or damage, and further denies that Plaintiffs or the members
8 of the purported class are entitled to relief of any kind.

9 **DEMAND FOR JURY TRIAL**

10 Apple hereby demands a trial by jury on all issues upon which trial by jury may be had.

11 **AFFIRMATIVE DEFENSES**

12 As to affirmative defenses to the Complaint, Apple does not, by stating the matters set
13 forth in these defenses, allege or admit that it has the burden of proof and/or persuasion with
14 respect to any of these matters, and does not assume the burden of proof and/or persuasion as to
15 any matters as to which Plaintiffs have the burden of proof or persuasion.

16 **FIRST AFFIRMATIVE DEFENSE**
17 **(Failure to State a Claim)**

18 1. The Complaint and each and every cause of action therein, fail to state facts
19 sufficient to constitute a cause, or causes, of action against Apple.

20 **SECOND AFFIRMATIVE DEFENSE**
21 **(Lack of Standing)**

22 2. The claims of the purported class are barred, in whole or in part, because members
23 of the purported class lack of standing to assert any or all of the causes of action alleged in the
24 Complaint.

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THIRD AFFIRMATIVE DEFENSE
(Lack of Article III Standing)

3. Apple alleges on information and belief that the claims of the purported class are barred, in whole or in part, because members of the purported class lack standing under Article III of the Constitution of the United States.

FOURTH AFFIRMATIVE DEFENSE
(Waiver)

4. The Complaint, and each of its purported causes of action, is barred, in whole or in part, by the doctrine of waiver.

FIFTH AFFIRMATIVE DEFENSE
(Failure to Mitigate)

5. Plaintiffs and the purported class have failed to mitigate damages, if any.

SIXTH AFFIRMATIVE DEFENSE
(Constitutional)

6. The claims of Plaintiffs and the purported class are in contravention of Apple's rights under applicable clauses of the United States and California Constitutions, including without limitation the following provisions: (a) said claims constitute an impermissible burden on interstate commerce in contravention of Article I, Section 8 of the United States Constitution; (b) said claims violate Apple's right to Due Process under the Fourteenth Amendment of the United States Constitution; (c) said claims contravene the constitutional prohibition against vague and overbroad laws; (d) such claims contravene freedom of speech rights under the California Constitution and the First and Fourteenth Amendments of the United States Constitution; and (e) such claims contravene the Due Process Clause of the California Constitution.

SEVENTH AFFIRMATIVE DEFENSE
(Improper Class Action)

7. Plaintiffs' claims, and those of the purported class, are barred because this action is not properly maintainable as a class action as alleged by Plaintiffs, and Plaintiffs are not proper class representatives.

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EIGHTH AFFIRMATIVE DEFENSE
(No Injury in Fact or Loss of Money or Property)

8. Apple alleges on information and belief that Plaintiffs and the members of the purported class have not sustained the required injury in fact and/or lost the requisite money or property necessary to confer standing pursuant to Cal. Bus. & Prof. Code §§ 17200, *et seq.* and §§ 17500, *et seq.*

NINTH AFFIRMATIVE DEFENSE
(No Injury or Damage)

9. Apple denies that Plaintiffs or any member of the purported class have suffered any injury or damage whatsoever, and further denies that it is liable to Plaintiffs or any member of the purported class for any of the injury or damage claimed or for any injury or damage whatsoever.

Apple reserves the right to assert other defenses as discovery progresses.

Dated: January 13, 2011

PENELOPE A. PREVOLOS
ANDREW D. MUHLBACH
STUART C. PLUNKETT
HEATHER A. MOSER
MORRISON & FOERSTER LLP

By: /s/ Stuart C. Plunkett
STUART C. PLUNKETT

Attorneys for Defendant
APPLE INC.