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14 UNITED STATES DISTRICT COURT
 15 CENTRAL DISTRICT OF CALIFORNIA
 16 SOUTHERN DIVISION

17 KEVIN BURWICK and HEATHER
 18 KIMBREL, Individually and on Behalf
 of All Others Similarly Situated,

Plaintiffs,

v.

21 APPLE, INC., a California Corporation;
 22 PANDORA MEDIA, INC., a Delaware
 Corporation, and DOES 1-10, inclusive,

Defendants.

Case No. CV11-03450 JFW (MRWx)

CLASS ACTION

CLASS ACTION COMPLAINT FOR VIOLATION OF:

- 1) COMPUTER FRAUD AND ABUSE ACT ("CFAA"), 18 U.S.C. §1030;
- 2) CONSUMERS LEGAL REMEDIES ACT ("CLRA"), Cal. Civ. Code §17550, *et seq.*;
- 3) CALIFORNIA'S COMPUTER CRIMELAW, Cal. Penal Code §502;
- 4) UNFAIR COMPETITION LAW ("UCL"), Cal. Bus. & Prof. Code §17200;

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 CENTRAL DISTRICT OF CALIF.
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CLASS ACTION COMPLAINT

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- 5) **TRESPASS TO PERSONAL PROPERTY;**
- 6) **COMMON LAW CONVERSION; and**
- 7) **COMMON COUNTS, ASSUMPSIT, AND UNJUST ENRICHMENT/ RESTITUTION**

JURY TRIAL DEMANDED

On behalf of themselves and all others similarly situated, Plaintiffs KEVIN BURWICK and HEATHER KIMBREL bring this action against Defendants, APPLE, INC., PANDORA, INC., and DOES 1-10, inclusive (collectively, “Defendants”), in support thereof allege as follows, all on information and belief except where specifically identified, which allegations are likely to have evidentiary support after further investigation and discovery:

INTRODUCTION

1. This lawsuit involves the intentional interception, by Defendants, of Plaintiffs’ personally identifying information (“PII”) data by using iPhone and iPad mobile device applications (“Apps”) without consumers’ knowledge or advance and informed consent. Defendants capture Plaintiffs’ devices Unique Device ID (“UDID”) – the unique identifying number that Apple, Inc. (“Apple”) assigns to each of these iPhones and iPads – and transmits that information along with the devices’ location data to third-party advertisers. Apple, as a joint venturer with the remaining Defendants, aids and abets this intentional taking and transmitting of Plaintiffs’ PII. All of this is done without Plaintiffs’ consent and in violation of their legal rights. Plaintiffs bring this lawsuit to rectify this wrong being systematically perpetrated upon them.

JURISDICTION

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1331 (federal question jurisdiction), as it involves allegations of violation of

1 federal law. This Court also has supplemental jurisdiction of all alleged state law
2 claims. This Court also has jurisdiction over the matter pursuant to 28 U.S.C.
3 §1332 (federal diversity jurisdiction), as one or more members of the proposed
4 class are residents of a different state from Defendants and the amount in
5 controversy exceeds the jurisdictional amount required by that code section. The
6 Court has personal jurisdiction over each of the Defendants because they are
7 corporations that are either based in California, have sufficient minimum contacts
8 in California, or otherwise intentionally avail themselves of the California market
9 through their marketing and sales of the Products in the State of California, and/or
10 by having such other contacts with California so as to render the exercise of
11 jurisdiction over them by the California courts consistent with traditional notions of
12 fair play and substantial justice.

13 VENUE

14 3. Venue is proper pursuant to 28 U.S.C. §1391 because the Plaintiffs
15 reside in this District. In addition, a substantial part of the events or omissions
16 giving rise to the claim occurred in this District because Defendants:

17 a. are either based in or authorized to conduct business in
18 this District and have intentionally availed themselves of the laws and
19 markets within this District through the promotion, marketing,
20 distribution and sale of their products and services in both California
21 and this District;

22 b. conduct substantial business in this District; and

23 c. are subject to personal jurisdiction in this District.

24 PARTIES

25 4. On personal knowledge, Plaintiff, KEVIN BURWICK, is a resident of
26 Orange County, California and has owned an iPhone and had the Pandora iPhone
27 App installed on his iPhone during the Class period, in or about February 2009.
28 None of the Defendants adequately disclosed to Plaintiff either before or after

1 downloading the App that they were transmitting personal data about him to third-
2 party advertising networks as set forth below, and he would not have used this App
3 to the extent he has, if at all, had the true facts been timely disclosed.

4 5. On personal knowledge Plaintiff, HEATHER KIMBREL, is a resident
5 of Orange County, California, and has owned an iPhone and had the Pandora
6 iPhone App installed on her iPhone during the Class period, in or about August
7 2010. None of the Defendants adequately disclosed to Plaintiff either before or
8 after downloading the App that they were transmitting personal data about her to
9 third-party advertising networks as set forth below, and she would not have used
10 this App to the extent she has, if at all, had the true facts been timely disclosed.

11 6. Defendant, APPLE, INC. ("Apple"), is a California corporation with
12 its principal place of business at 1 Infinite Loop, Cupertino, California 95014.
13 Apple manufactures and sells the popular mobile phone, the iPhone, as well as the
14 iPad.

15 7. Defendant PANDORA MEDIA, INC. ("Pandora"), is a Delaware
16 Corporation with its principal place of business at 2101 Webster Street, Suite 1650,
17 Oakland, California 94612. Defendant, Pandora, is the maker of the iPhone App,
18 Pandora.

19 8. DOES 1-10 are individuals, associations or corporations that are
20 affiliated or related to Defendants, who will be specifically identified and named as
21 discovery progresses and their roles in the wrongdoing at issue is revealed.

22 9. At all times mentioned in the Causes of Action alleged herein, each
23 and every Defendant was an agent, representative, affiliate, or joint venturer of each
24 and every other Defendant, and in doing the things alleged in the Causes of Action
25 stated herein, each and every Defendant was acting within the course and scope of
26 such agency, representation, affiliation, or venture and was acting with the consent,
27 permission and authorization of the other Defendants.

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1 10. During the relevant time period, Defendants agreed to misrepresent to
2 the Class members the material facts at issue herein and/or not to notify Class
3 members about the scope and nature of the illegal business practices as detailed
4 herein, thus engaging in a conspiracy that resulted in injury in fact to members of
5 the Class, which conspiracy is still on-going.

6 11. All actions of each Defendant, as alleged in the Causes of Action
7 stated herein, were ratified and approved by the other Defendants or their respective
8 directors, officers and/or managing agents, as appropriate for the particular time
9 period alleged herein.

10 12. Whenever this Complaint refers to any act or acts of Defendants, the
11 reference also is to mean that the directors, officers, employees, affiliates, or agents
12 of the responsible defendant authorized such act while actively engaged in the
13 management, direction or control of the affairs of Defendants and/or by persons
14 who are the alter egos of Defendants,

15 13. To the extent this Complaint refers to the actions of individuals, the
16 reference also is to mean that such acts were taken while such persons were acting
17 within the scope of their agency, affiliation, or employment.

18 14. Whenever this Complaint refers to any act of Defendants, the reference
19 shall be deemed to be the act of each defendant, jointly and severally.

20 **STATEMENT OF FACTS**

21 15. This is a consumer class action lawsuit pursuant to Federal Rules of
22 Civil Procedure 23(a) and (b)(2)/(b)(3).

23 16. The basis for Plaintiffs' claims rest on Defendants' collective use of an
24 intrusive tracking scheme implemented through the use of mobile device Apps on
25 Plaintiffs' iPhones and iPads.

26 17. Apps are computer programs that users can download and install on
27 their mobile computer devices, including iPhones and iPads.

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1 18. While Apps have been available for some time, it was with the
2 introduction of Apple's iPhone in 2007 that Apps propelled themselves into a
3 position of prominence in the daily lives of many mobile device users.

4 19. The iPhone enabled millions of mobile phone users to more effectively
5 and more intuitively access the Internet and perform the computer functions that
6 have become increasingly important in today's world. In addition, the iPhone
7 features numerous games and other forms of entertainment for its users. These
8 electronic high speed data processing devices are capable of performing logical,
9 arithmetic, or storage functions and as a data storage or communications facility,
10 and are intended to be used in interstate or foreign commerce or communications.

11 20. The iPhone allows users to install after-market programs, called Apps,
12 onto their mobile device. This allows users, such as Plaintiffs, to customize their
13 iPhones to perform functions other than those that the phones could perform when
14 they were initially sold to the consumers.

15 21. Apple, as well as each of the Defendants, is aware of what type of
16 personal consumer information is required and gathered by an App installed on an
17 iPhone or iPad, because Apple has retained significant control over the software
18 that users can place on their iPhones. Apple claims that this control is necessary to
19 ensure smooth functioning of the iPhone.

20 22. iPhone users are only allowed to download software specifically
21 licensed by Apple. If a user installs any software not approved by Apple, the users'
22 warranty is voided. If the user updates the operating system on their iPhone, the
23 non-licensed software is erased by Apple.

24 23. Apple also retains a significant amount of control over the types of
25 Apps it allows. Whether an App is allowed to be sold in the App Store is
26 completely at the discretion of Apple. Apple requires that proposed Apps go
27 through a rigorous approval process. Even if an App meets the "Program"
28 requirements (as Apple describes it) the App can still be rejected by Apple for any

1 reason at all. It is estimated that approximately twenty percent (20%) of all
2 requests to place Apps for sale in the iTunes App Store are rejected by Apple. In
3 exchange for Apple agreeing to allow the App developer to participate in its
4 “Program”, Apple retains thirty percent (30%) of all revenues from sales of the
5 Apps.

6 24. Apple also exercises a significant amount of control over the
7 functionality of the Apps that it allows into its “Program”. For instance, Apple
8 restricts how Apps interact with the iPhone’s operating system and restricts Apps
9 from disabling certain safety features of the iPhone.

10 25. Apple’s App Store has been a huge success. As of October 20, 2010,
11 there were at least 300,000 third-party applications officially available on the App
12 Store, with seven (7) billion total downloads. Market researcher, Gartner Inc.,
13 estimates that world-wide App sales this year will total \$6.7 billion.

14 26. Approximately fifty-nine (50) million people now have an iPhone.
15 With the subsequent introduction of its iPad (estimated sales of 8.5 million in
16 2010), Apple has obtained a remarkable reach for its products.

17 27. Thanks in part to the iPhone’s tremendous commercial success, mobile
18 devices (including iPhones and iPads) are now used by many consumers in
19 numerous facets of their daily lives, from making travel arrangements to conducting
20 banking transactions. While this convenience is valuable and material to
21 consumers who purchase these products and is a substantial factor in them doing so,
22 the information that consumers put into their mobile devices is equally important
23 and not intended to be publicly shared.

24 28. Because Apps are software that users, such as Plaintiffs, download and
25 install on their iPhone, Apps have access to a huge amount of information about a
26 mobile device user. Apps can have access to such items as a mobile device’s
27 contacts list, username and password, and perhaps most importantly, the user’s

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1 location information. Plaintiffs in this action consider the information on their
2 phone to be personal and private information.

3 29. All of this information, however, is of extreme interest to many
4 advertising networks. This information is also highly valuable. It is for this reason
5 that many Apps are given away for free by the developer, so that the App developer
6 can sell advertising space on its App. Some advertising networks pay App
7 developers to place banner ads within their Apps. Those ads are then populated
8 with content from the third-party advertising network. In the process, those third-
9 party advertisers are able to access various pieces of information from the user's
10 iPhone, supposedly in order to serve ads to the App user that are more likely to be
11 of interest to them.

12 30. Just as with the advent of widespread use of the internet back in the
13 late 1990s, considering that mobile advertising is projected to be a \$1.5 billion a
14 year industry by 2016, advertisers, website publishers, and ad networks are seeking
15 ways to better track their web users and find out more about them. The ultimate
16 goal of many advertising networks is to ascertain the identity of particular users so
17 that advertisements can be tailored to their specific likes and dislikes.

18 31. A piece of software known as "browser cookies" are the traditional
19 method used by advertisers to track web users' activities. Browser cookies have a
20 large hurdle when it comes to an advertiser's ability to track a viewer – users can
21 delete them because they do not want advertising companies to have information
22 about them.

23 32. Defendants, however, have found their solution – the Unique Device
24 ID ("UDID") that Apple assigns to every iPhone and iPad it manufactures. Apple's
25 UDID is an example of a computing device ID generally known as a global unique
26 identifier ("GUID"). A GUID is a string of electronically readable characters
27 and/or numbers that is stored in a particular device or file for purposes of
28 subsequently identifying the device or file. Thus, a GUID is similar to a serial

1 number in that it is so unique that it reliably distinguishes the particular device,
2 software copy, file, or database from others, regardless of the operating
3 environment.

4 33. Because the UDID is unique to each iPhone and iPad, it is an attractive
5 feature for third-party advertisers looking for a means of reliably tracking a mobile
6 device users' online activities. Because the UDID is not alterable or deletable by a
7 iPhone or iPad user, some have referred to the UDID as a "supercookie." This
8 description aptly summarizes the desirability of access to the UDID from an
9 advertising perspective.

10 34. These types of software can potentially be more intrusive than
11 traditional cookies. Unlike with desktop computers, mobile devices travel most
12 everywhere with the user. Also, mobile devices tend to be unique to an individual.
13 While someone might borrow someone's mobile device briefly, it is unusual for
14 individuals to frequently trade mobile devices with someone they know.

15 35. Furthermore, unlike a desktop computer, the iPhone and iPad come
16 equipped with the tools necessary to determine their geographic location. Thus,
17 being able to identify a unique device, and combining that information with the
18 devices' geographic location, gives the advertiser a huge amount of information
19 about the user of a mobile device. From the perspective of advertisers engaged in
20 surreptitious tracking, this is a perfect means of tracking mobile device users'
21 interests and likes on the Internet.

22 36. Apple understands the significance of its UDID and users' privacy, as
23 internally, Apple claims that it treats UDID information as "personally identifiable
24 information" because, if combined with other information, it can be used to
25 personally identify a user.

26 37. Unfortunately, however, unlike with browser cookies, Apple does not
27 provide users any way to delete or restrict access to their devices' UDIDs.

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1 Traditional efforts to prevent Internet tracking, such as deleting cookies, have no
2 effect on Apps' access to an iPhone's or iPad's UDID.

3 38. Apple has, however, recognized that it could go further to protect its
4 users' private information from being shared with third parties. Thus, in April of
5 2010, Apple amended its Developer Agreement purporting to ban Apps from
6 sending data to third-parties except for information directly necessary for the
7 functionality of the App. Apple's revised Developer Agreement provides that "the
8 use of third party software in Your Application to collect and send Device Data to a
9 third party for processing or analysis is expressly prohibited."

10 39. This change prompted a number of third-party advertising networks
11 who have (undisclosed to users) been receiving a steady flow of user data from
12 iPhone and iPad Apps) to protest. One prominent critic was the CEO of AdMob. It
13 appears that, as a result of this criticism, Apple has taken no steps to actually
14 implement its changed Developer Agreement or enforce it in any meaningful way.

15 40. Each of the non-Apple Defendants, through the use Apps placed on
16 Plaintiffs' mobile devices, either accessed Plaintiffs' UDID and location
17 information and transmitted that information to numerous third-party ad networks
18 or conspired with the other Defendants to keep that information hidden from the
19 general public.

20 41. The general practice engaged in by Defendants as described above was
21 brought to light by Eric Smith, Assistant Director of Information Security and
22 Networking at Bucknell University in Lewisburg, Pennsylvania and reported in his
23 research report entitled, "iPhone Applications & Privacy Issues: An Analysis of
24 Application Transmission of iPhone Unique Device Identifiers (UDIDs)" (online:
25 [http://www.pskl.us/wp/wp-content/uploads/2010/09/iPhone-Applications-Privacy-](http://www.pskl.us/wp/wp-content/uploads/2010/09/iPhone-Applications-Privacy-Issues.pdf)
26 [Issues.pdf](http://www.pskl.us/wp/wp-content/uploads/2010/09/iPhone-Applications-Privacy-Issues.pdf).)

27 42. Further, *The Wall Street Journal*, as reported in the article "Your Apps
28 Are Watching You," Scott Thurm and Yukari Iwatani Kane (December 18, 2010)

1 independently confirmed that each non-Apple Defendant systematically uses its
2 iPhone App to obtain iPhone users' UDID and location data and transmit it to
3 multiple third parties.

4 43. None of the Defendants adequately informed Plaintiffs or Class
5 members of their practices or obtained Plaintiffs' consent to do so.

6 44. Apple's 15-page, single spaced terms of service states: "By using any
7 location-based services on your iPhone, you agree and consent to Apple's and its
8 partners and licensees' transmission, collection, maintenance, processing, and use
9 of your location data to provide such products and services." The iPad terms of
10 service is nearly identical.

11 45. Pandora is a mobile device application owned by Defendant, Pandora
12 Media, Inc. Pandora is a music application that allows users to access, stream and
13 download digital music files. Pandora shares its users' UDID and Age, Gender
14 and/or Location (City, ZIP Code and DMA Code) with third parties, including ad
15 networks. No location based service is involved.

16 46. There are no location based services involved in these Apps that would
17 justify access to Plaintiffs' location data. When this information is combined with
18 Plaintiffs' UDID information, it becomes PII. None of these Defendants adequately
19 disclosed to Plaintiffs or Class members that they are transmitting such information
20 to third-party advertising networks.

21 47. What makes such unauthorized access all the more alarming is that
22 these devices record consumers' actual geographic locations. According to an
23 April 21, 2011 article in the *International Business Times* entitled "How Apple's
24 iPhone and iPad Secretly Store A Users' Location Data"
25 (<http://www.ibtimes.com/articles/136838/20110421>), researchers Pete Warden and
26 Alasdair Allan reported in *TechTree* that they have discovered that iPhones and 3G
27 iPads that use the iOS4 operating system regularly record users' position into a
28 hidden database file called consolidated.db, stored in a folder Users//

1 Library/ApplicationinsideSupport/MobileSync/Backups/. The Manifest.mbdb and
2 Manifest.mbdx files contain a listing of the real names of the files represented by
3 random strings in that folder. These folders store a long list of latitude-longitude
4 coordinates and timestamps by the second. The coordinates are not always exact,
5 but there are typically tens of thousands of data points. The location is likely being
6 determined by cell-tower triangulation, either triggered by traveling between cells
7 or activity on the device itself. Furthermore, all this data is being stored across
8 backups, and even device migrations.

9 48. To make matters worse, the file on the devices with said data is
10 unencrypted and unprotected, and is on any machine synced with such devices.
11 According to Warden and Allan, the key problem is: “That this data is stored in an
12 easily-readable form on your machine. *Any other program you run or user with*
13 *access to your machine can look through it.* [Emphasis added.]” While cellular
14 telephone companies have always collected such data, it is kept behind company
15 firewalls and takes a court order to access it. Now this information is sitting in
16 plain view on these devices, unprotected from the world. It is not clear why Apple
17 is gathering these data points, although the way it is implemented shows that it is
18 intentional. While the researchers reported that from what they could tell the data
19 are not being siphoned from the device to another source, it would be quite easy if
20 they are not already doing so for Defendants, having previously accessed the
21 devices using unauthorized means, to locate such data. Indeed, there is evidence
22 that in fact this occurs, since devices operating outside the United States that run
23 various Apps deliver foreign language or foreign country advertisements, which
24 would be possible if present location based data were being transmitted to third
25 party advertisers.

26 49. The UDID and location information obtained by each non-Apple
27 Defendant was sent to multiple third-party advertising networks. In the case of
28 Defendant Pandora, this information was sent to eight third parties.

1 50. As discussed above, Apple considers users' UDID information to be
2 PII data. By attempting to change its App Development criteria, Apple
3 demonstrated that it is aware of the dangers posed by transmission of user data to
4 third parties. Apple has simply failed to follow through on that conviction.

5 51. Plaintiffs and members of the Class were injured in fact and lost
6 control of their personal property by Defendants' actions in that their personal,
7 private PII data were obtained by third parties they were not dealing with without or
8 beyond their knowledge or consent -- similar to confidentially providing an
9 individual with their unlisted cellular telephone number and then having them
10 publicly announce it. Plaintiffs and members of the Class were further harmed in
11 that their personal property in terms of their iPhone or their iPad was hijacked and
12 turned into a device capable of spying on their every online move.

13 52. Plaintiffs' valuable UDID information, demographic information,
14 location information, as well as their application usage habits is a valuable
15 commodity that has a property value to research firms. Indeed, the non-Apple
16 Defendants are paid money by third party advertisers in exchange for having access
17 to such information, demonstrating a market value for such data. Plaintiffs also
18 consider this information to be personal and private data. Such information was
19 taken from them without their knowledge or consent. Plaintiffs should be
20 compensated for this harm and are entitled to compensation for this invasion of
21 their privacy.

22 53. Each of the non-Apple Defendants is liable to Plaintiffs and the Class
23 for violation of their statutory and common-law rights. Defendant Apple, by
24 exercising significant control over App developers and sharing profits with them,
25 has created a "community of interest" with the other Defendants to render them
26 joint venturers, who are responsible for each other's torts in that they are all equally
27 aware of, but did not disclose, the extent of their information gathering capabilities.
28 Defendant Apple has also aided and abetted the remaining Defendants in the

1 commission of their legal wrongs against Plaintiffs and the Class. Based on the
2 above, Apple and the other Defendants have acted sufficiently in concert with each
3 other to impose liability as to all Class members.

4 54. Plaintiffs and members of the Class bring this action to redress this
5 illegal and intrusive scheme designed by Defendants to intrude into their personal
6 lives and collect personal information about them without first obtaining their
7 advance authorization and consent.

8 55. Plaintiffs seek monetary relief for their injuries, an injunction to
9 protect those not yet harmed by these illegal activities, and, where legally available,
10 attorneys' fees and other costs associated with the bringing of this action.

11 **Defendant Apple Aided and Abetted the Other Defendants**

12 56. Defendant Apple knew or should have known the other Defendants'
13 conduct constituted a breach of those Defendants' duties to Plaintiffs and the Class.

14 57. Defendant Apple gave substantial assistance to the other Defendants in
15 committing the acts alleged in this Complaint. Furthermore, Apple had a duty to
16 Plaintiffs and the Class to take steps to prevent such harm.

17 58. Such conduct by Apple constitutes Aiding and Abetting pursuant to
18 California law and imposes liability on Defendant Apple for the other Defendants'
19 torts, as outlined below.

20 **Defendant Apple is in a Joint Venture with the Other Defendants**

21 59. Defendant Apple's conduct and that of the remaining Defendants
22 constitutes an undertaking by two or more persons jointly to carry out a single
23 business enterprise for profit.

24 60. By reviewing each App, setting the conditions for and requirements for
25 Apps to be sold and partnering with the above-named App developers in the sale of
26 those Apps, Apple has created a "community of interest" in a common undertaking
27 of which each partner has or exercises the right of control and direction of the
28 undertaking.

1 litigation, such interest is hereby disclaimed by undersigned counsel.

2 64. The requirements of Fed. R. Civ. P. 23 are met in this case. The Class,
3 as defined, is so numerous that joinder of all members is impracticable. Although
4 discovery will be necessary to establish the exact size of the class, it is likely, based
5 on the nature of Defendants' businesses, that it numbers in the millions of persons.

6 65. There are questions of fact and law common to the Class as defined,
7 which common questions predominate over any questions affecting only individual
8 members. The common questions include:

9 a. whether Defendants, as a regular practice, obtained and
10 disseminated the Class members' PII data without their knowledge
11 and without first adequately containing their consent, or beyond the
12 scope of any consent adequately obtained;

13 b. whether Defendants failed to disclose material terms
14 regarding the collection and dissemination of the Class members' PII
15 data;

16 c. what use was made of the Class members' PII data,
17 including to whom the information was sold for a profit;

18 d. whether Defendants used iPhone Apps or iPad Apps to
19 send Plaintiffs' UDID, location and/or Username/password
20 information to third parties; and

21 e. whether Plaintiffs' PII data were used to track their
22 activity.

23 66. Plaintiffs can and will fairly and adequately represent and protect the
24 interests of the Class as defined and have no interests that materially conflict with
25 the interests of the Class. This is so because:

26 a. All of the questions of law and fact regarding the liability
27 of the Defendants are common to the Class and predominate over any
28 individual issues that may exist, such that by prevailing on their own

1 claims, Plaintiffs will necessarily establish the liability of the
2 Defendants to all Class members;

3 b. Without the representation provided by Plaintiffs, it is
4 unlikely that any Class members would receive legal representation to
5 obtain the remedies specified by relevant statutes and the common
6 law;

7 c. Plaintiffs have retained competent attorneys who are
8 experienced in the conduct of class actions. Plaintiffs and their
9 counsel have the necessary resources to adequately and vigorously
10 litigate this class action, and Plaintiffs and their counsel are aware of
11 their fiduciary responsibility to the Class members and are determined
12 to diligently discharge those duties to obtain the best possible recovery
13 for the Class.

14 67. Defendants' actions have affected numerous consumers in a similar
15 way. This class action is superior to any other method for remedying Defendants'
16 actions given that common questions of fact and law predominate. Class treatment
17 is likewise indicated to ensure optimal compensation for the Class and limiting the
18 expense and judicial resources associated with thousands of potential claims.

19 **CAUSES OF ACTION**

20 **COUNT I**

21 **COMPUTER FRAUD AND ABUSE ACT ("CFAA"),**
22 **18 U.S.C. § 1030**

23 **(By Plaintiffs Against All Defendants)**

24 68. Plaintiffs incorporate by reference each proceeding and succeeding
25 paragraph as through set forth fully at length herein.

26 69. By accessing and transmitting Plaintiffs' UDID and location data on
27 the devices of Plaintiffs and members of the Class, Defendants have accessed
28 Plaintiffs' devices, in the course of interstate commerce and/or communication, in

1 excess of the authorization provided by Plaintiffs as described in 18 U.S.C.
2 §1030(a)(2)(C).

3 70. Defendants violated 18 U.S.C. §1030(a)(2)(C) by intentionally
4 accessing Plaintiffs' and members of the Class's devices without having first
5 received informed authorization and consent and/or by exceeding the scope of that
6 authorization.

7 71. Plaintiffs' devices, and those of the Class, satisfy the definition of
8 "protected computers" pursuant to 18 U.S.C. §1030(e)(2), as the devices in question
9 are an electronic or other high speed data processing device that perform logical,
10 arithmetic, or storage functions, including as a data storage facility or
11 communications facility directly related to or operating in conjunction with such
12 devices and is used in or affecting interstate or foreign commerce or
13 communications.

14 72. Defendants further violated the Act by causing the transmission of a
15 program, information, code or command and as a result caused harm to the Class
16 aggregating at least \$5,000 in value.

17 73. Defendants' actions were knowing and/or reckless and, as outlined
18 above, caused harm to Plaintiffs and members of the proposed class.

19 74. Plaintiffs seek recovery for this loss, as well as injunctive relief, to
20 prevent future harm.

21 **COUNT II**

22 **CONSUMERS LEGAL REMEDIES ACT,**
23 **CAL. CIVIL CODE § 17550, et seq.**

24 **(By Plaintiffs Against All Defendants)**

25 75. Plaintiffs incorporate the above allegations by reference as if set forth
26 herein at length.

27 76. In violation of Civil Code §1750, *et seq.* (the "CLRA"), Defendants
28 have engaged in and are engaging in unfair and deceptive acts and practices in the

1 course of transactions with Plaintiffs, and such transactions are intended to and
2 have resulted in the sales of goods or services to consumers. Plaintiffs and the
3 Class Members are “consumers” as that term is used in the CLRA because they
4 sought or acquired Defendants’ goods or services for personal, family, or household
5 purposes. Defendants’ past and ongoing acts and practices include but are not
6 limited to:

7 a. Defendants’ representations that their services have
8 characteristics, uses, and benefits that they do not have, in violation of
9 Civil Code §1770(a)(5);

10 b. Defendants’ representations that their services are of a
11 particular standard, quality and grade but are of another standard,
12 quality and grade, in violation of Civil Code §1770(a)(7); and

13 c. Defendants’ representing that a transaction confers or
14 involves rights, remedies, or obligations which it does not have or
15 involve, or which are prohibited by law, in violation of Civil Code
16 §1770(a)(14).

17 77. Defendants’ violations of Civil Code §1770 have caused damage to
18 Plaintiffs and the other Class members and threaten additional injury if the
19 violations continue. This damage includes the losses set forth above.

20 78. At this time, Plaintiffs do not seek damages for Defendants’ violations
21 of this statute. Pursuant to California Civil Code §1782, Plaintiffs will notify
22 Defendants in writing of the particular violations of Civil Code §1770 and demand
23 that Defendants rectify the problems associated with their behavior detailed above,
24 which acts and practices are in violation of Civil Code §1770.

25 79. If Defendants fail to respond adequately to Plaintiffs’ above described
26 demand within 30 days of Plaintiffs’ notice, pursuant to California Civil Code
27 §1782(b), Plaintiffs will amend the complaint to request damages as permitted by
28 Civil Code §1780.

1 **COUNT III**

2 **CALIFORNIA'S COMPUTER CRIME LAW,**
3 **CAL. PENAL CODE § 502**

4 **(By Plaintiffs Against All Defendants)**

5 80. Plaintiffs incorporate the above allegations by reference as if set forth
6 herein at length.

7 81. The California Computer Crime Law, California Penal Code §502,
8 referred to as "CCCL" regulates "tampering, interference, damage, and
9 unauthorized access to lawfully created computer data and computer systems."

10 82. Defendants violated California Penal Code §502 by knowingly
11 accessing, copying, using, made use of, interfering, and/or altering, data belonging
12 to Plaintiffs and Class members: (1) in and from the State of California; (2) in the
13 home states of the Plaintiffs; and (3) in the state in which the servers that provided
14 the communication link between Plaintiffs and the websites they interacted with
15 were located.

16 83. Pursuant to California Penal Code §502(b)(1), "Access means to gain
17 entry to, instruct, or communicate with the logical, arithmetical, or memory
18 function resources of a computer, computer system or computer network."

19 84. Pursuant to California Penal Code §502(b)(6), "Data means a
20 representation of information, knowledge, facts, concepts, computer software,
21 computer programs or instructions. Data may be in any form, in storage media, or
22 as stored in the memory of the computer or in transit or presented on a display
23 device."

24 85. Defendants have violated California Penal Code §502(c)(1) by
25 knowingly accessing and without or beyond permission, altering, and making use
26 of data from Plaintiffs' and Class members' devices, which qualify as computers, in
27 order to devise and execute business practices to deceive Plaintiffs and Class
28 members into surrendering private electronic communications and activities for

1 Defendants' financial gain, and to wrongfully obtain valuable private data from
2 Plaintiffs and Class members.

3 86. Defendants have violated California Penal Code §502(c)(2) by
4 knowingly accessing and without permission, taking, or making use of data from
5 Plaintiffs' and Class members' devices, which qualify as computers.

6 87. Defendants have violated California Penal Code §502(c)(3) by
7 knowingly and without permission, using and causing to be used Plaintiffs' and
8 Class members' computer services.

9 88. Defendants have violated California Penal Code §502(c)(6) by
10 knowingly and without permission providing, or assisting in providing, a means of
11 accessing Plaintiffs' and Class members' devices, which qualify as computers,
12 computer system, and/or computer network.

13 89. Defendants have violated California Penal Code §502(c)(7) by
14 knowingly and without permission, accessing, or causing to be accessed, Plaintiffs'
15 and Class members' devices, which qualify as computers, computer systems, and/or
16 computer networks.

17 90. California Penal Code §502(j) states: "For purposes of bringing a civil
18 or a criminal action under this section, a person who causes, by any means, the
19 access of a computer, computer system, or computer network in one jurisdiction
20 from another jurisdiction is deemed to have personally accessed the computer,
21 computer system, or computer network in each jurisdiction."

22 91. Plaintiffs and Class members have also suffered irreparable injury
23 from these unauthorized acts of disclosure in that their personal, private, and
24 sensitive electronic data was obtained and used by Defendants. Due to the
25 continuing threat of such injury, Plaintiffs and Class members have no adequate
26 remedy at law, entitling Plaintiffs to injunctive relief.

27 92. Plaintiffs and Class members have additionally suffered loss by reason
28 of these violations, including, without limitation, violation of the right of privacy.

1 93. As a direct and proximate result of Defendants' unlawful conduct
2 within the meaning of California Penal Code §502, Defendants have caused loss to
3 Plaintiffs in an amount to be proven at trial. Plaintiffs are also entitled to recover
4 their reasonable attorneys' fees pursuant to California Penal Code §502(e).

5 94. Plaintiffs and Class members seek compensatory damages, in an
6 amount to be proven at trial, and injunctive or other equitable relief.

7 COUNT IV

8 UNFAIR COMPETITION LAW,
9 CAL. BUS. & PROF. CODE § 17200

10 **(By Plaintiffs Against All Defendants)**

11 95. Plaintiffs incorporate the above allegations by reference as if set forth
12 herein at length.

13 96. Defendants' business acts and practices complained of were centered
14 in, carried out, effectuated and perfected within or had their effect in the State of
15 California, and Defendants' conduct within California injured all members of the
16 Class. Therefore, this claim for relief under California law is brought on behalf of
17 all members of the Class, whether or not they are California residents.

18 97. Beginning as early as December 2006, and continuing thereafter at
19 least up through and including December 2010, Defendants committed and
20 continue to commit acts of unfair competition, as defined by Sections 17200, *et seq.*
21 of the California Business and Professions Code, by engaging in the acts and
22 practices specified above.

23 98. This claim is instituted pursuant to Sections 17203 and 17204 of the
24 California Business and Professions Code, to obtain equitable monetary and
25 injunctive relief from these Defendants for acts, as alleged herein, that violated
26 Section 17200 of the California Business and Professions Code, commonly known
27 as the Unfair Competition Law.

28 ///

1 99. Defendants' conduct as alleged herein violated Section 17200. The
2 acts, omissions, misrepresentations, practices and non-disclosures of Defendants, as
3 alleged herein, constituted a common continuous and continuing course of conduct
4 of unfair competition by means of the commission of unfair, unlawful and/or
5 fraudulent business acts or practices within the meaning of California Business and
6 Professions Code, §17200, *et seq.*, including, but not limited to, the following:

7 a. The violations of CFAA, as set forth above;

8 b. The violations of the CLRA and CCCL, as set forth above;

9 c. Defendants' acts, omissions, misrepresentations,
10 practices and nondisclosures, whether or not in violation of the above
11 laws, and whether or not concerted or independent acts, are otherwise
12 unfair, in that such conduct is prohibited by a legislatively declared
13 policy of generally prohibiting unconscionable, unlawful or fraudulent
14 conduct such as the type alleged herein;

15 d. Defendants' act and practices are unfair to consumers in
16 the State of California and throughout the United States, within the
17 meaning of Section 17200 of California Business and Professions
18 Code in that such conduct is immoral, unscrupulous and against
19 public policy, and the gravity of the consequences of such conduct
20 outweighs any legitimate basis therefor considering the reasonably
21 available alternatives; and

22 e. Defendants' acts and practices are likely to deceive
23 consumers targeted by such acts and practices in violation of Section
24 17200 of the California Business and Professions Code.

25 100. As such conduct is or may well be on-going, Plaintiff and each of the
26 Class members are entitled, in addition to full restitution and/or restitutionary
27 disgorgement of all revenues, earnings, profits, compensation and benefits that may

28 ///

1 have been obtained by Defendants as a result of such business acts or practices,
2 injunctive relief to prohibit such on-going acts of unfair competition.

3 101. Plaintiffs have suffered injury in fact and lost money or property as a
4 result of such acts of unfair competition in that their privacy rights have been
5 violated and they have not been compensated for their personal data taken from
6 them.

7 102. The conduct of Defendants as alleged in this Complaint thus violates
8 all three independent prongs of Section 17200 of the California Business and
9 Professions Code.

10 103. As alleged in this Complaint, Defendants have been unjustly enriched
11 as a result of their wrongful conduct and by Defendants' unfair competition.
12 Plaintiffs and the members of the Class are accordingly entitled to equitable relief
13 including restitution and/or restitutionary disgorgement of all revenues, earnings,
14 profits, compensation, and benefits that may have been obtained by Defendants or
15 the persons they acted in concert with as a result of such business practices,
16 pursuant to the California Business and Professions Code, §§17203 and 17204, as
17 well as attorneys' fees pursuant to Code of Civil Procedure §1021.5 and the
18 common fund and substantial benefit doctrines.

19 **COUNT V**

20 **TRESPASS TO PERSONAL PROPERTY**

21 **(By Plaintiffs Against All Defendants)**

22 104. Plaintiffs incorporate by reference each proceeding and succeeding
23 paragraph as though set forth fully at length herein.

24 105. By obtaining UDID and location data from Plaintiffs' and members of
25 the Class' devices without or beyond the scope of their consent or knowledge,
26 Defendants have improperly exercised dominion and control over Plaintiffs' and
27 members of the Class's personal property.

28 106. Defendants' actions were done knowingly and intentionally.

1 107. Defendants' actions caused harm to Plaintiffs and members of the
2 Class, as described above.

3 108. Plaintiffs and the proposed class seek damages for this harm as well as
4 injunctive relief to remedy this harm.

5 **COUNT VI**

6 **COMMON LAW CONVERSION**

7 **(By Plaintiffs Against All Defendants)**

8 109. Plaintiffs incorporate the above allegations by reference as if set forth
9 herein at length.

10 110. Defendants have taken Plaintiffs' property in the form of PII data
11 about them that is private and personal.

12 111. Plaintiffs have been harmed by this exercise of dominion and control
13 over their information.

14 112. Plaintiffs bring this case seeking recovery for their damages and
15 appropriate injunctive relief.

16 **COUNT VII**

17 **COMMON COUNTS, ASSUMPSIT, AND UNJUST**
18 **ENRICHMENT/RESTITUTION**

19 **(By Plaintiffs Against All Defendants)**

20 113. Plaintiffs incorporate the above allegations by reference as if set forth
21 herein at length.

22 114. Defendants entered into a series of implied at law contracts with
23 Plaintiffs and the Class that resulted in money being had and received by
24 Defendants at the expense of Plaintiffs and members of the Class under agreements
25 in assumpsit. Defendants have been unjustly enriched by the resulting profits
26 enjoyed by Defendants as a result of such agreements. Plaintiffs' detriment and
27 Defendants' enrichment were related to and flowed from the conduct challenged in
28 this Complaint.

1 115. Under common law principles recognized in claims of common
2 counts, unjust enrichment, restitution and/or assumpsit, Defendants should not be
3 permitted to retain the benefits conferred upon them based on the taking of PII data
4 from Plaintiffs and Class members and converting it into revenues and profits.

5 116. Under the principles of equity and good conscience, Defendants
6 should not be permitted to retain the benefits they have acquired through the
7 unlawful conduct described above.

8 117. These actions constitute violations of both statutory as well as
9 common law obligations as outlined above.

10 118. Plaintiffs and members of the Class seek restitutionary disgorgement
11 of all profits of such amounts and the establishment of a constructive trust from
12 which Plaintiffs and Class members may seek restitution, as all funds, revenues and
13 benefits that Defendants have unjustly received as a result of their actions rightfully
14 belong to Plaintiffs and the Class. Plaintiffs also seek declaratory relief as to the
15 rights and responsibilities of all parties to such implied at law agreements.

16 WHEREFORE, Plaintiffs demand judgment on their behalf and on behalf of
17 the other members of the Class to the following effect, as appropriate and
18 applicable for the particular cause of action:

- 19 1. Declaring that this action may be maintained as a class action;
- 20 2. Granting judgment in favor of Plaintiffs and the other members of the
21 Class against Defendants;
- 22 3. Exemplary damages should the Court find that the Defendants acted in
23 willful or reckless disregard of the law;
- 24 4. Declarations that Defendants' acts and practices alleged herein are
25 wrongful;
- 26 5. An order directing restitution or disgorgement in an allowable amount
27 to be proven at trial;
- 28 6. Statutory or compensatory damages in an amount to be proved at trial;

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge John F. Walter and the assigned discovery Magistrate Judge is Michael Wilner.

The case number on all documents filed with the Court should read as follows:

CV11- 3450 JFW (MRWxc)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Name & Address:
 THE CONSUMER LAW GROUP
 Alan M. Mansfield (SBN 125998) alan@clgca.com
 9466 Black Mountain Rd., Suite 225
 San Diego, CA 92126
 Tel: (519) 308-5034 / Fax: (888) 341-5048

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

KEVIN BURWICK and HEATHER KIMBREL,
 Individually and on Behalf of All Others Similarly
 Situated,
 PLAINTIFF(S)
 v.
 APPLE, INC., a California Corporation; PANDORA
 MEDIA, INC., a Delaware Corporation; and DOES
 1-10, inclusive,
 DEFENDANT(S).

CASE NUMBER

CV11-03450 JFW (MRWx)

SUMMONS

TO: DEFENDANT(S): APPLE, INC. and PANDORA MEDIA, INC.

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Alan M. Mansfield, whose address is 9466 Black Mountain Rd., Suite 225, San Diego, CA 92126. If you fail to do so, 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, U.S. District Court

Dated: APR 22 2011

By: ROLLS ROYCE PASCHAL
 Deputy Clerk
 (Seal of the Court) 1144

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) KEVIN BURMICK HEATHER KIMBREL	DEFENDANTS APPLE INC. PANDORA MEDIA, INC.
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(b) Attorneys (Form Name, Address and Telephone Number. If you are representing yourself, provide name.) Alan M. Mansfield/THE CONSUMER LAW GROUP (SBN 126666) 2406 Black Mountain Rd., Suite 226, San Diego, CA 92128 Tel: (619) 508-8024 / FAX: (619) 541-8048 alan@cdgca.com	Attorneys (If Known)
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II. BASIS OF JURISDICTION (Place an X in one box only.)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.)
<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 1 U.S. Government Plaintiff
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 2 U.S. Government Defendant
<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

IV. ORIGIN (Place an X in one box only.)	PLF DEF	PLF DEF
<input type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 1 Citizen of This State	<input type="checkbox"/> 1 Incorporated or Principal Place of Business in this State
<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 2 Citizen of Another State	<input type="checkbox"/> 2 Incorporated and Principal Place of Business in Another State
<input type="checkbox"/> 3 Removed from Appellate Court	<input type="checkbox"/> 3 Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 Foreign Nation
<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 4	<input type="checkbox"/> 4
<input type="checkbox"/> 5 Transferred from another district (specify):	<input type="checkbox"/> 5	<input type="checkbox"/> 5
<input type="checkbox"/> 6 Multi-District Litigation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge		

V. REQUESTED IN COMPLAINT: JURY DEMAND: Yes No (Check "Yes" only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: Yes No

MONEY DEMANDED IN COMPLAINT: TO BE DETERMINED

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

28 U.S.C. sections 1331 and 1332

VII. NATURE OF SUIT (Place an X in one box only.)

<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 710 Fair Labor Standards Act
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 520 Habeas Corpus General	<input type="checkbox"/> 720 Labor/Mgmt Relations
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 530 Death Penalty	<input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act
<input type="checkbox"/> 450 Commercial/ICC Rates/acc.	<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 740 Railway Labor Act
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 750 Other Labor Litigation
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 423 W/Revival 28 USC 157	<input type="checkbox"/> 560 Prison Condition	<input type="checkbox"/> 760 Other Labor Litigation
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 570 Agriculture	<input type="checkbox"/> 770 Empl. Ret. Inc. Security Act
<input type="checkbox"/> 490 Cable/Net TV	<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 580 Other Food & Drug	<input type="checkbox"/> 780 Copyrights
<input type="checkbox"/> 510 Selective Service	<input type="checkbox"/> 154 Recovery of Overpayment of Veterans' Benefits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 443 Housing/Accommodations Welfare	<input type="checkbox"/> 590 Drug Related	<input type="checkbox"/> 790 Patent
<input type="checkbox"/> 530 Securities/Commodities/Exchange	<input type="checkbox"/> 155 Stockholders' Suits	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 444 American with Disabilities - Employment	<input type="checkbox"/> 600 Release of Property 21 USC 881	<input type="checkbox"/> 800 Trademark
<input type="checkbox"/> 570 Consumer Challenge 12 USC 3410	<input type="checkbox"/> 190 Other Common Contract Product Liability	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 445 American with Disabilities - Other	<input type="checkbox"/> 610 Liquor Laws	<input type="checkbox"/> 810 Copyrights
<input type="checkbox"/> 580 Other Statutory Actions	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 446 Other Civil Rights	<input type="checkbox"/> 620 R.R. & Truck	<input type="checkbox"/> 820 Patent
<input type="checkbox"/> 591 Agricultural Act	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 402 Nationalization Application		<input type="checkbox"/> 630 Airline Regs	<input type="checkbox"/> 830 Copyrights
<input type="checkbox"/> 592 Economic Stabilization Act	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 463 Habeas Corpus-Alien Detainee		<input type="checkbox"/> 640 Occupational Safety/Health	<input type="checkbox"/> 840 Patent
<input type="checkbox"/> 593 Environmental Matters	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 650 Other	<input type="checkbox"/> 850 Trademark
<input type="checkbox"/> 594 Energy Allocation Act	<input type="checkbox"/> 240 Terms to Land				<input type="checkbox"/> 860 Copyrights
<input type="checkbox"/> 595 Freedom of Info. Act	<input type="checkbox"/> 245 Tort Product Liability				<input type="checkbox"/> 870 Patent
<input type="checkbox"/> 596 Appeal of Fed Determination Under Equal Access to Justice	<input type="checkbox"/> 290 All Other Real Property				<input type="checkbox"/> 880 Patent
<input type="checkbox"/> 597 Constitutionalality of State Statutes					<input type="checkbox"/> 890 Patent

CV11-03450 JFW (MRWx)

FOR OFFICE USE ONLY: Case Number: _____
AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? No Yes
If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? No Yes
If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) A. Arise from the same or closely related transactions, happenings, or events; or
 B. Call for determination of the same or substantially related or similar questions of law and fact; or
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
ORANGE COUNTY	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Defendant Apple, Inc. - Santa Clara County Defendant Pandora Media, Inc. - Alameda County

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): *Robert Marshall* Date April 21, 2011

Notice to Counsel/Parties: The CV-71 (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. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))