

1 Mateo Z. Fowler, SBN 241295
 2 **WOOLF, GAFNI & FOWLER, LLP**
 3 2411 Whitney Street, Suite 100
 4 Houston, Texas 77006
 Tel: (281) 546-5172; Fax: (310) 919-3037

5 10850 Wilshire Blvd, Suite 510
 6 Los Angeles, CA 90024
 7 Tel: (310) 867-2729; Fax: (310) 919-3037
 8 mateo.fowler@wgflp.com

9 Attorney for Plaintiff
 10 **NOISE FREE WIRELESS, INC.**

11 **UNITED STATES DISTRICT COURT FOR THE**
 12 **NORTHERN DISTRICT OF CALIFORNIA**
 13 **SAN JOSE DIVISION**

14
 15 NOISE FREE WIRELESS, INC., A
 Delaware Corporation,

16 Plaintiff

17 vs.

18 APPLE, INC. and AUDIENCE, INC.,

19 Defendants

Case No. **5:12-cv-03483-EJD**

**STIPULATION AND ~~PROPOSED~~
 ORDER RE DISMISSAL OF
 LAWSUIT WITHOUT PREJUDICE**

Judge: Hon. Edward J. Davila

1 **IT IS HEREBY STIPULATED** by and between: Plaintiff Noise Free Wireless,
2 Inc., A Delaware Corporation (“Noise Free” or “Plaintiff”) and Defendants Apple Inc.
3 (“Apple”) and Audience, Inc. (“Audience”) as follows:

4 **WHEREAS**, Noise Free filed its Complaint in this action against Apple and Audience
5 on July 3, 2012 alleging, inter alia, patent infringement under 35 U.S.C. §271, violation of
6 the California Uniform Trade Secrets Act under California Civil Code §3426.1, declaratory
7 judgment of inventorship and/or patent ownership, and unfair competition under California
8 Business and Professions Code Section § 17200 et seq.;

9 **WHEREAS**, Apple was served with the Complaint on or about July 9, 2012;

10 **WHEREAS**, Audience was served with the Complaint on or about July 12, 2012;

11 **WHEREAS**, Defendants Apple and Audience requested and Noise Free agreed to
12 extend the deadline for Apple and Audience to answer or otherwise respond to Noise Free’s
13 Complaint until August 31, 2012;

14 **WHEREAS**, on August 31, 2012, Defendants Apple and Audience requested and
15 Noise Free agreed to extend the deadline to answer or otherwise respond to Noise Free’s
16 Complaint until September 14, 2012;

17 **WHEREAS**, on September 13, 2012, Noise Free provided Apple and Audience with
18 notice that Noise Free intended to dismiss its Complaint without prejudice and requested that
19 the parties agree that each side will bear their own fees and costs.

20
21 **NOW, THEREFORE**, Plaintiff Noise Free and Defendants Apple and Audience
22 HEREBY STIPULATE AND AGREE as follows:

23 1. Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), Plaintiff Noise Free
24 Wireless, Inc. and Defendants Apple Inc. (“Apple”) and Audience, Inc. (“Audience”),
25 hereby stipulate to dismiss this action, and all claims asserted therein, as to Apple and
26 Audience **without** prejudice.

27 2. Defendants Apple and Audience further stipulate that they will not seek an
28 award against Noise Free of the costs and attorneys’ fees they have incurred to date in

1 connection with this lawsuit, and all parties stipulate that Plaintiff Noise Free shall bear its
2 own costs and fees incurred in connection with this lawsuit.

3 3. Plaintiff and Defendants Apple and Audience further stipulate that if Noise Free
4 files a subsequent lawsuit based upon any claim asserted, or similar to any claim asserted, in
5 the Complaint and/or any claim arising out of or relating to the factual allegations in the
6 Complaint, then Noise Free will file such lawsuit in the United States District Court for the
7 Northern District of California.

8 4. The Stipulation does not constitute a waiver or forfeiture of any defense or
9 allegation by Plaintiff Noise Free Wireless, Inc.

10 5. The Stipulation does not constitute a waiver or forfeiture of any defense or
11 allegation by Defendant Apple Inc.

12 6. The Stipulation does not constitute a waiver or forfeiture of any defense or
13 allegation by Defendant Audience, Inc.

14
15 Dated: September 14, 2012 Woolf Gafni & Fowler LLP

16
17 By: /s/ Mateo Z. Fowler _____
18 MATEO Z. FOWLER
19 Counsel for Plaintiff
20 **NOISE FREE WIRELESS, INC.**

21 Dated: September 14, 2012 Apple Inc.

22 By: /s/ Martha K. Gooding _____
23 MARTHA K. GOODING
24 Counsel for Defendant
25 **APPLE INC.**

1 Dated: September 14, 2012 Audience, Inc.

2
3 By: /s/ Ryan Smith
4 RYAN SMITH
5 Counsel for Defendant
6 **AUDIENCE, INC.**

7 **IT IS SO ORDERED.**

8 The Clerk shall close this file.

9 **Date:** September 18, 2012

10 
11 _____
12 **United States District Judge**

13 I Mateo Z. Fowler, attest that concurrence in the filing of this document has been
14 obtained from each of the signatories. I declare under penalty of perjury under the laws
15 of the United States of America that the foregoing is true and correct. Executed this 14th
16 day of September at Houston, Texas.

17 **CERTIFICATE OF SERVICE**

18 I hereby certify that on the 14th of September, 2012, I electronically filed the
19 foregoing with the Clerk of Court using the CM/ECF system which will send
20 notification of such filing to the counsel of record.

21
22 By: /s/ Mateo Z. Fowler
23 MATEO Z. FOWLER
24 Attorney for Plaintiff
25 **NOISE FREE WIRELESS, INC.**