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13 Attorneys for Plaintiff

14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA

16 DAVID YASTRAB, Individually and on)
 Behalf of All Others Similarly Situated,)
 17)
 Plaintiff,)

18 vs.

19 APPLE INC.,)
 20)
 Defendant.)

) Case No.
)
) CLASS ACTION
)
) 1. Violations of the Consumers Legal
) Remedies Act, California Civil Code §1750 *et*
) *seq.*;
) 2. Violations of the Unfair Competition Law,
) California Business and Professions Code
) §17200 *et seq.*;
) 3. Breach of Express Warranty;
) 4. Intentional Misrepresentation; and
) 5. Negligent Misrepresentation

23 DEMAND FOR JURY TRIAL

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1 Plaintiff David Yastrab (“Plaintiff”), individually and on behalf of all others similarly
2 situated, brings this Class Action Complaint against defendant Apple Inc. (“Apple” or “Defendant”),
3 and alleges as follows:

4 NATURE OF THE ACTION

5 1. This is a consumer class action brought by Plaintiff on behalf of himself and all others
6 similarly situated who acquired, in the United States and its territories and its protectorates, Apple’s
7 iPhone 4, iPhone 4s and iPhone 5 (collectively, the “iPhones”) and experienced reduced
8 functionality of their iPhones as a result of the updates to iOS, essentially forcing consumers to
9 render their iPhones obsolete.

10 2. Apple debuted the iPhone in 2007.¹ Since the first generation iPhone, Apple has
11 released a new iPhone model every year: the iPhone 3G in 2008, the 3GS in 2009, the 4 in 2010, the
12 4s in 2011, the 5 in 2012, and the iPhone 5c and 5s in 2013.²

13 3. When the iPhone first debuted, it was described by the *Wall Street Journal* as “a
14 beautiful and breakthrough handheld computer.”³ Every iPhone comes equipped with a mobile
15 operating system called iOS,⁴ which, according to Apple, is the “foundation of iPhone, iPad, and
16 iPod touch.”⁵ iOS consists of a collection of software applications, known as “apps,” that allows
17 users to utilize all of the features of Apple products.

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21 ¹ <http://money.cnn.com/gallery/technology/2013/09/26/apple-iphone-timeline.fortune/2.html> (last
22 visited April 18, 2014)

23 ² <http://money.cnn.com/gallery/technology/2013/09/26/apple-iphone-timeline.fortune/index.html>
(last visited April 18, 2014)

24 ³ <http://money.cnn.com/gallery/technology/2013/09/26/apple-iphone-timeline.fortune/2.html> (last
25 visited April 18, 2014)

26 ⁴ iOS is “the software that controls all the basics of your gadget, including the look, feel, settings
27 and hardware.” <http://www.cnn.com/2013/09/18/tech/mobile/ios-7-upgrade-faq/> (last visited April
18, 2014).

28 ⁵ <https://www.apple.com/ios/what-is/> (last visited April 18, 2014)

1 4. Since the iPhone was first released there have been many versions of iOS, the most
2 recent being iOS 7 and its update iOS 7.1.⁶ Apple has released updates to iOS since the first iPhone.
3 The first iOS update, iOS 1.1.1, was released a mere three months after the original iPhone was
4 released.⁷ iOS 1.1.1 added the iTunes Wi-Fi Music Store, which gave users the ability to download
5 music directly on their iPhones.⁸ Since iOS 1.1.1, Apple has released numerous iOS updates, all of
6 which add new features to the iPhone it is downloaded on.

7 5. Purportedly, users are prompted to download the newest iOS version onto their device
8 via a message from Apple when it is released.⁹ A true and correct representation of the alert
9 received by users to download iOS 7 appears below:



24 ⁶ <http://www.usatoday.com/story/tech/2014/03/10/apple-ios-7-update/6260611/> (last visited April 18, 2014)

25 ⁷ <http://www.theverge.com/2011/12/13/2612736/ios-history-iphone-ipad> (last visited April 18, 2014)

27 ⁸ *Id.*

28 ⁹ <https://www.apple.com/ios/what-is/> (last visited April 18, 2014)

1 6. Users have experienced vastly reduced functionality of their iPhones, including, most
2 notably, Wi-Fi and Bluetooth connectivity issues, after downloading iOS updates onto their iPhones.

3 7. For example, as alleged herein, the Wi-Fi and Bluetooth connectivity issues
4 experienced by users (the “Wi-Fi/Bluetooth Connectivity Issue” or “Grayed Out Issue”) appears to
5 be most prevalent to iPhone 4s users who downloaded iOS 7.¹⁰

6 8. The iPhone 4s is the fifth generation in a line of touchscreen based smartphones
7 designed, developed and marketed by Apple. When the iPhone 4s was first launched, it came
8 standard with iOS 5.0. According to Apple, iOS 7 is a platform for over a million mobile apps,
9 iCloud,¹¹ and includes security features that prevent unauthorized access to Apple devices.¹² iPhone
10 4s is the oldest generation iPhone currently sold by Apple.¹³ It comes in black or white, 8, 16, 32 or
11 64 GB models and is available for use on AT&T, Verizon, T-Mobile and Sprint networks.¹⁴

12 9. The iPhone 4s and its predecessor, the iPhone 4, share the same stainless steel body-
13 type, but are distinguished by the addition of Siri and iCloud in the iPhone 4s. Siri is speech-
14 recognition software that comes standard on every iPhone 4 and iPhone 5. It allows users to verbally
15 give their iPhones commands and tasks to complete. Because Siri is capable of both speech input
16 and output, it can purportedly “speak” back to its user. For example, if you ask Siri to add an item to
17 your personal calendar, it is programed to make the addition to your calendar and verbally confirms
18 that the task is completed.

19 ¹⁰ <http://www.copytrans.net/blog/how-to-fix-iphone-wifi-connectivity-issues/> (last visited April 18,
20 2014) (stating: “This is by far the most common iPhone WiFi connectivity problem. The issue is
21 especially widespread on iPhone 4S devices but users having the iPhone 4 and iPhone 5 have also
been known to experience the issue.”)

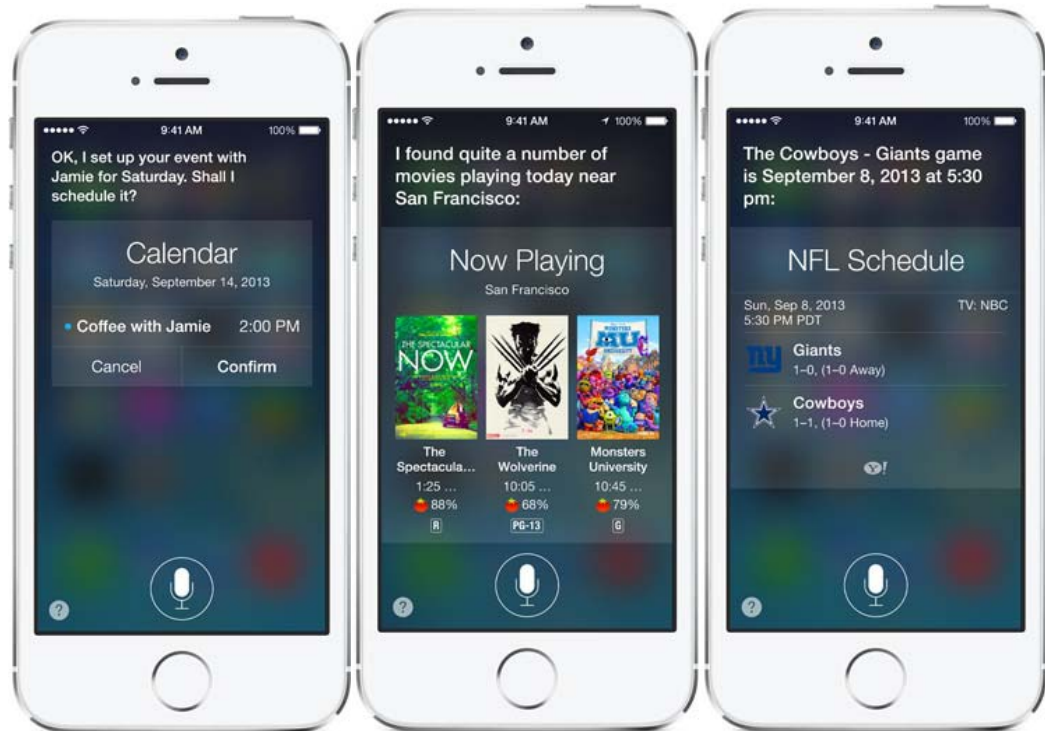
22 ¹¹ <https://www.apple.com/ios/what-is/> (last visited April 18, 2014) (stating: “iCloud stores your
23 music, photos, apps, mail, contacts, calendars, documents, and more and wirelessly pushes them to
all your devices. So if you buy a song, take a photo, or edit a calendar event on your iPad, iCloud
makes sure it appears on your Mac, iPhone, and iPod touch, too.”)

24 ¹² Security features in iOS protect devices by, for example, encrypting iMessages and other
25 communications and setting up a passcode, which automatically encrypts and protects users e-mail
26 from third-party apps on the same device. <https://www.apple.com/ios/what-is/> (last visited April 18,
2014)

27 ¹³ <http://store.apple.com/us/buy-iphone/iphone4s> (last visited April 18, 2014)

28 ¹⁴ <http://store.apple.com/us/iphone/family/iphone/compare> (last visited April 18, 2014)

1 10. A true and correct depiction of Apple’s representation of how Siri replies to iPhone
2 users’ voice commands appear below:¹⁵



16 11. Siri requires either a Wi-Fi or Network connection. When using a Wi-Fi connection
17 for features like Siri, users do not risk incurring overage charges as a result of exceeding the allotted
18 data in a data plan purchased by the user’s cellular network, like Verizon, Sprint or AT&T (herein
19 after “Network” or “Network connection”).

20 12. In addition to Siri, the iPhone 4s originally came equipped with iOS 5. According to
21 Apple, iOS 5 was the first version of iOS to introduce iCloud, described by Apple as “a
22 breakthrough set of free new cloud services that work seamlessly with applications on your
23 iPhone®, iPad®, iPod touch®, Mac® or PC to automatically and wirelessly store your content in
24 iCloud and automatically and wirelessly push it to all your devices.”¹⁶

26 ¹⁵ <http://www.apple.com/ios/siri/> (last visited April 18, 2014)

27 ¹⁶ <http://www.apple.com/pr/library/2011/06/06Apple-Introduces-iCloud.html> (last visited April 18,
28 2014)

1 13. Apple prominently features iCloud in many of its iPhone 4s and iPhone 5 advertising
2 campaigns. iCloud is purportedly able to save or backup data to the cloud, such as photos, videos,
3 purchased music, movies, apps, books, TV shows, device settings, ringtones and other features. This
4 allows users to access data stored on the cloud on any Apple device, regardless of the device the
5 information was originally stored on.

6 14. iCloud is a feature on all iOS versions¹⁷ beginning with iOS 5 and including iOS 7.
7 As stated by Apple, regardless of whether an iPhone is equipped with iOS 5, 6, or 7, iCloud can only
8 wirelessly backup data when the iPhone is locked, connected to a power source and Wi-Fi is turned
9 on and connected.¹⁸ iCloud is unable to backup data on a Network connection alone, and can only
10 do so via a Wi-Fi connection.

11 15. Below is a true and accurate representation of the iPhone’s Storage & Backup screen,
12 which states that iCloud backups occur when the device is “plugged in, locked, and connected to Wi-
13 Fi”:



17 <http://support.apple.com/kb/HT4759> (last visited April 18, 2014)

18 http://support.apple.com/kb/PH12519?viewlocale=en_US (last visited April 18, 2014)

1 16. Apple unveiled iOS 7 on June 10, 2013. The update was described by Apple as “the
2 most significant iOS update since the original iPhone[.]”¹⁹ The update, which could only be
3 downloaded wirelessly via a Wi-Fi connection, changed the entire look of iPhone’s interface and
4 added hundreds of new features, some of which include: “Control Center, Notification Center,
5 improved Multitasking, AirDrop®, enhanced Photos, Safari®, Siri® and . . . iTunes Radio™, a free
6 Internet radio service based on the music you listen to on iTunes®.”²⁰

7 17. Purportedly, iOS 7 added new apps and dramatically increased the efficiency and
8 performance of apps.²¹ As of January 2014, there were over one million apps available for
9 download to iPhone, iPad and iPod touch.²² While some apps may be downloaded using data from a
10 data plan purchased by the user’s cellular Network, large apps cannot be downloaded wirelessly over
11 a Network connection, and must be downloaded over a properly operating Wi-Fi network.²³ For
12 example, system updates, like iOS 7, cannot be downloaded wirelessly over a Network connection,
13 only a Wi-Fi connection.²⁴

14 18. Although previous iPhones had Bluetooth, the iPhone 4s was the first equipped with
15 Bluetooth 4.0. According to Apple, Bluetooth allows users to “[e]xchange or synchronize data
16 between Bluetooth enabled computers and devices”, “[u]se a Bluetooth enabled wireless keyboard or
17 mouse”, “[c]onnect wirelessly to a Bluetooth compatible printer, headset, headphones, or speakers”,
18 and “[s]hare your internet connection with other Bluetooth enabled devices.”²⁵ Mike Foley,
19 executive director of the Bluetooth Special Interest Group, commented on the new Bluetooth

20 ¹⁹ <http://www.apple.com/pr/library/2013/06/10Apple-Unveils-iOS-7.html> (last visited April 18,
21 2014)

22 ²⁰ *Id.*

23 ²¹ <https://www.apple.com/pr/library/2014/01/07App-Store-Sales-Top-10-Billion-in-2013.html> (last
visited April 18, 2014)

24 ²² *Id.*

25 ²³ <http://www.verizonwireless.com/b2c/includes/plans/dataInfoOverlay.jsp> (last visited April 18,
26 2014)

27 ²⁴ <http://www.cnet.com/how-to/how-to-install-ios-7/> (last visited April 18, 2014)

28 ²⁵ <http://support.apple.com/kb/HT3039> (last visited April 18, 2014)

1 technology available on the iPhone 4s: “It enables an entirely new class of product into the Bluetooth
2 world.”²⁶

3 19. Defendant’s advertising and marketing campaigns for the iPhone 4, iPhone 4s and
4 iPhone 5 were and are designed to induce consumers to acquire or purchase the iPhones over other
5 smartphone devices because of their Bluetooth and Wi-Fi connection capabilities, large library of
6 apps, iCloud and Siri – all of which require a Network connection or Wi-Fi connection to operate.
7 While users may access some features of iCloud without a Wi-Fi connection, in order to backup and
8 save new data to iCloud, the iPhone must be connected to a Wi-Fi connection, locked and plugged
9 into a power source.²⁷

10 20. In its promotions for iPhones 4, 4s and 5, Defendant highlights the iPhone’s ability to
11 download later generations of iOS, such as iOS 7. With each update, users receive all the features of
12 the newest iPhone model that are supported by their iPhone. According to Apple, “because iOS 7 is
13 engineered to take full advantage of the advanced technologies built into Apple hardware, your
14 devices are always years ahead – from day one to day whenever.”²⁸

15 21. The ability to update the iOS platform on a device is a major draw for consumers
16 because every iOS update adds new features to an older device. For example, when users
17 downloaded iOS 7, not only did their devices inherit new apps and features, iPhone’s interface was
18 redesigned to a “simpler, more useful, and more enjoyable” interface.²⁹ In addition, the update
19 added iTunes radio and an updated photos app which allows users to add filters to photos and auto-
20 enhance, rotate, correct red-eye, crop a panorama photo and share photos. iOS 7 also added a
21 Control Center feature and security updates.³⁰

22 _____
23 ²⁶ http://reviews.cnet.com/8301-19512_7-20116316-233/bluetooth-4.0-what-is-it-and-does-it-matter/ (last visited April 18, 2014)

24 ²⁷ http://support.apple.com/kb/PH12519?viewlocale=en_US (last visited April 18, 2014)

25 ²⁸ <https://www.apple.com/ios/what-is/> (last visited April 18, 2014)

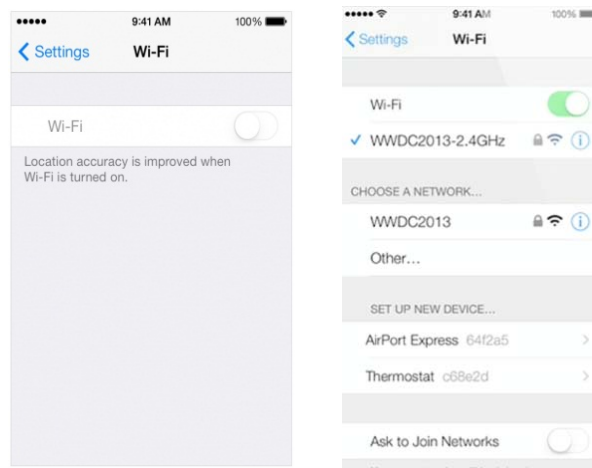
26 ²⁹ <https://www.apple.com/ios/design/> (last visited April 18, 2014)

27 ³⁰ <http://arstechnica.com/apple/2013/09/new-lease-on-life-or-death-sentence-ios-7-on-the-iphone-4/>
28 (last visited April 18, 2014)

1 22. Notwithstanding Apple’s extensive multi-million dollar advertising campaign
2 showcasing the iPhone’s ability to wirelessly download the latest features and apps from new
3 versions of iOS, backup and store data using iCloud, and the iPhone 4s and 5’s Wi-Fi and Bluetooth
4 connection capabilities, the iPhones failed to perform as advertised for Plaintiff and members of the
5 Class when the iOS 7 update was downloaded.

6 23. In addition, because of the Grayed Out Issue, Plaintiff and Class members who
7 downloaded iOS 7 onto their iPhones discovered their Wi-Fi and Bluetooth were rendered unusable.
8 For example, after the update, they could not wirelessly download any iOS patches or versions
9 because such downloads require a Wi-Fi connection and cannot be downloaded over a Network
10 connection. This meant that Plaintiff and members of the Class could not wirelessly download iOS
11 7.0.6, which provided, for example, a patch for a major security flaw in iOS 7, as detailed in
12 paragraphs 50-52 below.

13 24. After downloading iOS 7, Plaintiff and Class members’ iPhones’ Bluetooth and Wi-
14 Fi connections became “grayed out” and unusable. This particular problem is referred to on Apple
15 message boards as “grayed out” because the option to turn Wi-Fi on in the iPhone’s setting turns
16 gray and cannot be turned on. A true and correct depiction of this problem is displayed below (to the
17 left), as well as how the screen looks when the option to turn Wi-Fi on is available (to the right):



1 25. The iPhone 4s pre-sold over one million units and sold over four million units world-
2 wide the weekend following its release,³¹ and the iPhone 5 sold over five million units within the
3 first three days of its launch.³²

4 26. Defendant's message alerts, notifying iPhone users that an iOS update is available,
5 were also effective. As of March 21, 2014, 85% of active Apple devices had downloaded and were
6 running on iOS 7.³³ Once Plaintiff and Class members downloaded iOS 7 onto their iPhones, they
7 were unable to connect to Wi-Fi or Bluetooth. Because of the Grayed Out Issue, Plaintiff and Class
8 members could no longer access often free Wi-Fi and thus used data unnecessarily and/or incurred
9 data charges for all data used on their iPhone 4s. In addition, Plaintiff and Class members could no
10 longer backup their device using iCloud, wirelessly download iOS patches or the newest versions of
11 iOS.

12 27. Defendant's misrepresentations concerning: (i) the iPhones' ability to download and
13 run iOS 7 effectively; (ii) Bluetooth and Wi-Fi connection capabilities; and (iii) the ability to
14 upgrade to new iOS software and run new applications and features, are misleading, false, and
15 reasonably likely to deceive and have deceived Plaintiff and members of the putative Class.

16 28. Defendant designed, manufactured, marketed, and warranted the iPhone 4, iPhone 4s,
17 iPhone 5 and iOS 7 to consumers nationwide. In conjunction with each sale of the iPhone 4, iPhone
18 4s and iPhone 5, Defendant marketed, advertised and warranted, among other things, that each
19 iPhone 4s was: (i) capable of downloading and running future versions of iOS, such as iOS 7,
20 without adverse effects to the device's Wi-Fi and Bluetooth connection capabilities; (ii) was able to
21 run applications via a Wi-Fi connection; (iii) was able to backup data using iCloud and was
22 otherwise fit for the ordinary purpose for which such goods are used; and (iv) was free from defects
23 in materials and workmanship.

24 _____
25 ³¹ <http://www.forbes.com/sites/benzingainsights/2011/10/17/what-do-the-iphone-4s-sales-figures-tell-us-about-consumers/> (last visited April 18, 2014)

26 ³² <http://www.apple.com/pr/library/2012/09/24iPhone-5-First-Weekend-Sales-Top-Five-Million.html> (last visited April 18, 2014)

27 ³³ <https://developer.apple.com/support/appstore/> (last visited April 18, 2014)
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1 29. Plaintiff and members of the Class have damages, in that they purchased and/or own
2 an iPhone 4, iPhone 4s or iPhone 5, downloaded iOS 7 at Defendant’s instruction, and would not
3 otherwise have purchased and downloaded had they known they would be unable to use Wi-Fi or
4 Bluetooth.

5 30. Defendant knew or should have known that the iPhones were defective in design
6 and/or manufacture, were not fit for their ordinary and intended use, and did not perform in
7 accordance with the advertisements, marketing materials, and warranties disseminated by Defendant
8 in its nationwide marketing and advertising campaign. In addition, Defendant knew or should have
9 known that the iPhones did not conform with the reasonable expectations of ordinary consumers.
10 Indeed, Defendant has received hundreds of comments regarding the iPhone 4s and 5’s Wi-Fi and
11 Bluetooth connectivity issues since iOS was released.

12 31. Plaintiff brings this action on behalf of himself and all other similarly situated
13 consumers who purchased and/or own the iPhone 4, iPhone 4s or iPhone 5 and experienced Wi-Fi
14 and Bluetooth connectivity issues after downloading iOS 7, in order to halt the dissemination of
15 Apple’s false and misleading advertising message, and to obtain redress for those who have acquired
16 an iPhone 4, iPhone 4s or iPhone 5. Plaintiff alleges violations of the Consumers Legal Remedies
17 Act, California Civil Code §1750, *et seq.* (the “California Act”); violations of the Unfair
18 Competition Law, California Business and Professions Code §17200, *et seq.* (the “UCL”); breach of
19 express warranty; intentional misrepresentation; and negligent misrepresentation.

20 **JURISDICTION AND VENUE**

21 32. This Court has jurisdiction pursuant to 28 U.S.C. §1332(a)(1) as modified by the
22 Class Action Fairness Act of 2005, because at least one member of the Class is a citizen of a
23 different state than Defendant, there are more than 100 members of the Class, and the aggregate
24 amount in controversy exceeds \$5,000,000.00, exclusive of interest and costs.

25 33. Pursuant to 28 U.S.C. §1391(b), venue is proper in this District because a substantial
26 part of the events or omissions giving rise to the claims occurred in this District.

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INTRADISTRICT ASSIGNMENT

34. A substantial part of the events or omissions which give rise to the claims in this action occurred in the county of Santa Clara, and as such this action is properly assigned to the San Jose branch of this Court.

PARTIES

35. Plaintiff David Yastrab is a citizen and resident of the State of New York. Plaintiff acquired a 16 GB version of the iPhone 4s, Serial Number 990-00101148043, on April 30, 2012. In acquiring his iPhone 4s, Plaintiff viewed Apple’s representations regarding the iOS 7 update, the iPhone 4s’s ability to download future iOS updates, Bluetooth and Wi-Fi connection capabilities, ability to backup data via iCloud and the ability to run apps via a Wi-Fi connection. Plaintiff would not have acquired the iPhone 4s if he had not seen these representations. Further, Plaintiff would not have downloaded iOS 7 onto his iPhone 4s if he had known it would cause Wi-Fi and Bluetooth connectivity issues on his device.

36. Defendant Apple is a California corporation with its headquarters and principal place of business in Cupertino, California, within this District. Apple is the designer and manufacturer of the iPhone 4s and iOS 7. Apple transacts substantial business throughout the State of California, through advertising, marketing, and ownership of Apple retail stores in several California locations, including in this District, where many members of the Class purchased the iPhone 4s.

SUBSTANTIVE ALLEGATIONS

Background

37. Apple manufactures, designs, produces, and sells several types of electronic products, including, among others, personal computers, portable music players, cellular phones, and other communication devices. Apple currently has over 400 retail stores in 13 countries, as well as an online store that sell these electronic devices.

1 38. Then-CEO Steve Jobs introduced the iPhone 4 on June 7, 2010, calling it “the biggest
2 leap since the original iPhone.”³⁴ Just three days after its launch on June 24, 2010, Apple announced
3 it sold over 1.7 million units.³⁵

4 39. Defendant’s iPhone 4s launched on October 14, 2011. Within its first three days of
5 sale, over four million iPhone 4s’s were sold. Philip Schiller, Apple’s Senior Vice President of
6 Worldwide Product Marketing, commented that the “iPhone 4s is off to a great start with more than
7 four million sold in its first weekend – the most ever for a phone and more than double the iPhone 4
8 launch during its first three days.”³⁶

9 40. Defendant’s iPhone 5 launched on September 24, 2012 and was even more successful
10 than the iPhone 4s, selling over five million units within the first three days. Tim Cook, Apple’s
11 CEO, commented on the iPhone 5’s success, stating: “Demand for iPhone 5 has been incredible and
12 we are working hard to get an iPhone 5 into the hands of every customer who wants one as quickly
13 as possible . . . While we have sold out of our initial supply, stores continue to receive iPhone 5
14 shipments regularly and customers can continue to order online and receive an estimated delivery
15 date. We appreciate everyone’s patience and are working hard to build enough iPhone 5s for
16 everyone.”³⁷

17 41. The iPhone 4 came standard with iOS 4, the iPhone 4s came standard with iOS 5 and
18 the iPhone 5 came standard with iOS 6. Owners of these phones were prompted to download the
19 iOS 7 update when it was made available for download September 17, 2013.³⁸ According to Apple’s
20 website, the update is compatible with the iPhone 4 and later, iPad 2, iPad with Retina display, iPad

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22 ³⁴ <http://www.apple.com/pr/library/2010/06/07Apple-Presents-iPhone-4.html> (last visited April 18,
2014)

23 ³⁵ <https://www.apple.com/pr/library/2010/06/28iPhone-4-Sales-Top-1-7-Million.html> (last visited
24 April 18, 2014)

25 ³⁶ [http://www.apple.com/pr/library/2011/10/17iPhone-4S-First-Weekend-Sales-Top-Four-
26 Million.html](http://www.apple.com/pr/library/2011/10/17iPhone-4S-First-Weekend-Sales-Top-Four-Million.html) (last visited April 18, 2014)

26 ³⁷ *Id.*

27 ³⁸ [http://www.apple.com/pr/library/2013/09/10iOS-7-With-Completely-Redesigned-User-Interface-
28 Great-New-Features-Available-September-18.html](http://www.apple.com/pr/library/2013/09/10iOS-7-With-Completely-Redesigned-User-Interface-Great-New-Features-Available-September-18.html) (last visited April 18, 2014)

1 Air, iPad mini and iPad mini with Retina display and iPad touch 5th generation.³⁹ Craig Federighi,
2 Apple’s Senior Vice President of Software Engineering, commented on the update, stating: “iOS 7 is
3 completely redesigned with an entirely new user interface and over 200 new features, so it’s like
4 getting a brand new device, but one that will still be instantly familiar to our users.”⁴⁰

5 42. The look of icons, apps and home screens were all dramatically changed to what
6 Apple dubbed a much “simpler, more useful interface” that “brings clarity to the entire
7 experience.”⁴¹ Wanting to have the latest and greatest Apple software and features at no additional
8 cost, millions of iPhone users download updates, like iOS 7. The adoption rate (the percentage of
9 Apple users that have downloaded an update) for iOS 7 reached 74% in the first three months of
10 availability, and quickly rose to 80% after four months.⁴²

11 43. The iPhone 4, 4s and 5 include a version of Apple’s web browsing application, Safari,
12 as well as access to the App Store, iTunes Library, iBooks Store, contacts, and notepad. All iPhone
13 content is downloadable via Wi-Fi or Network connection, but some content may only be
14 downloaded via a Wi-Fi connection. Applications that are larger in size, for example, can only be
15 downloaded wirelessly over a working Wi-Fi connection, and not over a Network connection.

16 44. Certain video streaming services, including Amazon’s instant video service,⁴³ which
17 allows users to watch tens of thousands of movies and TV episodes on Apple devices, can only be
18 used with a WiFi connection. It is not available over 3G/4G or LTE connections.⁴⁴

21 ³⁹ <https://www.apple.com/ios/features/> (last visited April 18, 2014)

22 ⁴⁰ <http://www.apple.com/pr/library/2013/09/10iOS-7-With-Completely-Redesigned-User-Interface-Great-New-Features-Available-September-18.html> (last visited April 18, 2014)

23 ⁴¹ <https://www.apple.com/hk/en/ios/design/> (last visited April 18, 2014)

24 ⁴² http://www.maclife.com/article/news/apple_ios_7_adoption_rate_now_80 (last visited April 18,
25 2014)

26 ⁴³ <http://www.amazon.com/gp/feature.html?&docId=1000798971> (last visited on April 18, 2014)

27 ⁴⁴ [http://www.tuaw.com/2012/12/13/amazon-instant-video-app-updated-to-support-to-iphone-and-
28 ipod-t/](http://www.tuaw.com/2012/12/13/amazon-instant-video-app-updated-to-support-to-iphone-and-ipod-t/) (last visited on April 18, 2014); <http://forums.macrumors.com/showthread.php?t=1507359>
(last visited on April 18, 2014)

1 45. The iPhones can connect to the internet using either a Network connection, or
2 properly operating Wi-Fi connection. When users purchase an iPhone, they must select a data plan
3 from their cellular provider and use the providers Network connection in order to use internet-
4 enabled features when Wi-Fi is unavailable. Data plans range in the amount of data a device may
5 access without the user incurring overage charges. Overage charges occur when a user exceeds the
6 data allowance on his or her plan. When a user is connected to a Wi-Fi connection, any data used
7 does not count toward the amount allotted by a user's monthly data plan.

8 46. Utilizing Wi-Fi can amount to serious cost savings for users who use a lot of data, or
9 cannot afford more expensive data plans. The ability to use a Wi-Fi connection is appealing to
10 customers because downloading data-rich content using a Network connection can be very
11 expensive, especially when users exceed the monthly data limits of their plan and have to pay costly
12 overage fees.

13 47. For example, Verizon Wireless charges \$30 for 2GB of monthly data, and \$10 for
14 each GB over the allotted 2GB per month.⁴⁵ The two other data plans include 5GB for \$50 per
15 month and 10GB for \$80 per month.⁴⁶ If a user goes over this or her plan's allotted data, regardless
16 of whether they originally had a 2GB, 5GB or 10GB plan, they are charged \$10 for each GB over the
17 plan.⁴⁷ Notably, data plan charges are paid in addition to the cost for cellular minutes and
18 purchasing the actual device.

19 48. After downloading the update, Plaintiff and Class members' iPhones lost the ability
20 to connect to Wi-Fi or Bluetooth and were no longer able to run Siri, or other applications via a Wi-
21 Fi connection, and could only download and run these applications using a Network connection, thus
22 using data from their cellular plan.

23 49. Perhaps most ironically, updates like iOS 7, because of their large size, can only be
24 downloaded wirelessly via a Wi-Fi connection. Therefore, Plaintiff and members of the Class are

25 ⁴⁵ <http://www.verizonwireless.com/b2c/includes/plans/dataInfoOverlay.jsp> (last visited April 18,
26 2014)

27 ⁴⁶ *Id.*

28 ⁴⁷ *Id.*

1 unable to wirelessly download any future iOS updates. The ability to download iOS updates is
2 important because it allows users to add the latest iOS features on their older devices, but is also
3 important when iOS versions are flawed in a way that is only remedied via a downloadable patch or
4 later version of iOS.

5 50. Soon after iOS 7 was released, it was revealed that the update had a major security
6 flaw requiring users to download a software patch, iOS 7.0.6, to fix. iOS 7.0.6 was the sixth update
7 to iOS 7. This security flaw in iOS 7 effected how the software validates SSL certificates, which are
8 critical in establishing secure sessions. To establish secure sessions, websites or devices “verfi[y]
9 that the information is coming from a trusted source. By validating the certificate, the bank website
10 knows that the request is coming from the user, and is not a spoofed request by an attacker. The
11 browser also relies on the certificate to verify the response came from the bank’s servers and not
12 from an attacker sitting in the middle and intercepting sensitive communications.”⁴⁸

13 51. In describing the iOS 7.0.6 patch, Apple stated on its website that the reason for the
14 patch was that “[a]n attacker with a privileged network position may capture or modify data in
15 sessions protected by SSL/TLS.”⁴⁹ Devices without the patch are vulnerable to attack by hackers
16 who “could intercept, and even modify, the messages as they pass from the user’s iOS 7 device to
17 secured sites, such as Gmail or Facebook, or even for online banking sessions.”⁵⁰ Users cannot
18 download iOS updates over 3G/4G or LTE connections.

19 52. In an article titled “Apple’s Serious Security Issue: Update Your iPhone or iPad
20 Immediately,” the *New York Times* stressed the importance of downloading the security issue patch.
21 The article explained: “In a nutshell, Apple has a security hole in both its mobile and desktop
22 operating systems that could let a malicious hacker jump in on what you think is a secure Web
23 transaction if you’re on a public Wi-Fi network like those at a coffee shop, airport or some other
24 location. . . . Thanks to this flaw, your browser can’t verify the authenticity of an encryption

25 ⁴⁸ <http://www.pcmag.com/article2/0,2817,2453936,00.asp> (last visited April 18, 2014)

26 ⁴⁹ <http://support.apple.com/kb/HT6147> (last visited April 18, 2014)

27 ⁵⁰ <http://securitywatch.pcmag.com/apple/320936-apple-fixes-fundamental-ssl-bug-in-ios-7> (last
28 visited April 18, 2014)

1 certificate, meaning someone could easily be pretending to be your bank’s website, your doctor’s
2 office site or a credit card application form.”⁵¹

3 **Problems Emerge After iOS 7 Is Downloaded by iPhone Users**

4 53. Plaintiff acquired his iPhone 4s (16 GB version), Serial Number 990-00101148043,
5 on or around April 30, 2012.

6 54. After receiving an alert from Apple in or about October 2013 notifying him that the
7 iOS 7 update was available, Plaintiff promptly downloaded the update.

8 55. After the download was complete, the Wi-Fi and Bluetooth connection capabilities
9 on his iPhone were “grayed out” or, in other words, disabled.

10 56. Upon information and belief, Plaintiff’s problems with the iPhone 4s’s Wi-Fi and
11 Bluetooth connection capabilities are not unique. The Grayed Out Issue has been experienced by
12 iPhone 4, 4s and 5 users after they download and run iOS 7. Indeed, Defendant has received
13 thousands of comments regarding the Wi-Fi and Bluetooth connectivity issues after iOS 7 was
14 downloaded.

15 57. In a discussion thread on Apple’s support site titled “Wifi greyed out on iphone 4s
16 with ios 7,” a sampling of users’ posts included the following:

17 **Haymen**

Sep 22, 2013 5:12 PM

18 What happened with me is really the same except Wifi was working for almost a day
19 but suddenly both Wifi and Bluetooth has stopped at once please any advice????⁵²

20 **nealfrirl**

Sep 25, 2013 5:03 AM

21 I have this EXACT problem too. The Wifi is generally greyed out, then after
22 restarting it about 50 times, updating it 12 time, standing on my head and doing the
23 twist it comes back but only briefly.

I’m spending a fortune on 3G because of it!
My bluetooth is also affected. HEEEEELP!⁵³

24 **PetrVIVIVI**

Sep 26, 2013 1:22 PM

25 ⁵¹ [http://bits.blogs.nytimes.com/2014/02/24/apples-serious-security-issue-update-your-iphone-or-](http://bits.blogs.nytimes.com/2014/02/24/apples-serious-security-issue-update-your-iphone-or-ipad-immediately/?_php=true&_type=blogs&_r=0)
26 [ipad-immediately/?_php=true&_type=blogs&_r=0](http://bits.blogs.nytimes.com/2014/02/24/apples-serious-security-issue-update-your-iphone-or-ipad-immediately/?_php=true&_type=blogs&_r=0) (last visited April 18, 2014)

27 ⁵² <https://discussions.apple.com/thread/5331834?tstart=0> (last visited April 18, 2014)

28 ⁵³ <https://discussions.apple.com/thread/5331834?start=15&tstart=0> (last visited April 18, 2014)

1 Hi. I have the same problem. WIFI and bluetooth are grayed out and I can not turn
2 them on. Hope that this is some software issue. I dont want to replace any hardware
because I am out of warranty. I have iphone 4S 16GB with IOS7.⁵⁴

3 **loniep**

Sep 30, 2013 3:48 AM

4 I've had the same problem since updating to ios7 (greyed out wifi etc.). I've been on
5 Apple chat for over 2 hours and they are not prepared to fix (as out of warranty). I
6 went to my cellular provider (Vodafone) who state that it is a known issue by Apple!
They won't fix the phone for free even though it's a result of an ios update! They've
7 told me (on Apple Chat) that the ios update only highlighted the problem - the
hardware was 'about' to fail in any case! Not sure how true that is!⁵⁵

8 **iPhoneandy**

Sep 30, 2013 1:17 PM

9 Same here, it sounds like full BS from apple. WiFi and all functions has been
10 perfectly well and my phone has been gently used generally and for sure from update
11 to iOS7. WiFi started to loose connection to networks and refresh the list all the time
12 then it got greyed out, came back for a short while then permanently beeing greyed
13 out. Freezing the phone to make it work is a clear sign of HW failure. The fact that
14 a lot of people experience the same problem shortly after iOS update on totally
different ages of phones is also clearly pointing out iOS bug as the cause. Why does
15 it take different time from update to malfunction, well, circuits are different, usage is
16 different, for example in how warm environment is it used. Was phone used as GPS
while charging and lots of apps running in a hot car, the phone most likely was
extremly much warmer then a phone used minimally.

17 APPLE!!! Take care of this! We know you make huge margins and they must be
18 used to sponsor misstakes that are caused by YOUR misstakes. Believe me I know
19 my homework, I'm working in electronics business with embedded development and
20 HW manufacturing and testing.⁵⁶

21 **Bin Kroon**

Oct 3, 2013 11:12 AM

22 I am having the exact same problem on my iPhone 4S after installing iOS7. Today I
23 installed iOS7 and since the upgrade the wifi is now greyed out and I can not get it
24 switched on anymore. Tried several restarts, have reset the network settings but all
25 to no avail. However Bluetooth still does work, but the BT sound quality has
drastically deteriorated since the upgrade to iOS7 to the extent that people can no
longer understand me, making BT no longer usable. (until this morning the use of
Bluetooth was flawless and crystal clear using my Plantronics Voyager headset). So
far in this discussion I see no response from Apple in this issue. So it seems we are
all out in the dark on possible solutions which only Apple can provide. My iPhone is
now a little over a year old and I find it hard to accept that Apple would not assist her
customers in solving a problem caused as a result of the iOS7 upgrade. Furthermore
I NEED my wifi when travelling abroad and I fly to Asia next week. Without a
working iPhone with wifi I can not communicate with my office. So if Apple does
not come to the rescue I'll have no choice but to purchase a new phone. And I can

26 ⁵⁴ *Id.*

27 ⁵⁵ *Id.*

28 ⁵⁶ *Id.*

1 assure you, in that case it will most likely not be an iPhone. Therefor my plea here
2 on this Apple website to the Apple support team: Please come to our rescue and
assist your customers in finding a solution to this problem!!⁵⁷

3 **Chti59**

Oct 3, 2013 11:38 AM

4 My iPhone 4S is going in for service tomorrow after having tried all the tricks
5 (except anything involving temperature changes) to no avail. Since updating it to ios
6 7, the wifi button is greyed out, I have no bluetooth and no reception to the point
where the Apple representative I spoke to over the phone asked to ring me back on
my home line and added the reception issue to my file.

7 Thankfully in Europe it's covered for 2 years so barring any unforeseen problems, I
8 should either be getting a fixed phone or a new phone. So disappointed that a
company like Apple could make such a huge mistake!⁵⁸

9 **ios7.2**

Oct 4, 2013 9:28 PM

10 After I upgraded my iphone 4S to IOS 7, the Wifi and bluetooth worked for 2 days
11 and stopped working after that. My wifi is grayed out. I have tried all the tricks
12 nothing is working for me. I went to apple store, the tech after running the diagnosis
13 tells me that he is not able to identify what the issue is... how Sad! unfortunately the
phone is not under warrenty. Apple has to acknowledge that this is an IOS 7 issue
and release a fix. If not they should recall the defective iphone 4s. Very
disappointed with Apple.⁵⁹

14 **Ezuq**

Nov 17, 2013 11:55 AM

15 So, this is my situation. My WiFi got greyed out and it didn't take me long to realise
16 that it was a hardware issue. I waited around for 3 weeks trying all sorts of quick
17 fixes. From removing the WiFi chip and heating it, to placing it in a freezer. The
freezer solution worked, but for me, it only lasted 5-20 minutes, the my phone would
18 get hot. Seeing there was no solution, I ordered a genuine iPhone 4S Wifi chip. It
was only £5 and is cheaper than paying £200 for an iPhone 4S. So after I ordered it,
19 my battery went to around 18% and turned itself off. I thought nothing of it and left
it to charge. A couple of seconds later, the apple logo appeared, and the home screen
came on.

20 Then, I looked up at the notification bar and saw my WiFi was on! To see if this was
21 a fluke, I played some of the most graphically intense games I could get from the
App Store to get my phone very hot. And guess what? WiFi is still on!! One thing I
22 have noticed is that my phone is much cooler than normal. Anyway, for those who
are in a less fortunate situation than myself, replace the WiFi chip. It is easy to do,
23 and is MUCH, MUCH cheaper than getting a new iphone. If anyone wants a link to
a video which I used to remove the WiFi chip, message me, and if you want the ebay
24 link to the WiFi module I purchased, also message me.⁶⁰

25 ⁵⁷ <https://discussions.apple.com/thread/5331834?start=30&tstart=0> (last visited April 18, 2014)

26 ⁵⁸ *Id.*

27 ⁵⁹ <https://discussions.apple.com/thread/5331834?start=45&tstart=0> (last visited April 18, 2014)

28 ⁶⁰ <https://discussions.apple.com/message/23819352#23819352> (last visited April 18, 2014)

1 58. Another thread on Apple’s support site entitled “WIFI disabled – Greyed out since
2 iOS 7 update on iphone 4s” further details consumers’ common complaints:

3 **Tarrantion82**

4 Sep 23, 2013 3:32 AM

5 My 4s has had no WIFI issues until i updated to iOS 7. after the update it worked for
6 about 20 hours then disabled. I noticed my wifi was no longer connected, i checked
7 the wifi was on and it was, still unable to connect i restarted the phone and now the
8 WI-FI button is grey, dim and wont switch on. However Bluetooth does work fine,
9 so I’m thinking it’s not the chip.

10 network setting reset

11 factory reset..... itunes crashed while restoring my data so now unable to re-sync my
12 personal data

13 battery drain

14 freezer

15 nothing seems to fix this issue ! after reading forums it seems a similar thing
16 happened when iOS 6.x.x was released, my 4s is out of warranty, apple seem to be
17 taking no responsibility for the issue, clearly caused by the update as had zero issues
18 until that point... which I find “convenient” as it so happens to co-inside with new
19 iphone launches.

20 Please help anyone in the same boat ?

21 not a happy camper!⁶¹

22 **manos_var**

23 Sep 24, 2013 11:19 AM (in response to Tarrantion82)

24 I had two iPhone 4s with the same problem, My first phone wifi greyed out after 11
25 months, so it was under warranty and replaced from Apple. The replacement’s
26 iPhone wifi greyed out too after 32 days and replaced again (replacement Iphone
27 have 3 months under warranty). Now i have the 3rd iPhone 4s in a year, and hope to
28 be more lucky...⁶²

59. Other internet forums and posts, created to discuss the Grayed Out Issue, read:

18 **epi231 May 23, 2013 2:50 PM**

19 Iphone 4S, running iOS 6.1.3

20 Wifi toggle is greyed out. Tried rebooting and resetting the network settings in Reset
21 Options but nothing works. I googled this problem and it seems many Iphone 4s
22 owners are having this issue. There is also a discussion in the Apple forums
23 regarding this issue. I would like to know from Verizon what my options are. From
24 reading the Apple forums it seems its a issue with the product itself and not the user.
25 You can google it or go on the apple forums and look for yourself. This is a issue
26 which is no fault of the user.⁶³

23 **tjomro Jun 1, 2013 9:42 AM (in response to epi231)**

24 I am having this same issue. My iPad connects fine but like epi231 said - wifi is
25 greyed out (and so is bluetooth on mine) I have had the phone for 6 months and for
26 about a week this has been an issue. I am going to stop at a store as you did. I would

26 ⁶¹ <https://discussions.apple.com/thread/5356193> (last visited April 18, 2014)

27 ⁶² <https://discussions.apple.com/thread/5356193?start=15&tstart=0> (last visited April 18, 2014)

28 ⁶³ <https://community.verizonwireless.com/thread/799058> (last visited April 18, 2014)

1 really just like it fixed as I have a few apps that I depend on with info in them.
2 Thanks for your information, wish me luck!⁶⁴

3 **chrispy3093 Sep 25, 2013 11:06 PM**

4 Wifi Grayed out after ios7 updated among other things.

5 So everything worked perfectly until I updated to ios7. Now my wifi will not turn on,
6 or should i say allow me to turn it on. I have tried everything including a factory reset
7 on my phone and still nothing. When I say everything, I mean: Network settings
8 reset, network settings reset with airplane mode on, erased (') from iphone name,
9 etc. Pretty much everything I could find on the web relating to the problem I tried. I
10 have also taken my phone to a Verizon store, where the woman suggested my
11 antenna was toast and i probably needed a new phone... I thought that was pretty cute
12 considering i could still make call's and still use my data on my phone. I also told her
13 several times that it started only after I had installed the update. Sorry to sound kind
14 of angry, but i am quite frustrated. If anyone could help at all that would be much
15 appreciated.⁶⁵

16 **TonyaS13 Sep 30, 2013 8:46 AM (in response to Verizon Wireless Customer Support)**

17 I am having the same dilemma. Not longer after I downloaded iOS7, my WiFi is
18 also became grayed out. I reset my Network Settings, to no avail. I then went to
19 Settings > General> Software Update and there is a version 7.0.2 available. Problem
20 is - I don't have WiFi. WiFi is required to "Download and Install" the update. What
21 can be done to retain my WiFi?? I have an iPhone 4S.⁶⁶

22 **MacRock**

23 Member

24 Group:Members

25 Posts:87

26 Joined:04-January 08

27 Posted 27 October 2013 - 04:16 PM

28 Has anyone seen this thread: <https://discussions....?thread=5328365> My iPhone 4S
won't recognize any WiFi (in coffee shops, at my work, at home) now that I have
"upgraded" to the latest IOS. It also won't open anything to type in any passwords
when it does see a network. Why does Apple even release this crap without testing
for bugs? This is almost as bad as Lion. Is there a fix on the horizon. I now have a
fairly useless iPhone and iPad Mini. I now have to carry my original non-updated
iPad to log into WiFi if I go out. Apple is quickly losing more points with me.
Android is looking better all the time.

Is there a known simple fix or are well all (note 600+ complaints to Apple)
screwed?⁶⁷

29 **brettyboo 10/11/13 at 1:59am**

30 My wife and I both have a 4s.

31 We both upgraded to iOS 7.0.2.

32 ⁶⁴ *Id.*

33 ⁶⁵ <https://community.verizonwireless.com/thread/806529> (last visited April 18, 2014)

34 ⁶⁶ *Id.*

35 ⁶⁷ <http://forums.macworld.com/index.php?/topic/153502-wifi-doesnt-work-with-ios-7/> (last visited
36 April 18, 2014)

1 BOTH NOW FAIL WIFI.
2 Just random, right? You tell me the odds.⁶⁸

3 **Xyniss**

4 10/16/13 at 12:19pm

5 I have had this iPhone 4S since October 2012. I bought it with it's original iOS 5 and
6 upgraded to iOS 6 having no problems. The button for the wifi button didn't grey out
7 until I updated to iOS 7. This means that this is not a hardware problem, because the
8 phone was perfectly fine with the previous two iOS updates. Now I can't even turn
my wifi on, having to use my 4G every day even though my home internet is faster I
don't have the option to be able to use it. I hope the next update iOS 7.0.3 would fix
this issue, I really hope to stick with the Apple company because I personally love
iPhones more than the Samsung Galaxy phones. Apple please do your best and help
us!⁶⁹

9 **MegsMore**

10 10/17/13 at 11:59am

11 Well, I guess I'm one of the UNLUCKY ones! y 4S - only a year and 7 months old,
12 worked great. Before...the update. My husband warned me to never update my phone
13 since he has had 2 iPhone's that have had problems after the update, but that stupid
14 little "1" that stays on my phone unless I update gets me every time. First few days -
15 my phone was fine. Then, the battery started wearing down. I read every blog from
16 here to Nigeria to find out how to fix it. I turned off everything I could. Then, no
17 wifi. Completely greyed out. Again, read every blog, restored to factory settings, lost
18 everything. Finally, I apple-chatted. They told me I had to bring it into the Genius
19 bar. I brought it into the Genius bar in Mission Viejo, CA. They ran a diagnostic test
20 and the girl told me this: "I'm sorry. When you updated your software it seems to
21 have broken the hardware in your phone that runs the wifi. The only thing I can offer
22 you, since your warranty ran out, is another refurbished phone for \$199." So you
23 want me to pay \$199 for a refurbished phone. When the Apple software that I
24 downloaded (with no discretion that it could ruin my 4S, even though I probably
25 should have already known) broke my hardware. There you go. So now, my iPhone
26 has NO apps, I can't check email, I can't play my spotify, iTunes radio, etc. because
27 they all eat up too much data. Basically you could give me my old 1996 Nokia
28 phone and I'd be happy. Apple, I just want to give you the biggest middle finger and
CUSS WORDS I possibly can.⁷⁰

60. A petition was created on www.change.org "[t]o get Apple to replace all units
affected negatively by the update of iOS7 or patch an update that will remedy the issues many loyal
customers are experiencing."⁷¹ Comments by those who have signed the petition include:

⁶⁸ <http://forums.appleinsider.com/t/160054/ios-7-update-brings-more-wi-fi-issues-for-some-iphone-4s-owners/40> (last visited April 18, 2014)

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ https://www.change.org/petitions/apple-to-get-apple-to-replace-all-units-affected-negatively-by-the-update-of-ios7-or-patch-an-update-that-will-remedy-the-issues-many-loyal-customers-are-experiencing?share_id=EWvbUpSNtW&utm_campaign=mailto_link&utm_medium=email&utm_source=share_petition (last visited April 18, 2014)

1 **David Poyner GLASTONBURY, UNITED KINGDOM**

2 My iPhone 4S is now virtually useless. WiFi no longer works and the GUI is
horrible.⁷²

3 **Chow-lung Ting SAN DIEGO, CA**

4 Iphone 4s is a defective product and it needs to be repaired voluntarily and
immediately without cost, instead of urging customer to keep updating iOS or luring
with newer product line. I did not do anything to deserve a dyfuncnt phone.⁷³

5 **Bo Bennike SHERMAN OAKS, CA**

6 I am one of the many victims of a know design flaw with regards to the wifi antenna
on early iPhone 4s models. Apple should fix this for free.⁷⁴

7 **Mina Nabil GERMANY**

8 iOS 7 screwed up my iPhone 4S's WiFi⁷⁵

9 **Greg Welch KINGWOOD, TX**

10 My Iphone 4s is pretty much worthless without wifi. My previous 3 phones had the
same problem but were under warranty. The apple store replaced all three of them
and one time the apple employee could not get the new phone to operate in the store.
11 So he replaced that phone before he could get the next phone's wifi to work.
12 Unfortunately, the replacement phones only come with a 90 day warranty. Mine ran
out before I had time to return it. THIS IS WRONG for Apple to be treating their
customers in this manner!!!⁷⁶

13 **Timothy Obiso SADDLE BROOK, NJ**

14 My iPhone 4S had WiFi no problem until i updated to iOS 7. So far I have had to
blowdry my phone 15 times. The problem is a software problem ad Apple should
15 own up to their mistake and release a patch update that would fix this issue.⁷⁷

16 61. On October 10, 2013, Appleinsider.com posted an article titled "iOS 7 update brings
17 more Wi-Fi issues for some iPhone 4s owners."⁷⁸ The article features users' posts on Apple's
18 customer support site describing the problem they incurred after downloading iOS 7 onto their
19 iPhone 4s's and draws a comparison to what seems to have been a similar problem when iOS 6 was
20 rolled out. The article stated: "The same issue was reported during last year's rollout of iOS 6, when

21 ⁷² *Id.*

22 ⁷³ *Id.*

23 ⁷⁴ *Id.*

24 ⁷⁵ *Id.*

25 ⁷⁶ *Id.*

26 ⁷⁷ *Id.*

27 ⁷⁸ [http://appleinsider.com/articles/13/10/10/ios-7-update-brings-more-wi-fi-issues-for-some-
28 iphone-4s-owners](http://appleinsider.com/articles/13/10/10/ios-7-update-brings-more-wi-fi-issues-for-some-iphone-4s-owners) (last visited April 18, 2014)

1 a 91-page thread — now repurposed for discussing the issue as it relates to iOS 7 — appeared in
2 September. Many users at that time found the problem could be resolved by downgrading to the
3 previous iOS release, something that is not possible with iOS 7.”⁷⁹

4 62. Regarding the Grayed Out Issue, NBC Connecticut interviewed Kelly Shermer, an
5 iPhone 4s user who experienced dull battery life and had Wi-Fi disabled after downloading iOS 7.
6 Shermer explained that she tried to fix the issue by following Apple’s suggestions, but to no avail.
7 Mike Shermer, her husband, took her iPhone 4s to the Apple store where he was told the issue was
8 not iOS, but rather the iPhone 4s’s antenna, and that he should replace the phone.⁸⁰ Mike Shermer
9 said: “Why should I have to pay for a phone that’s broken, only because I installed software on it?
10 That’s Apple software.”⁸¹ Lon Seidman, a tech expert and writer for CTNewsJunkie, who was also
11 interviewed for the news story, advised iPhone 4s users that since “most Wi-Fi and battery issues
12 seem to primarily affect the iPhone 4S, customers with that model who haven’t had issues should
13 hold off on updating their phone until a new iOS patch is released.”⁸²

14 63. A more recent version of iOS 7, iOS 7.1, was released by Apple on March 10, 2014.⁸³
15 According to user posts on Apple’s support website, the update did not provide relief from the Wi-Fi
16 and Bluetooth connectivity issues for the iPhones that were grayed out after downloading iOS 7.

17 64. For example, the following were posted under the thread “The iOS 7.1 update doesn’t
18 fix the Wifi issue on iPhone 4S!”:

19 **hinc94**

20 Mar 11, 2014 9:36 AM

21 My wifi greyed out since iOS 7, the hair dryer did fix the problem for a day. But it
22 greyed out again after a day, and now the 7.1 update doesn’t fix that *****???

23 iPhone 4S, iOS 7.1⁸⁴

23 ⁷⁹ *Id.*

24 ⁸⁰ <http://www.nbcconnecticut.com/investigations/Apple-Releases-New-iOS-Upgrade-Will-it-Fix-Customers-Wi-Fi-and-Battery-Problems-233403381.html> (last visited April 18, 2014)

25 ⁸¹ *Id.*

26 ⁸² *Id.*

27 ⁸³ <http://www.usatoday.com/story/tech/2014/03/10/apple-ios-7-update/6260611/> (last visited April
28 18, 2014)

1 **JG0614**

2 Mar 12, 2014 7:19 AM

3 My WiFi worked fine yesterday, prior to the iOS7.1 update. Immediately after the
4 update, WiFi selection was “greyed-out” and am not able to turn it on to search for
5 networks. How is this a Hardware issue and not directly related to the Software
6 update? The update is the only thing that changed. Please explain.⁸⁵

7 65. Not only did iOS 7.1 fail to fix the Wi-Fi and Bluetooth issues caused by iOS 7.0,
8 some who downloaded iOS 7 and did not report any Wi-Fi or Bluetooth issues began to experience
9 those issues after downloading iOS 7.1. The following messages were posted in the thread “IOS 7.1
10 iphone 4S wifi not available .. help..”

11 **Ibezerd**

12 Mar 13, 2014 1:58 PM

13 I’ve done all of the above, reset network and all settings, and nothing at all. Apple
14 also told me the chip is burnt out because of the update but they want 200 to upgrade
15 the phone. Uh so if your update caused my chip to die, IT’S YOUR PROBLEM, not
16 mine. All I can do now is freeze the phone for 15 mins and wifi comes back for an
17 hour, but who the heck wants to do that? All the while my data plan is suffering big
18 time. Thanks Apple.⁸⁶

19 **Enkarta98**

20 Mar 14, 2014 1:22 AM

21 Just want to share my experience with the same issue in hopes of it being recognized
22 and resolved. Last night, After third restart, wifi was enabled but couldn’t locate or
23 connect to my home wifi. Wifi remained not connected all day. I plugged in the
24 phone to sync music with iTunes and move some photos to iphoto, and then when I
25 disconnected from the computer.. wifi is grey and again not available. I tried my
26 standard triple restart and, as I half expected, no luck. Not for nothing, but wifi
27 worked fine up until the moment the 7.1 update was installed. So perhaps there is
28 something I am not understanding, but I don’t see why a software update would
somehow be able to damage the physical wifi chip. Even if that could be possible, I
don’t understand why it would be alright for this to be released without a warning to
4s users that the software may damage the physical functions of the device.
Basically, I hope that is not the case and I hope this issue will be addressed.⁸⁷

29 **ahazen**

30 Mar 14, 2014 5:49 PM

31 I have the exact same problem with my iPhone 4s. As soon as I updated to iOS 7.1
32 my wifi was slow/on&off and then soon stopped all together. I’ve done a restore,
33 eliminated almost all apps and reset the settings & several hard restarts. nothing works.

34 ⁸⁴ <https://discussions.apple.com/message/25133865#25133865> (last visited April 18, 2014)

35 ⁸⁵ *Id.*

36 ⁸⁶ <https://discussions.apple.com/thread/5984942?start=15&tstart=0> (last visited April 18, 2014)

37 ⁸⁷ *Id.*

1 Heading to the Apple store tomorrow and hoping to get a reasonable solution. I'll
2 post an update as to how things go.⁸⁸

3 **caseyinberlin**

4 Mar 17, 2014 2:56 PM

5 I'm in the exact same boat with my 4S. My wifi has been greyed out from the
6 moment that I upgraded and only sporadically returned for five minutes here
7 and there. The phone is also super slow and freezes constantly. I would LOVE to
8 know how many of us are suffering from the same problem. Apple, if you don't
9 act soon, you are going to really start losing some customers.⁸⁹

10 66. Users of the iPhone 5, which was released in September 2012 and came with iOS 6,⁹⁰
11 have voiced similar complaints, saying that updating to iOS 7 caused Wi-Fi and Bluetooth
12 connectivity issues:

13 **omglpl**

14 Re: iphone 5 wont connect to internet while using data or Wifi after iOS 7.0.6 update
15 Feb 25, 2014 2:10 PM

16 Same problem...no wifi connectability on either my ipad mini retina display nor my
17 iPhone 5 after installing 7.0.6 upgrade. This is really unacceptable and Apple needs
18 to fix this right away. It clearly is impacting many, many Apple customers.⁹¹

19 **Frodo711**

20 Re: wifi greyed out after update to ios7
21 Oct 5, 2013 8:54 PM

22 Just to throw a spanner in your summary - I have Iphone 5 doing exactly the same
23 after IOS 7 update⁹²

24 **twannabe**

25 Re: wifi drops out since ios 7
26 Oct 3, 2013 5:45 AM

27 I am having the same issue with my two month old iphone 5 after installing ios 7. I
28 tried all the "fixes" i found online including this one, reset my home router several
times, no luck. I went to ATT they sent me to the apple store. It worked fine in the
apple store, but won't pickup any other wifi for more than a few seconds. Secondly it
can't even see the wifi unless you are within 10 feet of the router. When will Apple
address this?⁹³

22 ⁸⁸ *Id.*

23 ⁸⁹ <https://discussions.apple.com/thread/5984942?start=30&tstart=0> (last visited April 18, 2014)

24 ⁹⁰ <http://www.apple.com/pr/library/2012/09/12Apple-Introduces-iPhone-5.html> (last visited April
25 18, 2014)

26 ⁹¹ <https://discussions.apple.com/message/24968728#24968728> (last visited April 18, 2014)

27 ⁹² <https://discussions.apple.com/message/23129669#23129669> (last visited April 18, 2014)

28 ⁹³ <https://discussions.apple.com/thread/5374440> (last visited April 18, 2014)

1 **Max_R2014**

2 Mar 12, 2014 8:18 PM

3 I have an iPhone 5 and since upgrading to the new ios7.1, I've been experiencing
4 issues with my wifi connections. It will drop a connection and then won't allow me
5 to enable wifi in my settings. I've rebooted multiple times, but the same issues are
occurring. I've also rebooted my wireless router a couple times and it will allow me
to connect to my wifi network, but only for a brief time before the same issues
reoccur. I didn't experience these issues when I was using ios7.0.6. Please
advise.⁹⁴

6 **Apple's Response**

7 67. Recognizing that users have experienced their Wi-Fi settings becoming grayed out or
8 dim, Apple issued instructions on December 9, 2013 with suggestions on how to remedy the
9 problem. Apple stated: "In rare instances, the setting to turn on Wi-Fi on your iPhone, iPad, or iPod
10 touch may appear grayed out or dim. You may see the following when you tap Settings > Wi-Fi. If
11 this occurs, you can't turn Wi-Fi on, and when you try to turn Wi-Fi on, your device won't respond.
12 If you're using iOS 7, Wi-Fi may appear to turn on and off in Control Center, but Wi-Fi won't
13 respond."⁹⁵

14 68. Apple's "resolution" suggested users try the following to fix the issue: (i) restart the
15 iOS device; (ii) ensure the device is not in airplane mode; (iii) reset the network settings; and (vi)
16 ensure the device has the latest software, *i.e.*, iOS 7.⁹⁶ If these solutions do not fix the issue, Apple
17 advised users to contact Apple for support and service options.⁹⁷ Plaintiff tried the suggested fixes
18 for the problem. Plaintiff also visited two Apple stores for assistance and was ultimately told, akin
19 to other iPhone users, that his only option was to purchase a new device.

20 **Users are Unable to Downgrade to Previous iOS Versions**

21 69. Plaintiff and members of the Class had no issues with their iPhones Wi-Fi and
22 Bluetooth connection prior to downloading the newest version of iOS. Plaintiff asked Apple
23 representatives to downgrade his phone back to the previous iOS version, in an effort to remedy the

24 _____
25 ⁹⁴ <https://discussions.apple.com/message/25151269> (last visited April 18, 2014)

26 ⁹⁵ <http://support.apple.com/kb/ts1559> (last visited March 24, 2014)

27 ⁹⁶ *Id.*

28 ⁹⁷ *Id.*

1 Grayed Out Issue. Upon information and belief, many iPhone users that have experienced a
2 deterioration of the functionality of their iPhones have made the same request. Apple, however, will
3 not downgrade iOS on iPhones.

4 70. Apple, in fact, will not allow users to revert to prior versions of iOS.

5 71. Once a new iOS version is released, Apple stops “signing” previous versions with
6 Apple’s “signature.”⁹⁸ A signature is “cryptographic signature of the files matches a list of approved
7 signatures on Apple’s servers.”⁹⁹ When new versions of iOS come out, Apple stops signing older
8 versions and without Apple’s signature, iOS cannot be installed.

9 72. Online comments and complaints concerning the inability or restriction to revert back
10 to a prior iOS include:

11 **Alamfr**

Dec 27, 2013 6:17 PM

12 Want to downgrade my iPhone ios 7.0.4 to 6.1.3 can you help me¹⁰⁰

13 **stedman1**

Re: Want to downgrade my iPhone in 6.1.3

14 Dec 27, 2013 6:18 PM (in response to Alamfr)

15 Sorry, Apple has no approved method to downgrade the version of iOS on your
16 iDevice. You can voice your displeasure with the iOS by leaving feedback at the
appropriate subsection from the link below.

16 <http://www.apple.com/feedback/>¹⁰¹

17 **naviprince09**

Feb 27, 2014 8:08 AM

18 i want to downgrade my ios 7 to ios 6 could you please tell me the process¹⁰²

19 **KiltedTim North-East Ohio**

HT5012 Re: i want to downgrade to ios 6.1.3 in iphone 4

20 Feb 27, 2014 8:11 AM (in response to naviprince09)

21 Sorry. There is no process. You can't.¹⁰³

22 ⁹⁸ <http://readwrite.com/2013/09/24/apple-ios-7-no-downgrade#awesm=~oAtXvAoPucGN5x> (last
23 visited April 18, 2014)

24 ⁹⁹ [http://www.extremetech.com/computing/167450-downgrading-from-ios-7-to-ios-6-why-apple-
24 wont-let-you](http://www.extremetech.com/computing/167450-downgrading-from-ios-7-to-ios-6-why-apple-wont-let-you) (last visited April 18, 2014)

25 ¹⁰⁰ <https://discussions.apple.com/message/24278663#24278663> (last visited April 18, 2014)

26 ¹⁰¹ *Id.*

27 ¹⁰² <https://discussions.apple.com/message/25007292#25007292> (last visited April 18, 2014)

28 ¹⁰³ *Id.*

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Mohammed 108
Sep 25, 2013 11:18 AM
Can I downgrade iPhone 4s to 6.1.3¹⁰⁴

Axeman1020 New Jersey, USA
Re: Can I downgrade from ISO 7 to 6.1.3
Sep 25, 2013 11:19 AM (in response to Mohammed 108)
Apple does not support iOS downgrades. There have been many people encouraging this but you should know that Apple views an attempt to downgrade the iOS as unauthorized tampering and will void the warranty and any future support for that device.
Are you having a specific problem with iOS 7 we can help you with?¹⁰⁵

gopalagk
Nov 7, 2013 9:38 AM
HOW TO DOWNGRADE IOS 7 TO 6¹⁰⁶

ChrisJ4203 Illinois, Land of Lincoln
Re: HOW TO DOWNGRADE IOS 7 TO 6
Nov 7, 2013 9:40 AM (in response to gopalagk)
You don't. Apple does not support downgrading.¹⁰⁷

Preetham777
Feb 18, 2014 11:12 AM
Hi can anyone please tell me how to restore to ios6 from ios7 in iphone 4...?¹⁰⁸

Niel
Re: How to restore to ios6 from ios7 in iphone 4..?
Feb 18, 2014 11:13 AM (in response to Preetham777)
Downgrading isn't possible. iTunes won't install iOS versions older than the latest compatible release, and if one's somehow installed anyway, Apple's servers won't activate the device afterwards.¹⁰⁹

razmee209 Central Cali
Re: HOW TO DOWNGRADE IOS 7 TO 6
Nov 7, 2013 11:08 AM (in response to gopalagk)
Restoring your phone won't give you back IOS 6.
As stated already you can't go back to IOS 6.¹¹⁰

¹⁰⁴ <https://discussions.apple.com/thread/5369545> (last visited April 18, 2014)

¹⁰⁵ *Id.*

¹⁰⁶ <https://discussions.apple.com/message/23701506#23701506> (last visited April 18, 2014)

¹⁰⁷ *Id.*

¹⁰⁸ <https://discussions.apple.com/thread/5915376> (last visited April 18, 2014)

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

1 73. Because the Wi-Fi and Bluetooth connection capabilities do not perform as advertised
2 or intended once iOS 7 is downloaded onto iPhone 4s devices, users are forced to use their Network
3 connection in order to use any features requiring an internet connection. Not only does this cause
4 unanticipated additional monthly data usage charges from the user’s cellular provider, but it also
5 leaves Plaintiff and members of the Class with iPhone 4, 4s and 5’s of significant reduced value and
6 utility.

7 74. Having the option to use Wi-Fi instead of a Network connection is material to
8 customers because it allows them to access features on their iPhone 4s devices at significantly less
9 cost than if they could only use a Network connection. Without the ability to connect to Wi-Fi,
10 many of the applications for which the iPhone 4s can be used, and for which Defendant expressly
11 marketed the iPhone 4s to consumers, such as downloading large files or using Siri, would cause
12 users to significantly exceed the limited of their data plans, resulting in overage charges. Being able
13 to use Wi-Fi gives users the option to use their data plan to avoid both overage charges and having
14 to purchase more monthly data.

15 75. Based upon the wide-ranging debilitating effects of the iOS 7 upgrade, its reasonable
16 and plausible to infer that Defendant had either actual or constructive knowledge of the iPhone 4s
17 and iOS 7’s shortcomings prior to their distribution. To the detriment of consumers, however, the
18 bulk of Apple’s massive marketing and advertising campaign, including its dominant and expansive
19 television advertisements, fail to mention the fact that when the iPhone 4s is updated to the latest
20 iOS, it may lose its ability to connect to Wi-Fi and Bluetooth.

21 76. The information withheld from Plaintiff and the other Class members is material and
22 would have been considered by a reasonable person as more detailed herein.

23 **CLASS ACTION ALLEGATIONS**

24 77. Plaintiff brings this action as a class action pursuant to Federal Rules of Civil
25 Procedure 23(a) and 23(b) on behalf of himself and all others similarly situated as members of the
26 following classes:

27 **GENERAL CLASS:** All users who experienced loss or reduced functionality of
28 their iPhone as a result of upgrading iOS.

1 **SUBCLASS:** All users of Apple iPhone 4s in the United States who experienced a
2 loss of Wi-Fi and/or Bluetooth functionality after downloading iOS 7 (the “Class”).

3 78. Subject to additional information obtained through further investigation and
4 discovery, the foregoing definition of the Class may be expanded or narrowed by amendment or and
5 amended complaint. Specifically excluded from the proposed Class are Defendant and its officers,
6 directors, agents, trustees, parents, children, corporations, trusts, representatives, employees,
7 principals, servants, partners, joint ventures, or entities controlled by Defendant; its heirs, successors,
8 assigns, or other persons or entities related to or affiliated with Defendant; its directors, or any of
9 them; the Judge assigned to this action; and any member of the Judge’s immediate family.

10 79. **Numerosity.** The members of the Class are so numerous that their individual joinder
11 is impracticable. Plaintiff is informed and believes, and on that basis alleges, that the Class contains
12 millions of members. The precise number of Class members is unknown to Plaintiff. The true
13 number of Class members is known by Defendant, however, and, thus, may be notified of the
14 pendency of this action by first class mail, electronic mail, and by published notice.

15 80. **Existence and Predominance of Common Questions of Law and Fact.** Common
16 questions of law and fact exist as to all members of the Class and predominate over any questions
17 affecting only individual Class members. These common legal and factual questions include, but are
18 not limited to, the following:

19 (a) Whether the functionality of the iPhone 4, iPhone 4s, and/or iPhone 5 was
20 reduced as a result of updates to iOS;

21 (b) Whether the Wi-Fi and Bluetooth capabilities work as advertised after iOS 7
22 is downloaded onto the iPhone 4, iPhone 4s and/or iPhone 5;

23 (c) Whether Defendant was negligent in the design, manufacturing, and
24 distribution of the iPhone 4, iPhone 4s, iPhone 5 and/or iOS 7;

25 (d) Whether Defendant violated the California Act;

26 (e) Whether Defendant violated the UCL;

1 (f) Whether the iPhone 4, iPhone 4s, iPhone 5 and/or iOS 7 designed,
2 manufactured, marketed, distributed, or sold by Defendant were unfit for their intended purpose and
3 use because of their design;

4 (g) Whether Defendant breached any warranties in selling the iPhone 4, iPhone 4s
5 and/or iPhone 5;

6 (h) Whether Defendant intentionally or negligently misrepresented material facts
7 relating to the character and quality of the iPhone 4s and/or iPhone 5;

8 (i) Whether Defendant failed to disclose material facts about the limitations of
9 the performance of the iPhone 4, iPhone 4s and/or iPhone 5's Wi-Fi and Bluetooth connection
10 capabilities after iOS 7 is downloaded onto the device;

11 (j) Whether Defendant's claims are false, misleading, or reasonably likely to
12 deceive;

13 (k) Whether Plaintiff and the other Class members have sustained monetary loss
14 and the proper measure of that loss;

15 (l) Whether Plaintiff and the Class are entitled to damages, and what is the proper
16 measure of damages; and

17 (m) Whether Plaintiff and the other Class members are entitled to declaratory and
18 injunctive relief.

19 81. **Typicality.** Plaintiff's claims are typical of the claims of the members of the Class in
20 that Defendant manufactured, marketed, advertised, sold, and warranted the iPhone 4, iPhone 4s
21 and/or iPhone 5, including the product's Wi-Fi and Bluetooth connection capabilities after
22 downloading iOS 7, to Plaintiff and all other members of the Class.

23 82. **Adequacy of Representation.** Plaintiff will fairly and adequately protect the interests
24 of the Class. Plaintiff has retained counsel highly experienced in complex consumer class action
25 litigation, and Plaintiff intends to prosecute this action vigorously. Plaintiff has no adverse or
26 antagonistic interests to those of the Class.

27 83. **Superiority.** A class action is superior to all other available means for the fair and
28 efficient adjudication of this controversy. The damages or other financial detriment suffered by

1 individual Class members is relatively small compared to the burden and expense that would be
2 entailed by individual litigation of their claims against Defendant. It would thus be virtually
3 impossible for Class members, on an individual basis, to obtain effective redress for the wrongs done
4 to them. Furthermore, even if Class members could afford such individualized litigation, the court
5 system could not. Individualized litigation would create the danger of inconsistent or contradictory
6 judgments arising from the same set of facts. Individualized litigation would also increase the delay
7 and expense to all parties and the court system from the issues raised by this action. By contrast, the
8 class action device provides the benefits of adjudication of these issues in a single proceeding,
9 economies of scale, and comprehensive supervision by a single court, and presents no unusual
10 management difficulties under the circumstances here.

11 84. In the alternative, the Class may be also certified because:

12 (a) the prosecution of separate actions by individual Class members would create
13 a risk of inconsistent or varying adjudication with respect to individual Class members that would
14 establish incompatible standards of conduct for Defendant;

15 (b) the prosecution of separate actions by individual Class members would create
16 a risk of adjudications with respect to them that would, as a practical matter, be dispositive of the
17 interests of other Class members not parties to the adjudications, or substantially impair or impede
18 their ability to protect their interests; and/or

19 (c) Defendant has acted or refused to act on grounds generally applicable to the
20 Class thereby making appropriate final declaratory and/or injunctive relief with respect to the
21 members of the Class as a whole.

22 85. The claims asserted herein are applicable to all consumers throughout the United
23 States who acquired, for use and not resale, the iPhone 4, iPhone 4s and/or the iPhone 5.

24 86. Adequate notice can be given to Class members directly using information
25 maintained in Defendant's records or through notice by publication.

26 87. Damages may be calculated from the claims data maintained in Defendant's records,
27 so that the cost of administering a recovery for the Class can be minimized. However, the precise
28

1 amount of damages available to Plaintiff and the other members of the Class is not a barrier to class
2 certification.

3 **COUNT I**

4 **Violations of the Consumers Legal Remedies Act**
5 **California Civil Code §1750, *et seq.***

6 88. Plaintiff realleges and incorporates by reference the previous allegations as if fully set
7 forth herein.

8 89. This cause of action is brought pursuant to the Consumers Legal Remedies Act,
9 California Civil Code §§1750, *et seq.* (the “California Act”). Plaintiff is a consumer as defined by
10 California Civil Code §1761(d). The product is a good within the meaning of the California Act.

11 90. Defendant violated and continues to violate the California Act by engaging in the
12 following practices proscribed by California Civil Code §1770(a) in transactions that were intended
13 to result in, and did result in, the sale of the product:

14 (a) Representing that the iPhone 4, iPhone 4s and/or iPhone 5 have characteristics
15 and benefits which they do not have;

16 (b) Representing that the iPhone 4, iPhone 4s and/or iPhone 5 are of a particular
17 standard, quality, or grade, which they are not;

18 (c) Advertising the iPhone 4, iPhone 4s and/or iPhone 5 with intent not to sell
19 them as advertised; and

20 (d) Representing that the iPhone 4, iPhone 4s and/or iPhone 5 has been supplied
21 in accordance with previous representations when they have not.

22 91. Defendant knew, or should have known, that its representations and advertisements
23 regarding the iPhone 4s were unsubstantiated, false, and misleading.

24 92. Pursuant to California Civil Code §1782(d), Plaintiff seeks a Court order enjoining
25 the above-described wrongful acts and practices of Defendant and for restitution and disgorgement.

26 93. Pursuant to §1782 of the California Act, notice to Defendant was satisfied when
27 Plaintiff sent a notice letter by certified mail to Defendant’s CEO, Timothy Cook.
28

1 competition, and deceptive conduct towards consumers. The conduct constitutes violations of the
2 unfair prong of the UCL. There were reasonably available alternatives to further Defendant's
3 legitimate business interests, other than the conduct described herein.

4 102. Defendant's claims, non-disclosures, and misleading statements, as more fully set
5 forth above, were false, misleading, and/or likely to deceive the consuming public within the
6 meaning of the UCL.

7 103. Defendant's conduct caused and continues to cause substantial injury to Plaintiff and
8 the other Class members. Plaintiff has suffered injury in fact and has lost money as a result of
9 Defendant's unfair conduct.

10 104. Defendant has thus engaged in unlawful, unfair, and fraudulent business acts and
11 practices in false advertising, entitling Plaintiff and the other Class members to judgment and
12 equitable relief against Defendant as set forth in the Prayer for Relief.

13 105. Additionally, pursuant to California Business & Professions Code §17203, Plaintiff
14 seeks an order requiring Defendant to immediately cease such acts of unlawful, unfair, and
15 fraudulent business practices and requiring Defendant to engage in a corrective advertising
16 campaign.

17 **COUNT III**

18 **Breach of Express Warranty**

19 106. Plaintiff realleges and incorporates by reference the previous allegations as if fully set
20 forth herein.

21 107. Plaintiff and each member of the Class formed a contract with Defendant at the time
22 Plaintiff and the other Class members acquired Defendant's iPhone 4, iPhone 4s and/or iPhone 5.
23 The terms of the contract include the promises and affirmations of fact made by Defendant on its
24 website and through its marketing and advertising campaign that the iPhone 4, iPhone 4s and/or
25 iPhone 5's Wi-Fi and Bluetooth connection performs as advertised, even after updating to iOS 7, as
26 described above.

1 features, without adverse effects to the iPhone 4, iPhone 4s and/or iPhone 5 Wi-Fi and Bluetooth
2 connection capabilities.

3 117. Defendant's representations were made with the intent that the general public,
4 including Plaintiff and the other Class members, rely upon them. Defendant's representations were
5 made with knowledge of the falsity of such statements, or in reckless disregard of the truth thereof.
6 If Plaintiff and the Class had been aware of these suppressed facts, Plaintiff and the Class would not
7 have acquired the iPhone 4, iPhone 4s and/or iPhone 5 at the price sold by Defendant. In reliance
8 upon these misrepresentations, Plaintiff acquired the iPhone 4, iPhone 4s and/or iPhone 5 for the use
9 of apps and other features which require a Network or Wi-Fi connection, and its ability to update to
10 future iOS versions at no additional cost, as advertised by Defendant.

11 118. Upon information and belief, Plaintiff and the Class allege that Defendant
12 misrepresented material facts with the intent to defraud Plaintiff and the Class. The information
13 withheld from Plaintiff and the other Class members is material and would have been considered by
14 a reasonable person, as are the misrepresentations regarding the ability to download future versions
15 of iOS without adverse effects to the iPhone 4, iPhone 4s and/or iPhone 5's Wi-Fi and Bluetooth
16 capabilities. In addition, Plaintiff and other Class members were unaware that after downloading
17 iOS 7 they would only be able to use features and apps requiring internet via a Network connection,
18 which uses up data on users data plans and can result in overage charges.

19 119. Plaintiff acquired the iPhone 4s under the impression that the iPhone 4, iPhone 4s
20 and/or iPhone 5's Wi-Fi and Bluetooth connectivity functions as advertised after downloading iOS
21 7, the direct and proximate results of which were injury and harm to Plaintiff and the Class.

22 **COUNT V**

23 **Negligent Misrepresentation**

24 120. Plaintiff realleges and incorporates by reference the previous allegations as if fully set
25 forth herein.

26 121. Defendant negligently and recklessly misrepresented various material facts regarding
27 the quality and character of the iPhone 4, iPhone 4s and/or iPhone 5's Bluetooth and Wi-Fi
28 capabilities once iOS 7 is downloaded, under circumstances where Defendant either knew or

1 reasonably should have known that the representations were not true. These misrepresentations were
2 contained in various advertising and marketing from Defendant, and such misrepresentations were
3 further reiterated and disseminated by the officers, agents, representatives, servants, or employees of
4 Defendant acting within the scope of their authority.

5 122. The information withheld from Plaintiff and the other Class members is material and
6 would have been considered by a reasonable person, as are the misrepresentations regarding the Wi-
7 Fi connection capabilities, the availability of a large library of apps, and the FaceTime feature's
8 functionality, all as more detailed herein.

9 123. Plaintiff acquired the iPhone 4s under the impression that the iPhone 4, iPhone 4s
10 and/or iPhone 5's Wi-Fi and Bluetooth connectivity functions as advertised even after downloading
11 iOS 7, the direct and proximate results of which were injury and harm to Plaintiff and the Class.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff, on behalf of himself and all others similarly situated, prays for
14 relief and judgment against Defendant as follows:

15 A. Certification of this action as a class action, appointment of Plaintiff as a Class
16 representative, and appointment of the undersigned counsel as Class counsel;

17 B. An order declaring the actions complained of herein to be in violation of the statutory
18 laws set forth above, including a preliminary injunction enjoining Defendant from further acts in
19 violation of the California Act and the UCL, pending the outcome of this action;

20 C. An order enjoining and restraining Defendant from any further acts in violation of the
21 California Act and the UCL, as set forth above;

22 D. An award of compensatory damages, statutory damages, restitution, and all other
23 forms of monetary and non-monetary relief recoverable under California law;

24 E. An award of pre-judgment and post-judgment interest;

25 F. An award of injunctive relief;

26 G. An award of costs, including, but not limited to, discretionary costs, attorneys' fees,
27 and expenses incurred in prosecuting this case; and

28 H. Granting such other and further relief as the Court deems just and proper.

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JURY DEMAND

Plaintiff hereby demands a jury trial on all issues so triable.

DATED: April 29, 2014

ROBBINS GELLER RUDMAN
& DOWD LLP
SHAWN S. WILLIAMS

s/ Shawn A. Williams
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