

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

DANIEL E. OWENS, et al.,)
vs.)
Plaintiffs,)
vs.)
CASE NO. 3:09-cv-00479-MJR-DGW
APPLE, INC.,)
Defendant.)

**DEFENDANT APPLE INC.'S UNOPPOSED MOTION FOR LEAVE TO
WITHDRAWAL BRIEF AND FILE SUBSTITUTE BRIEF**

Defendant Apple Inc. (“Apple”) moves for leave of Court to withdraw its brief in support of its motion to dismiss and file a substitute brief. In support of its motion, Apple states:

1. On August 26, 2009, Apple filed a motion to dismiss (Doc. #17) and a brief in support of its motion to dismiss (Doc. #18).
 2. In filing the supporting brief, the undersigned counsel for Apple accidentally filed a prior version of the brief as opposed to the final draft of the brief.
 3. Apple respectfully requests leave of court to withdrawal its brief in support of its motion to dismiss (Doc. #18) and to file the correct supporting brief.
 4. Counsel for Apple has contacted Plaintiffs' counsel regarding his error and this motion and Plaintiffs' counsel does not oppose this motion
 5. If this motion is granted and permission is given to file the corrected brief, Apple will immediately file the corrected brief.

FOR RELIEF Defendant Apple Inc. respectfully requests that this Court grant it leave to withdrawal its brief in support of its motion to dismiss (Doc. #18) and to file a corrected brief in support of its motion to dismiss and for any other proper relief.

Respectfully submitted,

THOMPSON COBURN LLP

/s/ John W. Rogers

Kathy A. Wisniewski – Lead Counsel
kwisniewski@thompsoncoburn.com
John W. Rogers
jrogers@thompsoncoburn.com
One US Bank Plaza
St. Louis, MO 63101
(314) 552-6000
(314) 552-7000 (facsimile)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 27th day of August, 2009, Defendant Apple Inc.'s Unopposed Motion For Leave to Withdrawal Brief and File Substitute Brief was filed electronically with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

/s/ John W. Rogers