

ORIGINAL

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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AVI KOSCHITZKI, on Behalf of Himself and  
:  
all Others similarly situated,  
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:  
Plaintiff,  
:  
:  
-against-  
:  
APPLE INC. and AT&T INC.,  
:  
:  
Defendants.  
:  
:  
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08  
Case No. \_\_\_\_\_

**CLASS ACTION**  
  
**DECLARATION OF  
JAMES BEAN IN  
SUPPORT OF APPLE  
INC.'S NOTICE OF  
REMOVAL**

WEINSTEIN, J.  
POHORELSKY, M.J.

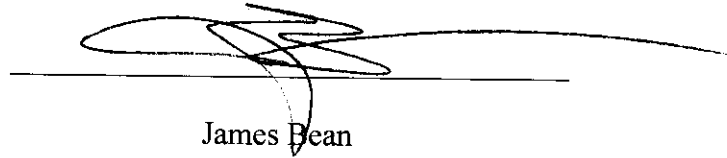
I, JAMES BEAN, hereby declare as follows:

1. I have been employed with Apple Inc. ("Apple") since June 29, 1998. I am currently Vice President of Finance, Worldwide Financial Planning and Analysis, located in Cupertino, California. I have been Vice President of Finance at Apple since July 17, 2003. In the course of my duties as Vice President of Finance, I regularly review Apple's product sales data, including sales data for the iPhone 3G. I make the statements in this declaration based upon my personal knowledge, Apple's public statements, and corporate records maintained by Apple in its ordinary course of business. If called upon to do so, I could and would testify thereto under oath.
2. Apple's retail prices are \$199 for the 8GB model and \$299 for the 16GB model.
3. On October 21, 2008, Apple publicly reported financial results for the fourth quarter of its 2008 fiscal year, which ended September 27, 2008. From July 11, 2008 until the end of the quarter, 6.9 million iPhone 3G units were sold worldwide.

4. According to Apple's internal records, Apple has sold in excess of 100,000 iPhone 3G units through Apple's New York Retail Stores from July 11, 2008 to the present.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

Executed this 3rd day of November 2008 at Cupertino, California.



James Bean