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	ES DISTRICT COURT IN CLERK'S OFFICE U.S. DISTRICT COURT E.D.N.
	★ MAY 2 7 2009 ★
AVI KOSCHITZKI, on Behalf of Himself) and all Others Similarly Situated,	BROOKLYN OFFICE
Plaintiff,)	
v.)	Civil Action No. 1:08-CV-04451-JBW-VVP
APPLE INC. and AT&T MOBILITY LLC,	
Defendants.)	•

STIPULATION AND PROPERTY ORDER

WHEREAS on November 24, 2008, defendants Apple Inc. ("Apple") and AT&T Mobility LLC ("ATTM") (collectively, "Defendants") each separately filed a motion to dismiss the Complaint; Apple filed a motion to strike Plaintiff's claim for minimum and punitive damages under the New York General Business Law (in which ATTM joined); and ATTM filed a motion, pursuant to the Federal Arbitration Act, 9 U.S.C. §§ 1-16, for an order, *inter alia*, compelling Plaintiff to pursue his claims in arbitration or small claims court (collectively, the "Motions");

WHEREAS on January 8, 2009, plaintiff Avi Koschitzki filed oppositions to the Motions;

WHEREAS on February 17, 2009, Defendants filed replies in support of the motion to strike and their respective motions to dismiss;

WHEREAS on February 24, 2009, ATTM filed a reply in support of its motion to compel arbitration;



WHEREAS on March 5, 2009, Apple filed a motion for transfer and consolidation of this and eleven other virtually identical putative class actions pursuant to 28 U.S.C. § 1407 with the Judicial Panel on Multidistrict Litigation ("JPML");

WHEREAS on March 6, 2009, Apple submitted a letter to the Court requesting that the case be stayed pending the JPML's transfer decision;

WHEREAS on March 11, 2009, the Court held a hearing on Apple's stay request and ordered that should the parties voluntarily withdraw their Motions, they would do so without prejudice, and ordering Defendants to re-file their Motions for hearing by June 1, 2009; and

WHEREAS the JPML has not yet issued its transfer decision and, in fact, is not scheduled to hear oral argument on Apple's transfer motion until May 27, 2009.

IT IS HEREBY STIPULATED AND AGREED, by and between counsel for the parties, that the time for Defendants to re-file their Motions is hereby extended to July 31, 2009.

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IT IS SO ORDERED.

Dated: 3 / 20

Brooklyn, New York

The Honorable Jack B. Weinstein, U.S.D.J.