

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

AVI KOSCHITZKI, on Behalf of Himself and all  
Others Similarly Situated

Plaintiff,

-against-

APPLE INC. and AT&T MOBILITY LLC,

Defendants.

Civil Action No. 08 Civ. 4451 (JBW)(VVP)

**NOTICE OF DEFENDANT APPLE  
INC.'S MOTION TO STRIKE**

ORAL ARGUMENT REQUESTED

PLEASE TAKE NOTICE that upon the accompanying Declaration of Jamie Levitt, sworn to on 11/24/08, and Memorandum of Law in Support, dated 11/24/08, Defendant Apple Inc. ("Apple") will move this Court, before the Honorable Judge Jack B. Weinstein at the United States District Court for the Eastern District of New York located at 225 Cadman Plaza East, Brooklyn, New York 11201 at a date and time to be determined by the Court, for an order striking Plaintiff's claim for minimum and punitive damages under the New York General Business Law ("GBL"), pursuant to Rule 12(f) of the Federal Rules of Civil Procedure.

Dated: New York, New York  
November 24, 2008

MORRISON & FOERSTER<sup>LLP</sup>

/s/ Jamie A. Levitt

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