

# EXHIBIT A

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JUDICIAL PANEL ON  
MULTIDISTRICT  
LITIGATION

**BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

In re:

Apple iPhone 3G Products Litigation

MDL Docket No.

**MOTION FOR TRANSFER AND CONSOLIDATION OF  
APPLE IPHONE 3G PRODUCTS LITIGATION  
PURSUANT TO 28 U.S.C. § 1407**

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*Attorneys for Defendant APPLE INC.*

Pursuant to Rule 7.2 of the Rules of Procedure for the Judicial Panel on Multidistrict Litigation (the "Panel"), defendant Apple Inc. ("Apple") submits this Motion for Transfer and Consolidation. Apple respectfully requests that pursuant to 28 U.S.C. section 1407 the Panel enter an order: (a) transferring the above-captioned Apple iPhone 3G Products Litigation, as well as any cases that may subsequently be filed asserting similar or related claims against Apple, to a single district court, and (b) consolidating those actions for pre-trial proceedings. Apple further requests that the Panel transfer the actions to the United States District Court for the Northern District of California.

In support of this Motion, Apple avers the following, as more fully set forth in the accompanying Memorandum of Law:

1. This Motion seeks the transfer and consolidation of twelve putative class action complaints (the "Actions") that have been filed against Apple. Pursuant to Rule 7.2(a)(ii) of the Rules of the Panel, a schedule of the twelve Actions is annexed hereto as Exhibit A.
2. All of the Actions arise from virtually identical factual allegations. The factual crux of every complaint in the Actions is whether the iPhone 3G consistently or reliably accesses AT&T's 3G network, and whether the iPhone's speed, strength, and performance were misrepresented.
3. All of the Actions were filed in federal court within a five-month period: the first Action was filed on August 19, 2008 and the two most recent Actions were filed on January 30, 2009.
4. All of the Actions are in their infancy. Apple has answered in only two of the Actions, has moved to dismiss in three other cases, and has not yet responded in eight cases. Discovery has not proceeded and no Case Management Conference has been held in any of the Actions.

5. Apple is named as a defendant in all of the Actions. AT&T, Inc. or its subsidiary AT&T Mobility LLC is named as a defendant in six of the Actions.

6. All of the Actions purport to allege claims under state consumer protection, warranty, and similar laws. All of the Actions seek recovery on behalf of putative classes of iPhone 3G purchasers. Some of the Actions allege nationwide classes while others allege single-state classes, but all the purported single-state classes are subsumed in the purported nationwide classes.<sup>1</sup>

7. Apple's Cupertino, California headquarters are located within the Northern District of California. The identical nature of the Actions reveals that discovery in all the Actions will focus on the design, testing, manufacture, advertising, marketing and warranty coverage of the iPhone 3G. Thus, the majority of the documents and witnesses common to all twelve Actions are located in the Northern District of California.

8. Transfer and consolidation of these twelve Actions and any subsequent "tag-along" federal actions for pretrial proceedings will eliminate the potential for inconsistent rulings on critical pretrial motions, including class certification; eliminate the burden of duplicative discovery on common issues; prevent unnecessary use of judicial resources; and reduce the overall costs and burdens for all parties.

9. The Northern District of California is the only logical transferee forum. Eight of the twelve Actions are already pending in the Northern District of California; as set forth above, the majority of documents and witnesses are located there; it is the forum of the most comprehensive putative class actions; and it has the resources and judicial expertise to properly and efficiently conduct this case.

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<sup>1</sup> In bringing this motion, Apple in no way concedes that certification of the putative classes is proper under Federal Rule of Civil Procedure 23. The point of this motion, however, is that for the purpose of efficiency and judicial economy, the pre-trial issues (including class certification) should be litigated in one forum.

WHEREFORE Apple respectfully requests that this Panel enter an order transferring the above-captioned Apple iPhone 3G Products Litigation to the Northern District of California pursuant to 28 U.S.C. section 1407.

Dated: March 4, 2009

Respectfully submitted,

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**SCHEDULE OF PENDING ACTIONS**

TITLE OF ACTION	DISTRICT COURT	CIVIL ACTION NUMBER	JUDGE ASSIGNED
Jessica Alena Smith, Wilton Lee Triggs, II, and all others similarly situated v. Apple Inc.	Northern District of California <sup>1</sup> <i>Northern District of Alabama</i>	_____ <sup>1</sup> <i>CV-08-AR-1498-S<sup>2</sup></i>	_____ <sup>1</sup> <i>Hon. William Acker, Jr.</i>
William J. Gillis, Jr., on behalf of himself and all others similarly situated v. Apple Computer, Inc., AT&T, Inc. and Does 1 through 10, inclusive	Northern District of California (San Jose Division)	C 09-00122 JW	Hon. James Ware
Aaron Walters, Individually and on Behalf Of All Persons Similarly Situated v. Apple Inc.	Northern District of California (San Jose Division)	C 09-00187 JW	Hon. James Ware
Eulardi Tanseco, Individually and on Behalf Of All Others Similarly Situated v. Apple Inc.	Northern District of California (San Jose Division)	C 09-00275 RS	Hon. Richard Seeborg

<sup>1</sup> The *Smith* action was transferred to the Northern District of California from the Northern District of Alabama on February 23, 2009. The Northern District of California has not yet docketed the action, and thus has not yet assigned the case to a division, or assigned a case number or judge.

<sup>2</sup> Northern District of Alabama case number.

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TITLE OF ACTION	DISTRICT COURT	CIVIL ACTION NUMBER	JUDGE ASSIGNED
Avi Koschitzki, on Behalf of Himself and all Others Similarly Situated v. Apple Inc. and AT&T Mobility LLC	Eastern District of New York	08-cv-04451-JBW-VVP	Hon. Jack B. Weinstein
Peter Keller, on behalf of himself and all others similarly situated v. Apple Inc. and Does 1 through 100, inclusive	Northern District of California (San Jose Division)	C 09-00121 JW	Hon. James Ware
James R. Pittman, on behalf of himself and all others similarly situated v. Apple Inc.	Northern District of California (San Jose Division)	C 08-05375 JW	Hon. James Ware
Haig P. Ashikian, on behalf of himself and all others similarly situated v. Apple Inc., Apple Computer Peripherals, Inc., AT&T Mobility LLP	Northern District of California (San Jose Division)	C 08-05810 JW	Hon. James Ware
Jacob Medway, Individually and on Behalf of All Other Persons Similarly Situated v. Apple Inc.	Northern District of California (San Francisco Division)	C 09-00330-JSW	Hon. Jeffrey White
Alyce R. Payne, William French, Karen Michaels, and Lorna Harris, on Behalf of Themselves and all Others Similarly Situated, v. Apple Inc. and AT&T Mobility LLC,	Eastern District of Texas (Sherman Division)	09-cv-00042-MHS-DDB	Hon. Michael Schneider



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TITLE OF ACTION	DISTRICT COURT	CIVIL ACTION NUMBER	JUDGE ASSIGNED
Onel Gonzalez and Ron J. Brayteson, on Behalf of Themselves and all Others Similarly Situated v. Apple Inc. and AT&T Mobility LLC	Southern District of Florida	09-CV-20258-PAS	Hon. Patricia A. Seitz
Timothy Ritchie, on Behalf of Himself and all Others Similarly Situated v. Apple Inc. and AT&T Mobility LLC	District of New Jersey	09-cv-00456-WJM-MF	Hon. William Martini