

MORRISON | FOERSTER1290 AVENUE OF THE AMERICAS
NEW YORK, NY 10104-0050

TELEPHONE: 212.468.8000

FACSIMILE: 212.468.7900

WWW.MOFO.COM

MORRISON & FOERSTER LLP
NEW YORK, SAN FRANCISCO,
LOS ANGELES, PALO ALTO,
SAN DIEGO, WASHINGTON, D.C.,
NORTHERN VIRGINIA, DENVER,
SACRAMENTO, WALNUT CREEK
TOKYO, LONDON, BEIJING,
SHANGHAI, HONG KONG,
SINGAPORE, BRUSSELS

March 6, 2009

Writer's Direct Contact
212.468.8203
JLevitt@mofo.comBy Hand DeliveryHonorable Jack B. Weinstein
United States Senior District Judge
United States District Court
for the Eastern District of New York
225 Cadman Plaza East
New York, New York 11201Re: *Koschitzki v. Apple Inc. and AT&T Mobility LLC*, 08-cv-4451 (JBW)(VVP)

Dear Judge Weinstein:

We are counsel for Apple Inc. ("Apple"), defendant in the above-referenced action (the "Action"). We write to request a stay of the Action until decision on transfer is rendered by the Judicial Panel on Multidistrict Litigation ("MDL Panel") or, in the alternative, we request an adjournment of the March 13, 2009 oral argument on all motions pending before the Court.

Yesterday, on March 5, 2009, Apple filed a Motion for Transfer and Consolidation of Apple iPhone 3G Products Litigation with the MDL Panel, pursuant to 28 U.S.C. § 1407, seeking transfer and consolidation of this Action and eleven other virtually identical putative class actions before the United States District Court for the Northern District of California. On the same day, we filed with this Court a Notice of the filing of this Motion for Transfer. The Notice is attached to this letter for Your Honor's reference. In addition, the other defendant in the Action, AT&T Mobility LLC, later yesterday filed with the MDL Panel its own motion for transfer and consolidation before the United States District Court for the District of New Jersey.

Because both defendants have now filed Multidistrict Litigation petitions seeking to transfer the Action to jurisdictions other than this Court, the Action should be stayed in its entirety pending the MDL Panel's transfer decision. We respectfully submit that the issues presented by the motions pending before this Court should be resolved once, for all the actions, by the transferee court designated by the Panel. The need for a stay of this Action is immediate in light of the March 13, 2009 oral argument and the separate but related discovery hearing scheduled immediately thereafter before Magistrate Judge Pohorelsky. Thus, to conserve

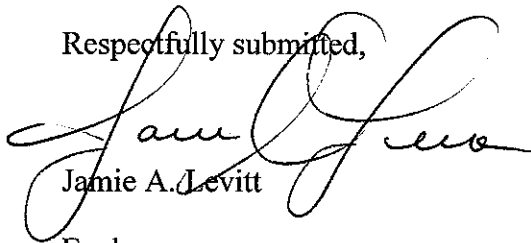
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judicial resources and avoid inconsistent rulings in light the potential transfer, Apple respectfully requests that Your Honor stay the Action until after a transfer decision is made by the MDL Panel.

In the event Your Honor does not stay the Action, we request adjournment of the March 13, 2009 oral argument on the pending motions. At the February 20, 2009 status conference before Your Honor, the Court indicated that the parties could request an extension of the argument date. Accordingly, Apple requests that the argument on all pending motions be postponed until after decision by the MDL Panel.

We are available at the Court's convenience for a conference call if necessary.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Jamie A. Levitt".

Jamie A. Levitt

Enclosure

cc: all counsel (by e-mail)

SO ORDERED:

Honorable Jack B. Weinstein
United States Senior District Judge