

JUDGE BERMAN

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

09 CIV 9777

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LESLIE CARR,

Plaintiff,

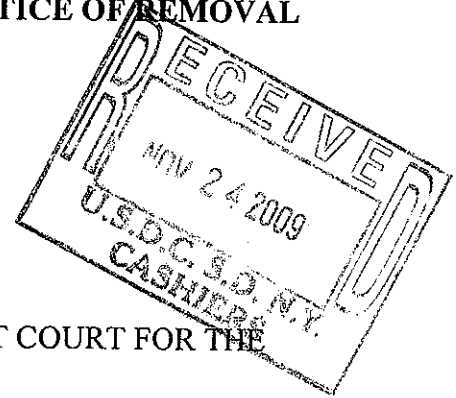
-against-

APPLE INC.,

Defendant.
----- X

Case No. _____

DEFENDANT APPLE INC.'S
NOTICE OF REMOVAL



TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK:

PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. § 1441, defendant Apple Inc. ("Apple") hereby removes to this Court the state action below, which is within the original jurisdiction of this Court and properly removed under §§ 1332, 1441, and 1446.

PROCEDURAL HISTORY AND TIMELINES OF REMOVAL

1. On October 27, 2009, Plaintiff, proceeding *pro se*, filed an action captioned *Carr v. Apple Inc.*, Index No. 09-308778, against Apple in the Supreme Court of the State of New York, County of Bronx ("State Court Action").

2. Apple was served with the State Court Action Summons with Notice on October 30, 2009. This notice is therefore timely pursuant to 28 U.S.C. § 1446(b). Pursuant to 28 U.S.C. § 1446(a), true and correct copies of all process, pleadings, and orders served upon Apple in the State Court Action are attached to this Notice as Exhibit A.

3. The Supreme Court of New York for the County of Bronx is located within the Southern District of New York. 28 U.S.C. § 112(b). The Notice of Removal is therefore properly filed in this Court pursuant to 28 U.S.C. § 1441(a).

SUMMONS WITH NOTICE

4. In Plaintiff's Summons with Notice, Plaintiff describes the nature of this action as "breach of contract," "negligence," and "unauthorized use of internet connections / computer . . . Apple Corp. is accessing my computer and trying to control and torment." (Ex. A.) The Summons with Notice also states that the "relief sought is . . . [*inter alia*] [\$]50,000,000." *Id.*

5. Apple disputes Plaintiff's allegations, believes the alleged claims lack merit, and denies that Plaintiff has been harmed in any way.

GROUND FOR REMOVAL

6. This action is within the original jurisdiction of this Court, and removal is therefore proper under 28 U.S.C. § 1332(a), which grants district courts original jurisdiction over "all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between . . . citizens of different States." 28 U.S.C. § 1332(a)(1).

7. There is complete diversity in this action. Upon information and belief, Plaintiff is a citizen of New York State. Plaintiff filed suit in Bronx Supreme Court. (Ex. A.) Plaintiff's address is 1053 Clay Avenue, Apartment 3A, Bronx, New York, 10456. (Gerard Decl. ¶ 3.) Apple is a California corporation and maintains its principal place of business at 1 Infinite Loop, Cupertino, California 95014. (Ex. A; Gerard Decl. ¶ 1.)

8. The Summons with Notice provides that Plaintiff is seeking \$50,000,000 in relief, and thus Plaintiff's allegations place in controversy an amount plainly in excess of the \$75,000 required under § 1332(a). While Apple disputes that it is liable to Plaintiff, or that Plaintiff has

suffered injury or incurred damages in any amount whatsoever, for purposes of satisfying the jurisdictional prerequisites of § 1332(a), the matter in controversy exceeds \$75,000.

CONCLUSION

9. For all the reasons stated above, this action is within the original jurisdiction of this Court pursuant to 28 U.S.C. § 1332(a). Accordingly, this action is removable pursuant to 28 U.S.C. § 1441(a).

NOTICE TO STATE COURT AND ADVERSE PARTY

10. Counsel for Apple certifies that pursuant to 28 U.S.C. § 1446(d), copies of this Notice of Removal will be filed with the Clerk of the State of New York, County of Bronx, as an exhibit to a Notice of Filing of Notice of Removal to Federal Court, and served upon Plaintiff. A copy of the Notice being filed in state court is attached hereto (without exhibits) as Exhibit B.

WHEREFORE, Defendant Apple gives notices that the above-described action pending against it in the Supreme Court of the State of New York, Bronx County, is removed to this Court.

Dated: November 24, 2009
New York, New York

MORRISON & FOERSTER LLP

By: _____

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