

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

-----X  
BRIAN JOHNSTON and NILE CHARLES,

Plaintiffs,

v.

APPLE INC.,

Defendant.  
-----

1:11-cv-03321-JSR

**DECLARATION OF  
THOMAS M. CRISPI IN  
SUPPORT OF MOTION FOR  
JUDGMENT PURSUANT TO  
FEDERAL RULE OF CIVIL  
PROCEDURE 12(B)(6) AND  
12(D)**

**DECLARATION OF THOMAS M. CRISPI IN SUPPORT OF MOTION FOR  
JUDGMENT PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 12(B)(6) AND  
12(D)**

I, Thomas M. Crispi, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am an attorney admitted to practice before the United States District Court for the Southern District of New York. I am a Partner with the law firm of Schiff Hardin LLP, attorneys for defendant, Apple Inc. I make this Declaration in support of Apple Inc.’s Motion for Judgment, pursuant to Federal Rule of Civil Procedure 12(b)(6) and Federal Rule of Civil Procedure 12(d), (the “Motion to Dismiss the Complaint”).
2. Attached as Exhibit A is a true and correct copy of the Declaration of Pierre Auguste in Support of Apple Inc.’s Motion to Dismiss the Complaint.
3. Exhibit A.1 is a true and correct copy of the Apple Inc. Services Agreement with Omniscient Investigation Corporation as of December 9, 2010. On June 1, 2011, leave was granted by the Court to file this Exhibit under seal.
4. Attached as Exhibit B is a true and correct copy of the Complaint in the above-captioned matter.

Executed on June 2, 2011  
New York, New York



---

Thomas M. Crispi