

EXHIBIT I

Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85008412
LAW OFFICE ASSIGNED	LAW OFFICE 106
MARK SECTION (no change)	
ARGUMENT(S)	
<u>Section 2(e)(1) refusal</u>	
<p>The Examining Attorney has refused registration under Section 2(e)(1) of the Trademark Act, taking the position that IBOOKS is merely descriptive for the goods covered by the application. Applicant Apple Inc. ("Apple") has amended its application to add a claim of acquired distinctiveness under Section 2(f) of the Trademark Act.</p>	
<p><u>Prior registrations as basis for acquired distinctiveness under Section 2(f)</u></p>	
<p>Apple owns registrations on the Principal Register of IBOOKS and IBOOK for the following goods:</p>	
<ul style="list-style-type: none">• IBOOKS (RN 2,446,634), registered in 2001, for "computer software used to support and create interactive, user-modifiable electronic books."• IBOOK (RN 2,470,147), registered in 2001, for "computer hardware."	
<p>See Exhibit A. Both marks were registered as inherently distinctive, without a claim of acquired distinctiveness. Even if the Examining Attorney takes the position that these registrations do not support a finding that the Apple IBOOK mark in this application is inherently distinctive, they do constitute a basis for acquired distinctiveness under Section 2(f).</p>	
<p>The IBOOKS mark in this application clearly meets the test for acquired distinctiveness under Trademark Rule 2.41(b), 37 C.F.R. §2.41(b). The Office may accept, as prima facie evidence of acquired distinctiveness, the applicant's ownership of one or more prior registrations of the same mark on the Principal Register, and IBOOKS is identical to the IBOOKS mark in Apple's RN 2,446,634, and is the plural of Apple's IBOOK mark shown in RN 2,470,147.</p>	
<p>These registrations also meet the test under TMEP 1212.04(c), which provides as follows:</p>	

“The examining attorney must determine whether the goods or services named in the application are sufficiently similar to the goods or services named in the prior registration(s). If the relatedness is self-evident, the examining attorney can generally accept the §2(f) claim without additional evidence. This is most likely to occur with ordinary consumer goods or services where the nature of the goods or services is commonly known and readily apparent.”

The relatedness between the pending application and Apple’s existing registrations of IBOOK and IBOOKS is indeed self-evident. Both registrations cover “ordinary consumer goods” that are identical or closely related to the consumer goods in the present application. Specifically, the existing registrations cover “computer hardware” and “computer software used to support and create interactive, user-modifiable electronic books.” Apple’s Amendment to Allege Use shows that it uses the IBOOKS mark on computer software with capabilities that precisely match the registered goods in RN 2,446,634 (“software used to support and create interactive, user-modifiable electronic books”) and that software is accessed via the goods described in RN 2,470,147 -- computer hardware. Thus, both existing registrations clearly support a finding of acquired distinctiveness under Section 2(f) for the goods covered by this application.

Additional evidence of acquired distinctiveness under Section 2(f)

Given that Apple’s existing registrations of IBOOKS and IBOOK are identical or near-identical to the mark in this application, and that the goods are identical or closely related, no additional evidence should be required to establish that IBOOKS has acquired distinctiveness. However, additional evidence of acquired distinctiveness is ample.

As Apple indicated on February 22, 2012, in its response to a suspension inquiry, IBOOKS is a member of Apple’s family of famous marks that begin with the prefix “i”, and a direct descendant of one of the original marks in this family, the IBOOK mark. Apple first developed this family of marks in 1998, with the launch of its groundbreaking IMAC desktop computer, followed in 1999 by the IBOOK laptop computer and IMOVIE software in 1999. This family significantly expanded in 2001 with the launch of the IPOD digital media player and the ITUNES digital music management software. Apple also introduced its IDVD software in 2001, and its ICAL and IPHOTO software products came to market in 2002. The ILIFE, SIGHT and ICHAT software products followed in 2003. In 2003, Apple also launched the iTunes Store, originally a service that allowed customers to find, purchase and download third-party digital music. The service has been expanded to include audio books, music videos, short films, television shows, movies, podcasts, games, and other applications. In 2007, Apple introduced its now-famous IPHONE digital mobile device. In 2010, Apple introduced another landmark product under an “i”-formative mark, the IPAD digital electronic device, and introduced its ICLOUD cloud computing software and services in 2011. Apple now holds more than 100 active federal applications and registrations of marks that begin with the prefix “i.”

The IBOOK laptop, the IPOD media player, the ITUNES software and ITUNES STORE service, the IPHONE digital mobile device, and the IPAD tablet device have all been particularly influential in cementing the public perception that the “i”-prefix brand is synonymous with Apple. The remarkable success of each of these products, and the fact that Apple’s IBOOKS software operates in the same Apple product environment as these devices, guarantee that Apple’s IBOOKS is immediately perceived as part of the same family of marks.

As documented in Apple’s response to the suspension inquiry on this application, and as

shown in the most recent figures in **Exhibit B**:

- The groundbreaking iBook laptop was the first mainstream computer with integrated wireless networking and, in tandem with the iMac desktop, clearly established Apple's identification with "i"-prefix branding.
- Apple has sold more than 350 million iPod devices since the product's introduction. Apple owns nearly two dozen active federal trademark registrations and applications that incorporate the IPOD mark.
- Through its iTunes Store, Apple has sold over 20 billion songs. In 2008, the iTunes Store surpassed Wal-Mart to become the largest music retailer in the United States. iTunes is now the world's most popular online music, TV and movie retailer, featuring a catalog of over 26 million songs, over 190,000 TV episodes and over 45,000 movies. Apple owns approximately 20 active federal trademark registrations and applications that incorporate the ITUNES mark.
- The announcement of the iPhone generated unprecedented publicity in 2007, and Apple sold 1 million units of the device in less than 3 months. Subsequent versions of the iPhone fared even better—the iPhone 3G (released July 2008) sold 1 million units in the first weekend it was on sale; the first-weekend sales of iPhone 4 (released June 2010) were more than 50% higher, reaching 1.7 million units; and pre-orders of the iPhone 4S (released October 2011) topped 1 million in the first 24 hours. In September 2012, Apple launched the iPhone 5, and had sold 5 million units of the device just three days after the product's launch. *Fortune* magazine has marveled that the iPhone is "one of the most successful products in business history." As of October 2012, Apple had sold more than 200 million iPhone devices worldwide. Apple owns nearly two dozen active federal trademark registrations and applications for marks that incorporate IPHONE mark.
- Apple sold 300,000 units of the iPad tablet device in the first day, and had sold 1 million units before the end of the first month, 2 million units before the end of the second month, and 3 million in the first 90 days. As of September 2012, total sales had topped 80 million. Apple and its affiliates own 11 active federal trademark registrations and applications for marks that incorporate the IPAD mark.

In addition, last year Apple launched two new "i"-prefix marks to great success and consumer acceptance:

- Apple launched its ICLOUD cloud computing service in October 2011. As of July 2012—a mere nine months after the service was launched—over 150 million consumers use the software and services. See **Exhibit C**. Apple owns a dozen active federal trademark registrations and applications for marks that incorporate the ICLOUD mark. See **Exhibit D**.
- Apple also launched its IMESSAGE software and service in October 2011. By June of this year, over 140 million people were using the IMESSAGE software and service, and had sent over 150 billion messages through the IMESSAGE software, at a rate of approximately 1 billion messages a day. See **Exhibit E**.

The Examining Attorney has cited a few web pages on which “ibook(s)” is purportedly used as a generic abbreviation for “Internet books.” However, a handful of web pages are not sufficient to demonstrate how the average consumer perceives a term. Most of these pages are personal blogs which are unlikely to have any appreciable readership, and several clearly date back two years or longer. There is no evidence that any of these pages represent current-day usage, that they are all U.S.-based, or that they have any measurable readership that would reflect or impact consumer perception of the term.

In fact, the authoritative sources show that “ebook” is a generic term for electronic books — including Dictionary.com, The Online Free Dictionary, the *Collins American English Dictionary*, the *Longman Dictionary of Contemporary English*, the *Merriam-Webster dictionary*, the *Oxford Advanced Learner’s Dictionary*, the *Macmillan Dictionary*, the *PC Magazine Encyclopedia*, and NetLingo. None of these sources includes an entry for IBOOK except for references to Apple’s brand. See **Exhibit F**.

In summary, even if one accepts the Examining Attorney’s premise that the term IBOOKS could be descriptive with respect to the goods covered by this application, Apple’s mark has unquestionably achieved distinctiveness. Therefore, Apple respectfully requests that the Examining Attorney withdraw the Section 2(e)(1) refusal and approve the application for publication.

Amendment

Apple amends its application to delete the services in Classes 35 and 42.

EVIDENCE SECTION

EVIDENCE FILE NAME(S)	
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GOODS AND/OR SERVICES SECTION (009)(no change)

GOODS AND/OR SERVICES SECTION (035)(class deleted)

INTERNATIONAL CLASS

035

DESCRIPTION

Retail store services featuring electronic publications provided via the Internet and other communications networks; retail store services in the field of books, magazines, periodicals, journals and other publications on a wide range of topics of general interest, provided via the Internet and other communications networks; retail store services featuring electronic publications for use on handheld mobile digital electronic devices and other consumer electronics

FILING BASIS

Section 1(a)

FIRST USE ANYWHERE DATE

At least as early as 01/27/2010

FIRST USE IN COMMERCE DATE

At least as early as 04/03/2010

GOODS AND/OR SERVICES SECTION (042)(class deleted)

INTERNATIONAL CLASS

042

DESCRIPTION

Providing an online portal featuring temporary online use of online non-downloadable software to allow internet users to preview, download, and read electronic publications

FILING BASIS

Section 1(a)

FIRST USE ANYWHERE DATE

At least as early as 01/27/2010

FIRST USE IN COMMERCE DATE

At least as early as 04/03/2010

ADDITIONAL STATEMENTS SECTION

SECTION 2(f)	The mark has become distinctive of the goods/services as evidenced by the ownership on the Principal Register for the same mark for related goods or services of U.S. Registration No(s). 2446634 and 2470147.
SIGNATURE SECTION	
RESPONSE SIGNATURE	/Lisa G. Widup/
SIGNATORY'S NAME	Lisa G. Widup
SIGNATORY'S POSITION	Attorney of record, California bar member
SIGNATORY'S PHONE NUMBER	Senior Intellectual Property Counsel
DATE SIGNED	10/09/2012
AUTHORIZED SIGNATORY	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Tue Oct 09 21:13:02 EDT 2012
TEAS STAMP	USPTO/ROA-204.155.226.3-2 0121009211302912759-85008 412-490b124210b5b4d81757b ab13f8409f5-N/A-N/A-20121 009202219902433

**Response to Office Action
To the Commissioner for Trademarks:**

Application serial no. **85008412** has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

Section 2(e)(1) refusal

The Examining Attorney has refused registration under Section 2(e)(1) of the Trademark Act, taking the position that IBOOKS is merely descriptive for the goods covered by the application. Applicant Apple Inc. ("Apple") has amended its application to add a claim of acquired distinctiveness under Section 2(f) of the Trademark Act.

Prior registrations as basis for acquired distinctiveness under Section 2(f)

Apple owns registrations on the Principal Register of IBOOKS and IBOOK for the following goods:

- IBOOKS (RN 2,446,634), registered in 2001, for “computer software used to support and create interactive, user-modifiable electronic books.”
- IBOOK (RN 2,470,147), registered in 2001, for “computer hardware.”

See **Exhibit A**. Both marks were registered as inherently distinctive, without a claim of acquired distinctiveness. Even if the Examining Attorney takes the position that these registrations do not support a finding that the Apple IBOOK mark in this application is inherently distinctive, they do constitute a basis for acquired distinctiveness under Section 2(f).

The IBOOKS mark in this application clearly meets the test for acquired distinctiveness under Trademark Rule 2.41(b), 37 C.F.R. §2.41(b). The Office may accept, as prima facie evidence of acquired distinctiveness, the applicant’s ownership of one or more prior registrations of the same mark on the Principal Register, and IBOOKS is identical to the IBOOKS mark in Apple’s RN 2,446,634, and is the plural of Apple’s IBOOK mark shown in RN 2,470,147.

These registrations also meet the test under TMEP 1212.04(c), which provides as follows:

“The examining attorney must determine whether the goods or services named in the application are sufficiently similar to the goods or services named in the prior registration(s). If the relatedness is self-evident, the examining attorney can generally accept the §2(f) claim without additional evidence. This is most likely to occur with ordinary consumer goods or services where the nature of the goods or services is commonly known and readily apparent.”

The relatedness between the pending application and Apple’s existing registrations of IBOOK and IBOOKS is indeed self-evident. Both registrations cover “ordinary consumer goods” that are identical or closely related to the consumer goods in the present application. Specifically, the existing registrations cover “computer hardware” and “computer software used to support and create interactive, user-modifiable electronic books.” Apple’s Amendment to Allege Use shows that it uses the IBOOKS mark on computer software with capabilities that precisely match the registered goods in RN 2,446,634 (“software used to support and create interactive, user-modifiable electronic books”) and that software is accessed via the goods described in RN 2,470,147 -- computer hardware. Thus, both existing registrations clearly support a finding of acquired distinctiveness under Section 2(f) for the goods covered by this application.

Additional evidence of acquired distinctiveness under Section 2(f)

Given that Apple’s existing registrations of IBOOKS and IBOOK are identical or near-identical to the mark in this application, and that the goods are identical or closely related, no additional evidence should be required to establish that IBOOKS has acquired distinctiveness. However, additional evidence of acquired distinctiveness is ample.

As Apple indicated on February 22, 2012, in its response to a suspension inquiry, IBOOKS is a

member of Apple's family of famous marks that begin with the prefix "i", and a direct descendant of one of the original marks in this family, the IBOOK mark. Apple first developed this family of marks in 1998, with the launch of its groundbreaking IMAC desktop computer, followed in 1999 by the IBOOK laptop computer and IMOVIE software in 1999. This family significantly expanded in 2001 with the launch of the IPOD digital media player and the ITUNES digital music management software. Apple also introduced its IDVD software in 2001, and its ICAL and IPHOTO software products came to market in 2002. The ILIFE, SIGHT and ICHAT software products followed in 2003. In 2003, Apple also launched the iTunes Store, originally a service that allowed customers to find, purchase and download third-party digital music. The service has been expanded to include audio books, music videos, short films, television shows, movies, podcasts, games, and other applications. In 2007, Apple introduced its now-famous IPHONE digital mobile device. In 2010, Apple introduced another landmark product under an "i"-formative mark, the IPAD digital electronic device, and introduced its ICLOUD cloud computing software and services in 2011. Apple now holds more than 100 active federal applications and registrations of marks that begin with the prefix "i."

The IBOOK laptop, the IPOD media player, the ITUNES software and ITUNES STORE service, the IPHONE digital mobile device, and the IPAD tablet device have all been particularly influential in cementing the public perception that the "i"-prefix brand is synonymous with Apple.

The remarkable success of each of these products, and the fact that Apple's IBOOKS software operates in the same Apple product environment as these devices, guarantee that Apple's IBOOKS is immediately perceived as part of the same family of marks. As documented in Apple's response to the suspension inquiry on this application, and as shown in the most recent figures in **Exhibit B**:

- The groundbreaking iBook laptop was the first mainstream computer with integrated wireless networking and, in tandem with the iMac desktop, clearly established Apple's identification with "i"-prefix branding.
- Apple has sold more than 350 million iPod devices since the product's introduction. Apple owns nearly two dozen active federal trademark registrations and applications that incorporate the IPOD mark.
- Through its iTunes Store, Apple has sold over 20 billion songs. In 2008, the iTunes Store surpassed Wal-Mart to become the largest music retailer in the United States. iTunes is now the world's most popular online music, TV and movie retailer, featuring a catalog of over 26 million songs, over 190,000 TV episodes and over 45,000 movies. Apple owns approximately 20 active federal trademark registrations and applications that incorporate the ITUNES mark.
- The announcement of the iPhone generated unprecedented publicity in 2007, and Apple sold 1 million units of the device in less than 3 months. Subsequent versions of the iPhone fared even better—the iPhone 3G (released July 2008) sold 1 million units in the first weekend it was on sale; the first-weekend sales of iPhone 4 (released June 2010) were more than 50% higher, reaching 1.7 million units; and pre-orders of the iPhone 4S (released October 2011) topped 1 million in the first 24 hours. In September 2012, Apple launched the iPhone 5, and had sold 5 million units of the device just three days after the product's launch. *Fortune* magazine has marveled that the iPhone is "one of the most successful products in business history." As of October 2012, Apple had sold more than

200 million iPhone devices worldwide. Apple owns nearly two dozen active federal trademark registrations and applications for marks that incorporate IPHONE mark.

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In addition, last year Apple launched two new “i”-prefix marks to great success and consumer acceptance:

- Apple launched its ICLOUD cloud computing service in October 2011. As of July 2012—a mere nine months after the service was launched—over 150 million consumers use the software and services. See **Exhibit C**. Apple owns a dozen active federal trademark registrations and applications for marks that incorporate the ICLOUD mark. See **Exhibit D**.
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The Examining Attorney has cited a few web pages on which “iBook(s)” is purportedly used as a generic abbreviation for “Internet books.” However, a handful of web pages are not sufficient to demonstrate how the average consumer perceives a term. Most of these pages are personal blogs which are unlikely to have any appreciable readership, and several clearly date back two years or longer. There is no evidence that any of these pages represent current-day usage, that they are all U.S.-based, or that they have any measurable readership that would reflect or impact consumer perception of the term.

In fact, the authoritative sources show that “eBook” is a generic term for electronic books — including Dictionary.com, The Online Free Dictionary, the *Collins American English Dictionary*, the *Longman Dictionary of Contemporary English*, the *Merriam-Webster dictionary*, the *Oxford Advanced Learner’s Dictionary*, the *Macmillan Dictionary*, the *PC Magazine Encyclopedia*, and NetLingo. None of these sources includes an entry for IBOOK except for references to Apple’s brand. See **Exhibit F**.

In summary, even if one accepts the Examining Attorney’s premise that the term IBOOKS could be descriptive with respect to the goods covered by this application, Apple’s mark has unquestionably achieved distinctiveness. Therefore, Apple respectfully requests that the Examining Attorney withdraw the Section 2(e)(1) refusal and approve the application for publication.

Amendment

Apple amends its application to delete the services in Classes 35 and 42.

EVIDENCE

Original PDF file:

[evi_2041552263-202219902 . IBOOKS Exhibits A - D.pdf](#)

Converted PDF file(s) (46 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

[Evidence-5](#)

[Evidence-6](#)

[Evidence-7](#)

[Evidence-8](#)

[Evidence-9](#)

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[Evidence-38](#)

[Evidence-39](#)

[Evidence-40](#)

[Evidence-41](#)

[Evidence-42](#)

[Evidence-43](#)

[Evidence-44](#)

[Evidence-45](#)

[Evidence-46](#)

Original PDF file:

[evi_2041552263-202219902 . IBOOKS Exhibits E and F.pdf](#)

Converted PDF file(s) (31 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

[Evidence-5](#)

[Evidence-6](#)

[Evidence-7](#)

[Evidence-8](#)

[Evidence-9](#)

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[Evidence-25](#)

[Evidence-26](#)

[Evidence-27](#)

[Evidence-28](#)

[Evidence-29](#)

[Evidence-30](#)

[Evidence-31](#)

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant hereby deletes the following class of goods/services from the application.

Class 035 for Retail store services featuring electronic publications provided via the Internet and other communications networks; retail store services in the field of books, magazines, periodicals, journals and other publications on a wide range of topics of general interest, provided via the Internet and other communications networks; retail store services featuring electronic publications for use on handheld mobile digital electronic devices and other consumer electronics

Applicant hereby deletes the following class of goods/services from the application.

Class 042 for Providing an online portal featuring temporary online use of online non-downloadable software to allow internet users to preview, download, and read electronic publications

ADDITIONAL STATEMENTS

Section 2(f), based on Prior Registration(s)

The mark has become distinctive of the goods/services as evidenced by the ownership on the Principal Register for the same mark for related goods or services of U.S. Registration No(s). 2446634 and 2470147.

SIGNATURE(S)

Response Signature

Signature: /Lisa G. Widup/ Date: 10/09/2012

Signatory's Name: Lisa G. Widup

Signatory's Position: Attorney of record, California bar member

Signatory's Phone Number: Senior Intellectual Property Counsel

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

Serial Number: 85008412

Internet Transmission Date: Tue Oct 09 21:13:02 EDT 2012

TEAS Stamp: USPTO/ROA-204.155.226.3-2012100921130291

2759-85008412-490b124210b5b4d81757bab13f

8409f5-N/A-N/A-20121009202219902433

Exhibit A

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36 and 38

Reg. No. 2,446,634

United States Patent and Trademark Office

Registered Apr. 24, 2001

Amended

OG Date June 29, 2010

TRADEMARK
PRINCIPAL REGISTER

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FOR: COMPUTER [HARDWARE AND SOFTWARE USED TO SUPPORT AND CREATE INTERACTIVE, USER-MODIFIABLE ELECTRONIC BOOKS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).
FIRST USE 10-27-2000; IN COMMERCE 10-27-2000.
SER. NO. 75-182,820, FILED 10-8-1996.

*In testimony whereof I have hereunto set my hand
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Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	75182820
Filing Date	October 8, 1996
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	August 12, 1997
Change In Registration	CHANGE IN REGISTRATION HAS OCCURRED
Registration Number	2446634
Registration Date	April 24, 2001
Owner	(REGISTRANT) FAMILY SYSTEMS LIMITED COMPANY UNITED KINGDOM 8, St. George's Street Douglas ISLE OF MAN IM1 1AH

(LAST LISTED OWNER) APPLE INC. CORPORATION CALIFORNIA 1 INFINITE LOOP
 CUPERTINO CALIFORNIA 95014

Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record Lisa G. Widup
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20100614.
Renewal 1ST RENEWAL 20100614
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Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36, and 38

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FIRST USE 7-21-1999; IN COMMERCE 7-21-1999.

SN 75-584,233, FILED 11-6-1998.

FOR: COMPUTERS, COMPUTER HARDWARE, COMPUTER PERIPHERALS AND USERS MANUALS SOLD THEREWITH, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

MARY BOAGNI, EXAMINING ATTORNEY



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Mark Drawing Code (1) TYPED DRAWING
Serial Number 75584233
Filing Date November 6, 1998
Current Basis 1A
Original Filing Basis 1B
Published for Opposition June 27, 2000
Registration Number 2470147
International Registration Number 0874453
Registration Date July 17, 2001
Owner (REGISTRANT) Apple Computer, Inc. CORPORATION CALIFORNIA 1 Infinite Loop Cupertino CALIFORNIA 95014
 (LAST LISTED OWNER) APPLE INC. CORPORATION CALIFORNIA 1 INFINITE LOOP CUPERTINO CALIFORNIA 95014
Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record Lisa G. Widup
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Exhibit B

Apple Unveils New iTunes

Featuring Dramatically Simplified Design & Seamless iCloud Integration

SAN FRANCISCO—September 12, 2012—Apple® today announced the new iTunes® for Mac® and PC featuring a completely redesigned player, seamless integration with iCloud®, and a stunning new look for the world's most popular online music, apps, TV and movie stores. The new iTunes is coming in October and will feature a dramatically simpler and cleaner interface that keeps your favorite iTunes content at the forefront. With iCloud integration, your music, movie and TV purchases made on any of your iOS devices or computers is conveniently displayed in your iTunes library on your Mac or PC, available anytime you want them. The redesigned iTunes Store®, App Store™ and iBookstore™ have been rethought to make buying your favorite content on your iPhone®, iPad®, iPod touch®, Mac or PC simpler than ever.

"We created iTunes because we love music and we're going back to our roots with an incredibly clean design that keeps your music at the forefront," said Eddy Cue, Apple's senior vice president of Internet Software and Services. "The new iTunes works seamlessly with iCloud, always keeping your entire library at your fingertips, and we're adding great new features that make listening to your music more fun."

The redesigned iTunes features a full-window interface on your Mac or PC that's simpler and cleaner, always keeping your favorite content in front of you. The new library view makes it easier to view your music, TV shows and movies, allowing you to click on the category of content you want to browse and that's all you will see. The expandable album view allows you to see track listings for an individual album, while letting you continue to browse your music library. The new search feature searches across your entire iTunes library, including music, movies and TV shows. The re-imagined MiniPlayer makes it easy to control your music with a small tool bar, you can skip to the next song or search for something new to play—all without having to open your library. Up Next is a fun new way to see what songs are coming up and queue songs or albums you want to hear next.

With iCloud, all of your iTunes purchases are in the cloud and can be accessed from your iPhone, iPad, iPod touch, Mac, PC or Apple TV®. The new iTunes features seamless integration with iCloud, which automatically puts all of your purchases into your library on your Mac or PC, regardless of which device you used to make the purchase. iCloud also remembers where you are in your favorite movies or TV shows no matter which device you're viewing on.

The redesigned iTunes Store, App Store and iBookstore feature a clean design that makes shopping easier and more fun. Featured content is showcased right at the top and easy-to-browse shelves serve up popular music, movies and TV show choices. You also have a preview history that shows you all of the music, movies and TV shows you've sampled. iCloud keeps your preview history across all of your devices. Additionally, users can preview 90 second clips of songs while continuing to browse the store.

The new iTunes will be available in October as a free download at www.itunes.com.

The iTunes Store is the world's most popular online music, app, TV and movie store with a catalog of over 26 million songs, over 700,000 apps, over 190,000 TV episodes and over 45,000 films. The iTunes Store is the best way for iOS, Mac and PC users to legally discover, purchase and download music and video online. iTunes is the world's most popular media player for Mac and PC.

Apple designs Macs, the best personal computers in the world, along with OS X, iLife, iWork and professional software. Apple leads the digital music revolution with its iPods and iTunes online store. Apple has reinvented the mobile phone with its revolutionary iPhone and App Store, and is defining the future of mobile media and computing devices with iPad.

Press Contacts:
Tom Neumayr
Apple
tneumayr@apple.com

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Apple - Press Info - Apple Unveils New iTunes

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iPhone 5 First Weekend Sales Top Five Million

CUPERTINO, California—September 24, 2012—Apple® today announced it has sold over five million of its new iPhone® 5, just three days after its launch on September 21, and more than 100 million iOS devices have been updated with iOS 6, the world's most advanced mobile operating system. iPhone 5 is available in the US, Australia, Canada, France, Germany, Hong Kong, Japan, Singapore and the UK, and will be available in 22 more countries on September 28 and more than 100 countries by the end of the year. Demand for iPhone 5 exceeded the initial supply and while the majority of pre-orders have been shipped to customers, many are scheduled to be shipped in October.

"Demand for iPhone 5 has been incredible and we are working hard to get an iPhone 5 into the hands of every customer who wants one as quickly as possible," said Tim Cook, Apple's CEO. "While we have sold out of our initial supply, stores continue to receive iPhone 5 shipments regularly and customers can continue to order online and receive an estimated delivery date. We appreciate everyone's patience and are working hard to build enough iPhone 5s for everyone."

iPhone 5 is the thinnest and lightest iPhone ever, completely redesigned to feature a stunning new 4-inch Retina™ display, an Apple-designed A6 chip for blazing fast performance, and ultrafast wireless technology*—all while delivering even better battery life.**

Pricing & Availability

iPhone 5 comes in either white & silver or black & slate, and is available in the US for a suggested retail price of \$199 (US) for the 16GB model and \$299 (US) for the 32GB model and \$399 (US) for the 64GB model. iPhone 5 is available from the Apple Online Store (www.apple.com), Apple's retail stores, and through AT&T, Sprint, Verizon Wireless, select Best Buy, RadioShack, Target and Walmart stores and select Apple Authorized Resellers. iPhone 4S is also available for just \$99 (US) and iPhone 4 is available for free with a two-year contract.***

iPhone 5 will be available on September 28 in Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, Hungary, Ireland, Italy, Liechtenstein, Lithuania, Luxembourg, Netherlands, New Zealand, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden and Switzerland.

* LTE is available through select carriers. Network speeds are dependent on carrier networks, check with your carrier for details.

** Battery life depends on device settings, usage and other factors. Actual results vary.

*** Qualified customers only. Requires a new two year rate plan, sold separately.

Apple designs Macs, the best personal computers in the world, along with OS X, iLife, iWork and professional software. Apple leads the digital music revolution with its iPods and iTunes online store. Apple has reinvented the mobile phone with its revolutionary iPhone and App Store, and is defining the future of mobile media and computing devices with iPad.

Press Contacts:

Trudy Muller
Apple
tmuller@apple.com
(408) 862-7426

Natalie Kerris
Apple
nat@apple.com
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CNET News

Apple by the numbers: 84M iPads, 400M iOS devices, 350M iPods sold

At today's Apple event in San Francisco, CEO Tim Cook and other execs offered up plenty of stats. Here are key ones, plus specs of new products.

by [Paul Sloan](#) September 12, 2012 10:15 AM PDT



Tim Cook at today's Apple event

(Credit: CNET)

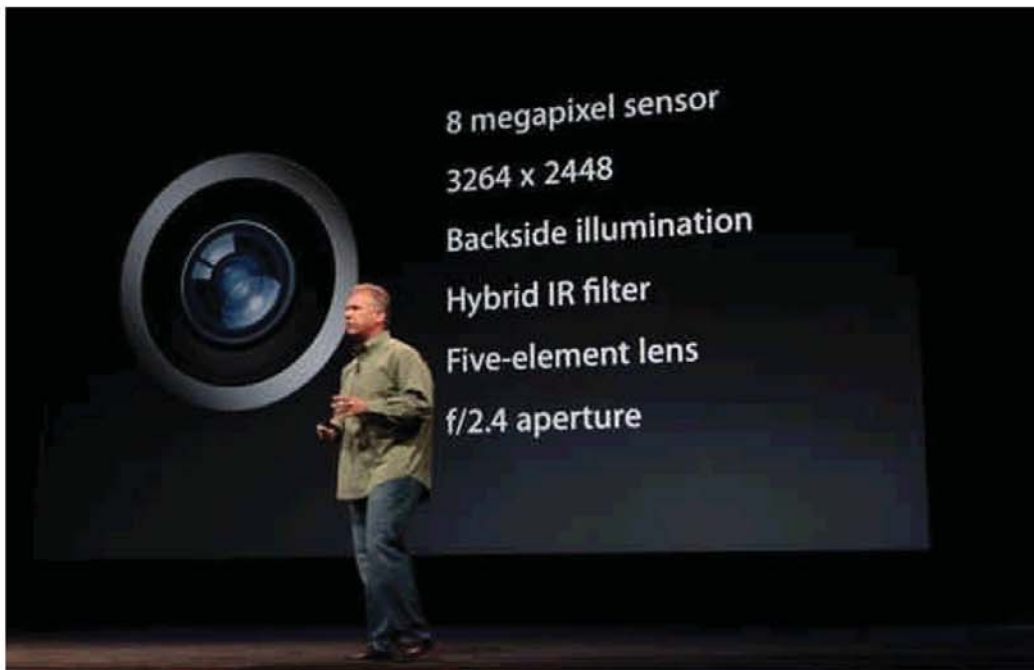
Apple CEO Tim Cook kicked off today's event by tossing out a lot of milestones. Below are some of the key numbers, and [go here for CNET's full coverage](#).

Mountain Lion upgrades. 7 million since release.

MacBook together with [MacBook Air](#). Number 1 in market share for last three months.

iPad Sales. Cook notes 17 million sold from April to June, with 84 million sold through June. Says iPads are in 94 percent of Fortune 500 companies.

Worldwide tablet market share. 68 percent for April through June.



Apple marketing chief Phil Schiller

(Credit: CNET)

iPad Apps. 250,000 downloaded.

iOS devices. 400 million sold through June.

Here are some details on the iPhone 5, offered by marketing chief Phil Schiller:

Thinnest iPhone yet. 7.6mm thick, 18 percent thinner than iPhone 4.

20% lighter than 4S. Schiller said iPhone 5 weighs 112 grams.

Bigger screen. Measures 4 inches, and offers 44% more color saturation than iPhone 4S; 16:9 aspect ratio. Widescreen videos look far better, says Schiller.

New chip, the A6. About twice as fast the A5; twice as fast for graphics.

Improved camera. 8-megapixel sensor, 3264x2448 resolution with backside illumination, hybrid IR filter, five-element lens, f2.4 aperture.

Better battery life. The claims: 8 hours of 3G talk time, 3G browsing; 8 hours LTE browsing; 10 hours for Wi-Fi browsing; 10 hours video; 40 hours music; 225 hours while on standby.

iPhone 5 pricing. They'll cost same as iPhone 4S did: \$199 for a 16GB version, \$299 for a 32GB version, \$399 for a 64GB version, all with a two-year contract.



Eddy Cue, Apple's iCloud and music chief

(Credit: [CNET](#))

Here are some details about iTunes, iCloud and iPods:

iTunes store stats. Store has **26M songs**, with more than **20 billion songs** purchased over the last nine years, according to Eddy Cue, Apple's iCloud and music chief. The iTunes store is now available in **63 countries**.

Downloads from iOS devices. 66 percent of all downloads from iTunes come from iPhones and iPads.

iTunes accounts with 1-click purchasing. 435 million.

iTunes customers using iCloud. 200 million, and Cue says there have been 15 billion downloads from iCloud.

350 million iPods. Total number sold.



Apple's new iPod lineup.

(Credit: CNET)

Thinner iPod Nano, 7th generation. It's 5.4mm thick, 38 percent thinner than the 6th generation. Display is 2-inch, multi-touch.

iPod Touch, 5th generation It's 5.6.1 mm thick, and 88 grams -- the thinnest and lightest iPod touch yet, says Greg Joswiak, vice president of iPod and iPhone product marketing. It will also have a 4-inch screen.

iPod Touch apps. There are 175,000 games and apps for the device.

Faster performance for iPod Touch. Will have A5 chip, which Joswiak says is 7 times faster than the previous model when it comes to graphics.

Battery life for iPod Touch. Joswiak says new Touch gets 40 hours of music, 8 hours of video.

Improved iPod Touch camera. Includes a flash, 5 megapixels with backside illumination, hybrid IR filter, five-element lens, f/2.4 aperture with auto-focus.

Video specs for iPod Touch. Shoots 1080p video, front camera does FaceTime HD with 720p.

The 5 arrives

- [CNET's iPhone 5 review](#)
- [Apple out to prove it's still king](#)
- [Pictures: Apple's big iPhone 5 reveal](#)
- [Ho-hum. iPhone 5 won't wow anyone](#)
- [iPhone 5: No Steve Jobs, no sizzle](#)
- [iPhone 5: What we didn't get](#)
- [Comparing the iPhone 4S and iPhone 5](#)
- [iPhone 5 vs. Galaxy S3 vs. Lumia 920](#)
- [Poll: Will you buy the iPhone 5?](#)
- [Apple springs leak - rumors were right](#)
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- [Apple shares up, down, then up](#)
- [Start your iOS 6 downloads September 19](#)
- [iOS 6 hits major marks](#)

Prices of iPod Touches. 32GB is \$299, 64GB is \$399.

Prices for Shuffle and iPod nano. 2GB shuffle is \$49, 16GB is \$149.

- [Apple reworks, simplifies iTunes](#)
- [New iPod Touch: Siri and a 4-inch screen](#)
- [New Nano: Remembering the iPod Mini](#)
- [Full coverage: The iPhone 5 arrives](#)

New headsets, called EarPods. 600 million of the old ear buds have been sold, and now Apple is upgrading to EarPods, which will come with iPhone 5, new iPod Touches and Nano.

Paul Sloan

Paul Sloan has been a San Francisco-based correspondent for Fortune magazine, an editor-at-large for Business 2.0 magazine, and a senior producer for CNN. He's now an executive editor at CNET News. When his fingers aren't on a keyboard, they're usually on a guitar. Email him [here](#).



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Apple



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Exhibit C

Apple Now Has 150 Million iCloud Users

techcrunch.com/2012/07/24/apple-q3-2012-icloud-users/

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Apple Now Has 150 Million iCloud Users

FREDERIC LARDINOIS

Tuesday, July 24th, 2012 6 Comments



iCloud

During Apple's Q3 earnings call today, the company's CFO Peter Oppenheimer announced that Apple now has 150 Million iCloud users. That's up from 125 million users the company cited in its last **quarterly earnings call** in April.

As Apple announced at its annual developer conference earlier this year, iCloud will be tightly integrated into Mountain Lion, the next version of OS X that's scheduled to launch tomorrow. Apple sold **26 million iPhones and 17 million iPads** in the last quarter, which surely helped to push the number of iCloud users up as well, though the growth in iCloud users is obviously lagging behind the overall growth in the iPhone and iPad ecosystem.


The company also announced that it made \$1.8 billion in revenue from iTunes (that's from music, movies, TV shows and apps). During its earnings call three months ago, Apple CFO Peter Oppenheimer announced that there were 28 million songs and 45,000 movies available in iTunes. The company did not release any updated numbers for the size of its iTunes music and movie stores today.

CRUNCHBASE

APPLE

Company: **Apple**
Website: _____

Started by Steve Jobs, Steve Wozniak, and Ronald Wayne, Apple has expanded from computers to consumer electronics over the last 30 years, officially changing their name



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Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Trademark
Search Facility LETS-1 | A single letter, multiples of a single letter or in combination with a design
Classification Code SHAPES-MISC Miscellaneous shaped designs
Serial Number 79056140
Filing Date May 29, 2008
Current Basis 66A
Original Filing Basis 66A
Published for Opposition November 17, 2009
Registration Number 3744821
International Registration Number 0970388
Registration Date February 2, 2010
Owner (REGISTRANT) Xcerion AB CORPORATION SWEDEN Drottninggatan 23, Box 569; SE-581 07 Linköping SWEDEN

(LAST LISTED OWNER) APPLE Inc. CORPORATION CALIFORNIA 1 Infinite Loop Cupertino CALIFORNIA 95014
Attorney of Record THOMAS R. LA PERLE
Priority Date November 29, 2007
Type of Mark TRADEMARK. SERVICE MARK
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SWEDEN

Int. Cls.: 9 and 42

**TRADEMARK
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FOR: COMPUTER PROGRAMS FOR INFORMATION MANAGEMENT, FOR CREATING SPREADSHEETS, TABLES, GRAPHS AND CHARTS AND FOR ORGANIZING AND ANALYZING DATA, FOR WORD PROCESSING, FOR CREATION AND DISPLAY OF PRESENTATIONS INCLUDING TEXT AND GRAPHICS, FOR ELECTRONIC MAIL AND INSTANT MESSAGING SERVICES, FOR CALENDAR AND MEETING SCHEDULING, FOR DESKTOP PUBLISHING, FOR PROJECT MANAGEMENT, FOR BUSINESS PLANNING, FOR DIRECT MAIL AND BUSINESS FINANCIAL MANAGEMENT, FOR ONLINE DOCUMENT COLLABORATION, STORAGE AND EDITING SERVICES, FOR VIEWING AND ORGANIZING AUDIO-VISUAL CONTENT SUCH AS MUSIC, VIDEO AND PHOTOS, FOR CREATING AND ADMINISTRATING ONLINE COMMUNITIES AND GROUPS, FOR CREATING AND MAINTAINING PERSONAL BLOGS, FOR ONLINE SHARING OF ANY DIGITAL CONTENT, FOR DEVELOPING AND TESTING NEW COMPUTER SOFTWARE, AND FOR WORKING AS AN OPERATING SYSTEM FOR INTEGRATING AND AGGREGATING ONLINE SOFTWARE APPLICATIONS AND DATA TO RUN IN A SINGLE USER INTERFACE ON ONE COMPUTER; COMPUTER SOFTWARE FOR USE AS OPERATING SYSTEMS FOR EMBEDDED PROCESSORS FOR APPLICATION VIRTUAL MACHINES, PROCESS VIRTUAL MACHINES, AND PLATFORM-INDEPENDENT MACHINES; SOFTWARE FOR CREATING A VIRTUAL MACHINE ENVIRONMENT, PERFORMING PROCESS VIRTUALIZATION, INTERPRETING SEMANTIC APPLICATION CODE, AND ABSTRACTING NETWORK RESOURCES, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

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David J. Kappas

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SER. NO. 79-056,140, FILED 5-29-2008.

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ICLOUD

Word Mark	ICLOUD
Goods and Services	IC 016. US 002 005 022 023 029 037 038 050. G & S: printed publications, namely, books, periodicals, magazines, newsletters, brochures, booklets, pamphlets, manuals, journals, leaflets and user manuals, all in the fields of computing, computer hardware and software, and digital mobile electronic devices
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85335777
Filing Date	June 1, 2011
Current Basis	1B
Original Filing Basis	1B;44D
Published for Opposition	April 3, 2012
International Registration Number	1081324
Owner	(APPLICANT) Apple Inc. CORPORATION CALIFORNIA 1 Infinite Loop Cupertino CALIFORNIA 95014
Attorney of Record	Thomas R. La Perle

Priority Date December 7, 2010
Prior Registrations 3744821
Type of Mark TRADEMARK
Register PRINCIPAL-2(F)
Live/Dead Indicator LIVE

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ICLOUD

Word Mark	ICLOUD
Goods and Services	IC 025. US 022 039. G & S: Clothing, namely, shirts, sweaters, sweatshirts, jogging suits, pants, jackets, and coats; footwear; headgear, namely, hats, caps, and visors
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85335786
Filing Date	June 1, 2011
Current Basis	1B
Original Filing Basis	1B;44D
Published for Opposition	May 22, 2012
Owner	(APPLICANT) Apple Inc. CORPORATION CALIFORNIA 1 Infinite Loop Cupertino CALIFORNIA 95014
Attorney of Record	Thomas R. La Perle
Priority Date	May 9, 2011
Prior Registrations	3744821
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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ICLOUD

Word Mark **ICLOUD**
Goods and Services IC 041. US 100 101 107. G & S: Educational services, namely, providing classes and training services offered over computer networks in the fields of university-level subjects and topics of general interest, namely, entertainment, music, concerts, videos, motion pictures, radio, television, news, sports, games and cultural events, and computer hardware and software applications; providing electronic publications for browsing over computer networks, namely, books, pamphlets, brochures, and newsletters on the subjects of education, entertainment, computer hardware and software applications, and a wide range of topics of general interest; entertainment services in the nature of providing a web site and database featuring music, videos, television programs, motion pictures, current event and entertainment news, sports, games, cultural events, and entertainment-related programs; arranging and conducting of educational and entertainment exhibitions, workshops, and seminars in the field of music, videos, television programs, motion pictures, news, sports, games, cultural events, and entertainment-related programs

Standard Characters Claimed
Mark Drawing Code (4) STANDARD CHARACTER MARK
Serial Number 85335812
Filing Date June 1, 2011
Current Basis 1B
Original Filing Basis 1B;44D
Published for

Opposition May 22, 2012
**International
Registration
Number** 1087010
Owner (APPLICANT) Apple Inc. CORPORATION CALIFORNIA 1 Infinite Loop Cupertino CALIFORNIA
95014
**Attorney of
Record** Thomas R. La Perle
Priority Date December 7, 2010
**Prior
Registrations** 3744821
Type of Mark SERVICE MARK
Register PRINCIPAL
**Live/Dead
Indicator** LIVE

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ICLOUD

Word Mark	ICLOUD
Goods and Services	IC 009. US 021 023 026 036 038. G & S: Hand-held units for playing electronic games for use with external display screen or monitor
	IC 028. US 022 023 038 050. G & S: Hand-held units for playing electronic games other than adapted for use with an external display screen or monitor; computer game apparatus other than coin operated or those adapted for use with television receivers, namely, computer hardware, computer operating system software, computer game joysticks, control pads, remote controls, modems, keyboards, terminals, and interactive multimedia computer game programs
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85335793
Filing Date	June 1, 2011
Current Basis	1B
Original Filing Basis	1B;44D
Published for Opposition	May 22, 2012
International Registration	1081324

Number
Owner (APPLICANT) Apple Inc. CORPORATION CALIFORNIA 1 Infinite Loop Cupertino CALIFORNIA 95014
Attorney of Record Thomas R. La Perle
Priority Date December 7, 2010
Prior Registrations 3744821
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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ICLOUD

Word Mark	ICLOUD
Goods and Services	IC 045. US 100 101. G & S: Online social networking services; providing a social networking website for entertainment purposes
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85335817
Filing Date	June 1, 2011
Current Basis	1B
Original Filing Basis	1B;44D
Published for Opposition	June 19, 2012
International Registration Number	1087010
Owner	(APPLICANT) Apple Inc. CORPORATION CALIFORNIA 1 Infinite Loop Cupertino CALIFORNIA 95014
Attorney of Record	Thomas R. La Perle
Priority Date	December 7, 2010
Prior Registrations	3744821
Type of Mark	SERVICE MARK
Register	PRINCIPAL-2(F)
Live/Dead Indicator	LIVE

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ICLOUD

Word Mark **ICLOUD**
Goods and Services IC 042. US 100 101. G & S: Application service provider (ASP) services featuring computer software to enable uploading, posting, showing, displaying, sharing or otherwise providing electronic media or information over the internet or other communications network; computer hardware and software consulting services; information relating to computer hardware or software provided on-line from a global computer network or the Internet; creating and maintaining web-sites featuring technology that enables users to access stored data, images, audio, video and documents; hosting the web-sites of others featuring technology that enables users to access stored data, images, audio, video and documents; providing search engines for obtaining data via communications networks; providing search engines for obtaining data on a global computer network; information, advisory and consultancy services relating to all the aforesaid; operating search engines for obtaining data on a global computer network; creating indexes of computer network-based information, sites and other resources available on global computer networks for others

Standard Characters Claimed
Mark Drawing Code (4) STANDARD CHARACTER MARK
Serial Number 85335813
Filing Date June 1, 2011
Current Basis 1B
Original Filing Basis 1B;44D
Published for

Opposition June 19, 2012
International Registration Number 1087010
Owner (APPLICANT) Apple Inc. CORPORATION CALIFORNIA 1 Infinite Loop Cupertino CALIFORNIA 95014
Attorney of Record Thomas R. La Perle
Priority Date December 7, 2010
Prior Registrations 3744821
Type of Mark SERVICE MARK
Register PRINCIPAL-2(F)
Live/Dead Indicator LIVE

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ICLOUD

Word Mark	ICLOUD
Goods and Services	IC 040. US 100 103 106. G & S: Photographic film developing; photographic film printing; photographic film processing, printing, and reproduction; on-line processing, developing and delivery of digital images; on-line printing of digital images onto photographic paper, photographic books or merchandise; advisory and consultancy services relating to all the aforesaid
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85335810
Filing Date	June 1, 2011
Current Basis	1B
Original Filing Basis	1B;44D
Published for Opposition	June 19, 2012
International Registration Number	1106373
Owner	(APPLICANT) Apple Inc. CORPORATION CALIFORNIA 1 Infinite Loop Cupertino CALIFORNIA 95014
Attorney of	Thomas R. La Perle

Record

Priority Date May 9, 2011
Prior Registrations 3744821
Type of Mark SERVICE MARK
Register PRINCIPAL-2(F)
Live/Dead Indicator LIVE

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ICLOUD

Word Mark	ICLOUD
Goods and Services	IC 039. US 100 105. G & S: Electronic storage of data, text, images, audio, and video; storage services for archiving electronic data; information and consultation in connection therewith
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85335805
Filing Date	June 1, 2011
Current Basis	1B
Original Filing Basis	1B;44D
Published for Opposition	June 19, 2012
International Registration Number	1106373
Owner	(APPLICANT) Apple Inc. CORPORATION CALIFORNIA 1 Infinite Loop Cupertino CALIFORNIA 95014
Attorney of Record	Thomas R. La Perle
Priority Date	May 9, 2011
Prior Registrations	3744821
Type of Mark	SERVICE MARK
Register	PRINCIPAL-2(F)

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