

**U.S. Department of Justice**

Antitrust Division

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January 8, 2014

The Honorable Denise Cote
United States District Judge, S.D.N.Y.
Daniel P. Moynihan U.S. Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: United States v. Apple, Inc., et al., No. 12-cv-2826 (DLC)
State of Texas v. Penguin Group (USA), Inc., No. 12-cv-3394 (DLC)

Dear Judge Cote:

Yesterday evening, Apple filed its “Reply in Support of Defendant Apple Inc.’s Motion by Order to Show Cause for a Stay of the Injunction Pending Appeal.” Pursuant to Section 3.B of this Court’s Individual Practices in Civil Cases, unless prior permission has been granted, reply memoranda are limited to 10 pages. In apparent contravention of Section 3.B, Apple’s reply brief is 15 pages long, and largely devoted to addressing arguments not raised in its initial papers.¹ We respectfully submit that Apple’s reply brief should be stricken, and that Apple be ordered to submit a reply that comports with this Court’s Individual Practices and all applicable Rules.

Respectfully Submitted,

/s/ Lawrence E. Buterman
Lawrence E. Buterman

Copy: Apple’s Counsel

¹ Apple certainly never requested permission or consent from the United States or Plaintiff States prior to filing its brief, nor to our knowledge did Apple ever approach the Court to seek prior permission.