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 APPLE INC.

9  
 10 UNITED STATES DISTRICT COURT  
 11 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 12 SAN FRANCISCO DIVISION  
 13

14 APPLE INC., a California corporation,

15 Plaintiff,

16 v.

17 PSYSTAR CORPORATION,  
 a Florida corporation, and DOES 1-10,  
 18 inclusive,

19 Defendants.

Case No. CV 08-03251 WHA

**APPLE INC.'S RESPONSES TO  
 PSYSTAR CORPORATION'S FIRST SET  
 OF REQUESTS FOR ADMISSION  
 (Nos. 1-53)**

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 21  
 22 PROPOUNDING PARTY: PSYSTAR CORPORATION  
 23 RESPONDING PARTY: APPLE INC.  
 24 SET NUMBER: ONE (1)  
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Pursuant to Rule 36 of the Federal Rules of Civil Procedure, plaintiff Apple Inc. hereby  
 26 responds to defendant Psystar Corporation's First Set of Requests for Admission as follows:

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**GENERAL STATEMENT AND OBJECTIONS**

1. The following General Objections apply to each Request and are incorporated by reference into each specific response set forth below. The assertion of the same or additional objections in any particular response to these Requests does not waive other objections set forth herein.

2. Discovery is still continuing in this case. The following responses are based on discovery available as of the date of this response. Apple has not completed its investigation of the facts and information relating to this case. Further discovery, independent investigation and analysis may supply additional facts and add meaning to known facts, as well as establish entirely new factual conclusions and legal contentions, all of which may lead to additions, changes to, or variations from the information herein set forth.

3. The following responses are given without prejudice to Apple's right to produce or rely upon subsequently discovered information, facts and documents. Apple accordingly reserves the right to change, amend or supplement any response herein as additional facts are ascertained, analysis is made, legal research is completed and contentions are made. The responses contained herein are made in a good faith effort to comply with the provisions of Rule 36 of the Federal Rules of Civil Procedure, but are in no way deemed to be to the prejudice of Apple in relation to further discovery, research or analysis.

4. These responses are made solely for the purpose of discovery in this action. Nothing herein is intended to waive Apple's objections, which are expressly reserved, including but not limited to the following: any objections as to competence, relevance, authenticity, propriety, materiality and admissibility of the subject matter of the discovery requests; any objections as to the use of any information provided in response to the Requests; and any objections to the admissibility of any responses as evidence in any proceeding, including the trial of this action or any subsequent proceeding. Moreover, by agreeing to provide information responsive to a particular discovery request, Apple does not admit the relevance or admissibility of the information provided. Nothing contained in any response herein shall be deemed an

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1 admission, concession, or waiver by Apple as to the relevance, materiality, or admissibility of any  
2 information provided in response to the Requests.

3 5. Apple objects generally to the “Instructions” and “Definitions” to the extent that  
4 they are vague and ambiguous and/or seek to impose upon Apple obligations beyond those  
5 authorized by the Federal Rules of Civil Procedure, the Northern District of California Local Civil  
6 Rules, and the standing orders in this case.

7 6. Apple objects generally to each Request to the extent that it seeks confidential  
8 information protected by the attorney-client privilege, the attorney work product doctrine, or any  
9 other available privilege or protection. Nothing contained herein is intended to be or should be  
10 construed as a waiver of the attorney-client privilege, the attorney work product doctrine or any  
11 other applicable privilege or protection. Privileged information and work product is not provided  
12 in these responses and any inadvertent disclosure is not a waiver of any privilege or of the work-  
13 product protection. Apple therefore construes each document request to exclude attorney-client  
14 privileged documents or documents protected by the work-product doctrine and any other  
15 applicable privilege or protection.

16 7. Apple objects generally to each Request to the extent it is overbroad, unduly  
17 burdensome and oppressive, including without limitation to the extent that a Request fails to  
18 specify any relevant time period. Apple further objects to each Request as unduly burdensome  
19 and oppressive to the extent it purports to require Apple to search Apple facilities and inquire of  
20 Apple’s employees other than those facilities and employees that would reasonably be expected to  
21 have responsive information.

22 8. Apple objects generally to each Request to the extent that it purports to require  
23 Apple to provide sensitive business or financial information, confidential research, trade secret  
24 information, development or commercial information, or confidential or private personal  
25 information. To the extent that such information is produced in this case, it shall be subject to a  
26 protective order entered by the Court.

27 9. Apple objects generally to each Request to the extent that it seeks information  
28 protected by the common law, constitutional and/or statutory rights of privacy. Any inadvertent

1 production of such information is not intended to be and should not be constructed as a waiver.

2 10. Apple objects generally to each Request to the extent that it calls for information or  
3 documents not within the possession, custody, or control of Apple. The responses given herein  
4 are based upon information reasonably available to Apple and documents within Apple's  
5 possession, custody, or control that can be located after a reasonable inquiry.

6 11. Apple objects generally to each Request to the extent that it seeks information that  
7 is not relevant to the claims and defenses of any party to this action or the subject matter involved  
8 in the action and that is not reasonably calculated to lead to the discovery of admissible evidence.  
9 By providing information responsive to a particular request, Apple does not admit to the relevance  
10 or admissibility of the information provided.

11 12. Apple objects generally to each Request to the extent it is vague, ambiguous,  
12 compound, complex or unintelligible.

13 13. Apple objects generally to each Request as premature to the extent it seeks  
14 information that is the subject of expert testimony.

15 14. Apple objects generally to the definition of "Plaintiff," "You," "Your," and  
16 "Apple" on the grounds that it is overbroad, unduly burdensome, and oppressive, and to the extent  
17 that it purports to impose any requirements upon Apple that are beyond those of the Federal Rules  
18 of Civil Procedure and any other applicable laws or rules. Apple further objects to the definition  
19 of "Plaintiff," "You," "Your" and "Apple" to the extent that it purports to require Apple to  
20 respond based on information and documents that are not within Apple's possession, custody, or  
21 control and/or that cannot be obtained after a reasonable inquiry. Accordingly, Apple limits the  
22 definition of "Plaintiff," "You," "Your" and "Apple" to Apple, its present officers, directors,  
23 employees or agents.

24 15. Apple objects generally to the definition of "APPLE COPYRIGHTS" as overbroad,  
25 unduly burdensome and oppressive, and not reasonably calculated to lead to the discovery of  
26 admissible evidence to the extent that it seeks information regarding copyrights that Apple is not  
27 asserting in this lawsuit.

28 16. Apple objects generally to the definition of "APPLE TRADEMARKS" as

1 overbroad, unduly burdensome and oppressive, and not reasonably calculated to lead to the  
2 discovery of admissible evidence to the extent that it seeks information regarding trademarks,  
3 service marks and trade names that Apple is not asserting in this lawsuit.

4 17. Apple objects generally to the definition of “Mac OS” as overbroad, unduly  
5 burdensome and oppressive, compound, and not reasonably calculated to lead to the discovery of  
6 admissible evidence to the extent that it seeks information regarding all versions and updates to  
7 Mac OS 8 and Mac OS 9, none of which are the subject of this lawsuit. In responding to these  
8 requests, Apple will construe the term Mac OS as referring only to Mac OS X.

9 18. Apple objects generally to the definition of “Mac OS License Agreement” as  
10 overbroad, unduly burdensome and oppressive, compound, and not reasonably calculated to lead  
11 to the discovery of admissible evidence to the extent that it seeks information regarding license  
12 agreements that cover the use of any versions of Mac OS 8 and Mac OS 9, none of which are the  
13 subject of this lawsuit.

14 19. Apple objects generally to these Requests on the grounds that they purport to  
15 require Apple to produce documents without the existence of a protective order. Apple will only  
16 be producing publicly available documents until a Protective Order mutually agreed upon by the  
17 parties, is entered by the Court. Per agreement of the parties, to the extent that Apple produces  
18 any other documents, they will be treated as Confidential – Outside Counsel’s Eyes Only until  
19 such time that a Protective Order is entered in this case.

20 Subject to the foregoing General Statement and Objections, Apple responds as follows:

21 **RESPONSES TO REQUESTS FOR ADMISSION**

22 REQUEST FOR ADMISSION NO. 1:

23 Admit that the consuming public nationwide does not exclusively associate the APPLE  
24 **TRADEMARKS** with **APPLE**.

25 RESPONSE TO REQUEST FOR ADMISSION NO. 1:

26 Apple incorporates by reference herein its General Statement and Objections stated above.  
27 Apple objects to the definition of “APPLE TRADEMARKS” as overbroad, unduly burdensome  
28 and oppressive, and not reasonably calculated to lead to the discovery of admissible evidence to

1 the extent that it seeks information regarding trademarks, service marks and trade names that  
2 Apple is not asserting in this lawsuit. Apple also objects on the ground that the request is not  
3 likely to lead to the discovery of admissible evidence.

4 Subject to and without waiving these objections and the General Statement and Objections,  
5 and based on information currently available to Apple, Apple responds as follows: Denied.

6 REQUEST FOR ADMISSION NO. 2:

7 Admit that the **MAC OS** is available for sale by distributors.

8 RESPONSE TO REQUEST FOR ADMISSION NO. 2:

9 Apple incorporates by reference herein its General Statement and Objections stated above.  
10 Apple also objects on the ground that the term “distributors” is vague and ambiguous. Apple  
11 further objects on the grounds that the term “Mac OS” is overbroad, unduly burdensome and  
12 oppressive, compound, and not reasonably calculated to lead to the discovery of admissible  
13 evidence. In responding to this request, Apple will construe the term “Mac OS” as referring only  
14 to Mac OS X.

15 Subject to and without waiving these objections and the General Statement and Objections,  
16 and based on information currently available to Apple, Apple responds as follows: Mac OS X is  
17 not sold; it is licensed for use. Accordingly, this request is Denied.

18 REQUEST FOR ADMISSION NO. 3:

19 Admit that the **MAC OS** is available for sale by resellers.

20 RESPONSE TO REQUEST FOR ADMISSION NO. 3:

21 Apple incorporates by reference herein its General Statement and Objections stated above.  
22 Apple also objects on the ground that the term “resellers” is vague and ambiguous. Apple further  
23 objects on the grounds that the term “Mac OS” is overbroad, unduly burdensome and oppressive,  
24 compound, and not reasonably calculated to lead to the discovery of admissible evidence. In  
25 responding to this request, Apple will construe the term “Mac OS” as referring only to Mac OS X.

26 Subject to and without waiving these objections and the General Statement and Objections,  
27 and based on information currently available to Apple, Apple responds as follows: Mac OS X is  
28 not sold; it is licensed for use. Accordingly, this request is Denied.

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REQUEST FOR ADMISSION NO. 4:

Admit that the **MAC OS** is available for sale from Amazon.

RESPONSE TO REQUEST FOR ADMISSION NO. 4:

Apple incorporates by reference herein its General Statement and Objections stated above. Apple also objects on the grounds that the term “Mac OS” is overbroad, unduly burdensome and oppressive, compound, and not reasonably calculated to lead to the discovery of admissible evidence. In responding to this request, Apple will construe the term “Mac OS” as referring only to Mac OS X. Apple further objects on the grounds that the term “Amazon” is not defined and therefore is vague and ambiguous.

Subject to and without waiving these objections and the General Statement and Objections, and based on information currently available to Apple, Apple responds as follows: Mac OS X is not sold; it is licensed for use. Accordingly, this request is Denied.

REQUEST FOR ADMISSION NO. 5:

Admit that the **MAC OS** is available for sale from AsenaShop.

RESPONSE TO REQUEST FOR ADMISSION NO. 5:

Apple incorporates by reference herein its General Statement and Objections stated above. Apple also objects on the grounds that the term “Mac OS” is overbroad, unduly burdensome and oppressive, compound, and not reasonably calculated to lead to the discovery of admissible evidence. In responding to this request, Apple will construe the term “Mac OS” as referring only to Mac OS X. Apple further objects on the grounds that the term “AsenaShop” is not defined and therefore is vague and ambiguous.

Subject to and without waiving these objections and the General Statement and Objections, and based on information currently available to Apple, Apple responds as follows: Mac OS X is not sold; it is licensed for use. Accordingly, this request is Denied.

REQUEST FOR ADMISSION NO. 6:

Admit that the **MAC OS** is available for sale from FadFusion.

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1 RESPONSE TO REQUEST FOR ADMISSION NO. 6:

2 Apple incorporates by reference herein its General Statement and Objections stated above.  
3 Apple also objects on the grounds that the term "Mac OS" is overbroad, unduly burdensome and  
4 oppressive, compound, and not reasonably calculated to lead to the discovery of admissible  
5 evidence. In responding to this request, Apple will construe the term "Mac OS" as referring only  
6 to Mac OS X. Apple further objects on the grounds that the term "FadFusion" is not defined and  
7 therefore is vague and ambiguous.

8 Subject to and without waiving these objections and the General Statement and Objections,  
9 and based on information currently available to Apple, Apple responds as follows: Mac OS X is  
10 not sold; it is licensed for use. Accordingly, this request is Denied.

11 REQUEST FOR ADMISSION NO. 7:

12 Admit that the **MAC OS** is available for sale from SoftwareMedia.com.

13 RESPONSE TO REQUEST FOR ADMISSION NO. 7:

14 Apple incorporates by reference herein its General Statement and Objections stated above.  
15 Apple also objects on the grounds that the term "Mac OS" is overbroad, unduly burdensome and  
16 oppressive, compound, and not reasonably calculated to lead to the discovery of admissible  
17 evidence. In responding to this request, Apple will construe the term "Mac OS" as referring only  
18 to Mac OS X.

19 Subject to and without waiving these objections and the General Statement and Objections,  
20 and based on information currently available to Apple, Apple responds as follows: Mac OS X is  
21 not sold; it is licensed for use. Accordingly, this request is Denied.

22 REQUEST FOR ADMISSION NO. 8:

23 Admit that the purchase of **MAC OS** does not require the purchase of **APPLE** hardware.

24 RESPONSE TO REQUEST FOR ADMISSION NO. 8:

25 Apple incorporates by reference herein its General Statement and Objections stated above.  
26 Apple objects on the grounds that the term "Mac OS" is overbroad, unduly burdensome and  
27 oppressive, compound, and not reasonably calculated to lead to the discovery of admissible  
28 evidence. In responding to this request, Apple will construe the term "Mac OS" as referring only

1 to Mac OS X. Apple also objects on the ground that both instances of the terms “purchase” and  
2 “require” are vague and ambiguous in this context.

3 Subject to and without waiving these objections and the General Statement and Objections,  
4 and based on information currently available to Apple, Apple responds as follows: Mac OS X is  
5 not sold; it is licensed for use. Apple does not require the concurrent purchase of an Apple-labeled  
6 computer or hardware as a condition for licensing Mac OS X. Accordingly, this request is Denied.

7 REQUEST FOR ADMISSION NO. 9:

8 Admit that the purchase of **MAC OS** does not require the purchase of any additional  
9 products.

10 RESPONSE TO REQUEST FOR ADMISSION NO. 9:

11 Apple incorporates by reference herein its General Statement and Objections stated above.  
12 Apple objects on the grounds that the term “Mac OS” is overbroad, unduly burdensome and  
13 oppressive, compound, and not reasonably calculated to lead to the discovery of admissible  
14 evidence. In responding to this request, Apple will construe the term “Mac OS” as referring only  
15 to Mac OS X. Apple also objects on the ground that both instances of “purchase,” “require,” and  
16 “additional products” are vague and ambiguous in this context.

17 Subject to and without waiving these objections and the General Statement and Objections,  
18 and based on information currently available to Apple, Apple responds as follows: Mac OS X is  
19 not sold; it is licensed for use. Apple does not require the concurrent purchase of any product as a  
20 condition for licensing Mac OS X. Accordingly, this request is Denied.

21 REQUEST FOR ADMISSION NO. 10:

22 Notwithstanding the End User License Agreement for **MAC OS**, admit that the **MAC OS**  
23 can be installed on hardware that is not sold by **APPLE** without modifying the **MAC OS**.

24 RESPONSE TO REQUEST FOR ADMISSION NO. 10:

25 Apple incorporates by reference herein its General Statement and Objections stated above.  
26 Apple objects on the grounds that the term “Mac OS” is overbroad, unduly burdensome and  
27 oppressive, compound, and not reasonably calculated to lead to the discovery of admissible  
28 evidence. In responding to this request, Apple will construe the term “Mac OS” as referring only

1 to Mac OS X. Apple also objects on the ground that the phrases “End User License Agreement  
2 for MAC OS,” “without modifying the MAC OS” and “can be installed” are vague and  
3 ambiguous. In responding to this request, Apple will construe the term “End User License  
4 Agreement for Mac OS” to mean the Software License Agreement for Mac OS X. In responding  
5 to this request, Apple will construe the term “can be installed” as meaning installed such that Mac  
6 OS X will properly load, execute and run successfully.

7 Subject to and without waiving these objections and the General Statement and Objections,  
8 and based on information currently available to Apple, Apple responds as follows: Denied.

9 REQUEST FOR ADMISSION NO. 11:

10 Notwithstanding the End User License Agreement for **MAC OS**, admit that the **MAC OS**  
11 can run on hardware that is not sold by **APPLE** without modifying the **MAC OS**.

12 RESPONSE TO REQUEST FOR ADMISSION NO. 11:

13 Apple incorporates by reference herein its General Statement and Objections stated above.  
14 Apple objects on the grounds that the term “Mac OS” is overbroad, unduly burdensome and  
15 oppressive, compound, and not reasonably calculated to lead to the discovery of admissible  
16 evidence. In responding to this request, Apple will construe the term “Mac OS” as referring only  
17 to Mac OS X. Apple also objects on the ground that the phrases “End User License Agreement  
18 for MAC OS,” “without modifying the MAC OS” and “can run” are vague and ambiguous. In  
19 responding to this request, Apple will construe the term “End User License Agreement for Mac  
20 OS” to mean the Software License Agreement for Mac OS X. In responding to this request, Apple  
21 will construe the term “can run” as meaning operating such that Mac OS X is properly loaded,  
22 executed and run successfully.

23 Subject to and without waiving these objections and the General Statement and Objections,  
24 and based on information currently available to Apple, Apple responds as follows: Denied.

25 REQUEST FOR ADMISSION NO. 12:

26 Notwithstanding the End User License Agreement for **MAC OS**, admit that the **MAC OS**  
27 can be installed on hardware that is not sold by **APPLE** by modifying the **MAC OS** and without  
28 infringing any purported **APPLE COPYRIGHTS**.

1 RESPONSE TO REQUEST FOR ADMISSION NO. 12:

2 Apple incorporates by reference herein its General Statement and Objections stated above.  
3 Apple also objects on the ground that the phrase "End User License Agreement for MAC OS" is  
4 vague and ambiguous. In responding to this request, Apple will construe the term "End User  
5 License Agreement for Mac OS" to mean the Software License Agreement for Mac OS X. Apple  
6 objects on the grounds that the term "Mac OS" is overbroad, unduly burdensome and oppressive,  
7 compound, and not reasonably calculated to lead to the discovery of admissible evidence. In  
8 responding to this request, Apple will construe the term "Mac OS" as referring only to Mac OS X.  
9 Apple further objects to the extent that the request for admission seeks an admission of a  
10 conclusion of law. Apple also objects on the ground that the phrases "modifying the MAC OS"  
11 and "can be installed" are vague and ambiguous. In responding to this request, Apple will  
12 construe the term "can be installed" as meaning installed such that Mac OS X will properly load,  
13 execute and run successfully. Moreover, Apple objects to the definition of "Apple Copyrights" as  
14 overbroad, unduly burdensome and oppressive, and not reasonably calculated to lead to the  
15 discovery of admissible evidence to the extent that it seeks information regarding copyrights that  
16 Apple is not asserting in this lawsuit.

17 Subject to and without waiving these objections and the General Statement and Objections,  
18 and based on information currently available to Apple, Apple responds as follows: Denied.

19 REQUEST FOR ADMISSION NO. 13:

20 Notwithstanding the End User License Agreement for **MAC OS**, admit that the **MAC OS**  
21 can run on hardware that is not sold by **APPLE** by modifying the **MAC OS** and without infringing  
22 any purported **APPLE COPYRIGHTS**.

23 RESPONSE TO REQUEST FOR ADMISSION NO. 13:

24 Apple incorporates by reference herein its General Statement and Objections stated above.  
25 Apple also objects on the ground that the phrase "End User License Agreement for MAC OS" is  
26 vague and ambiguous. In responding to this request, Apple will construe the term "End User  
27 License Agreement for Mac OS" to mean the Software License Agreement for Mac OS X. Apple  
28 objects on the grounds that the term "Mac OS" is overbroad, unduly burdensome and oppressive,

1 compound, and not reasonably calculated to lead to the discovery of admissible evidence. In  
2 responding to this request, Apple will construe the term “Mac OS” as referring only to Mac OS X.  
3 Apple further objects to the extent that the request for admission seeks an admission of a  
4 conclusion of law. Apple also objects on the ground that the phrases “modifying the MAC OS”  
5 and “can be run” are vague and ambiguous. In responding to this request, Apple will construe the  
6 term “can be run” as meaning operating such that Mac OS X is properly loaded, executed and run  
7 successfully. Moreover, Apple objects to the definition of “Apple Copyrights” as overbroad,  
8 unduly burdensome and oppressive, and not reasonably calculated to lead to the discovery of  
9 admissible evidence to the extent that it seeks information regarding copyrights that Apple is not  
10 asserting in this lawsuit.

11 Subject to and without waiving these objections and the General Statement and Objections,  
12 and based on information currently available to Apple, Apple responds as follows: Denied.

13 REQUEST FOR ADMISSION NO. 14:

14 Admit that at least one computer hardware system manufacturer, such as Dell, Acer,  
15 Lenovo, Sony or Hewlett-Packard, is technologically capable of manufacturing and selling  
16 computer hardware systems that are capable of hosting, executing and running **MAC OS**.

17 RESPONSE TO REQUEST FOR ADMISSION NO. 14:

18 Apple incorporates by reference herein its General Statement and Objections stated above.  
19 Apple also objects on the ground that the terms “is technologically capable” and “capable” are  
20 vague and ambiguous. Apple objects on the grounds that “Mac OS” as overbroad, unduly  
21 burdensome and oppressive, compound, and not reasonably calculated to lead to the discovery of  
22 admissible evidence. In responding to this request, Apple will construe the term “Mac OS” as  
23 referring only to Mac OS X. Apple further objects to the extent that this request calls for  
24 information not within the possession, custody, or control of Apple.

25 Subject to and without waiving these objections and the General Statement and Objections,  
26 and based on information currently available to Apple, Apple responds as follows:

27 Based on the above objections, Apple denies this request.

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1 REQUEST FOR ADMISSION NO. 15:

2 Admit that **PSYSTAR** has not breached the End User License Agreement for **MAC OS**.

3 RESPONSE TO REQUEST FOR ADMISSION NO. 15:

4 Apple incorporates by reference herein its General Statement and Objections stated above.  
5 Apple also objects on the ground that the term "End User License Agreement for MAC OS" is  
6 vague and ambiguous. In responding to this request, Apple will construe the term "End User  
7 License Agreement for Mac OS" to mean the Software License Agreement for Mac OS X. Apple  
8 objects on the grounds that the term "Mac OS" is overbroad, unduly burdensome and oppressive,  
9 compound, and not reasonably calculated to lead to the discovery of admissible evidence. In  
10 responding to this request, Apple will construe the term "Mac OS" as referring only to Mac OS X.  
11 Apple further objects to the extent that this request seeks an admission of a conclusion of law.

12 Subject to and without waiving these objections and the General Statement and Objections,  
13 and based on information currently available to Apple, Apple responds as follows: Denied.

14 REQUEST FOR ADMISSION NO. 16:

15 Admit that **APPLE** has not sustained economic damage as a result of **PSYSTAR's** alleged  
16 breach of the End User License Agreement for **MAC OS**.

17 RESPONSE TO REQUEST FOR ADMISSION NO. 16:

18 Apple incorporates by reference herein its General Statement and Objections stated above.  
19 Apple objects on the ground that the term "End User License Agreement for MAC OS" is vague  
20 and ambiguous. In responding to this request, Apple will construe the term "End User License  
21 Agreement for Mac OS" to mean the Software License Agreement for Mac OS X. Apple objects  
22 on the grounds that the term "Mac OS" is overbroad, unduly burdensome and oppressive,  
23 compound, and not reasonably calculated to lead to the discovery of admissible evidence. In  
24 responding to this request, Apple will construe the term "Mac OS" as referring only to Mac OS X.  
25 Apple also objects on the ground that this request seeks information that is subject to expert  
26 testimony. Apple further objects to the extent that the request for admission seeks an admission of  
27 a conclusion of law.

28 Subject to and without waiving these objections and the General Statement and Objections,

1 and based on information currently available to Apple, Apple responds as follows: Denied.

2 REQUEST FOR ADMISSION NO. 17:

3 Admit that **PSYSTAR** has not induced **THIRD PARTIES** to breach the End User License  
4 Agreement for **MAC OS**.

5 RESPONSE TO REQUEST FOR ADMISSION NO. 17:

6 Apple incorporates by reference herein its General Statement and Objections stated above.  
7 Apple also objects on the ground that the term "End User License Agreement for MAC OS" is  
8 vague and ambiguous. In responding to this request, Apple will construe the term "End User  
9 License Agreement for Mac OS" to mean the Software License Agreement for Mac OS X. Apple  
10 objects on the grounds that the term "Mac OS" is overbroad, unduly burdensome and oppressive,  
11 compound, and not reasonably calculated to lead to the discovery of admissible evidence. In  
12 responding to this request, Apple will construe the term "Mac OS" as referring only to Mac OS X.  
13 Apple further objects to the extent that this request seeks an admission of a conclusion of law.

14 Subject to and without waiving these objections and the General Statement and Objections  
15 and based on information currently available to Apple, Apple responds as follows: Denied.

16 REQUEST FOR ADMISSION NO. 18:

17 Admit that **APPLE** has not sustained economic damage as a result of **PSYSTAR's** alleged  
18 inducement of **THIRD PARTIES** to breach of the End User License Agreement for **MAC OS**.

19 RESPONSE TO REQUEST FOR ADMISSION NO. 18:

20 Apple incorporates by reference herein its General Statement and Objections stated above.  
21 Apple also objects on the ground that the term "End User License Agreement for MAC OS" is  
22 vague and ambiguous. In responding to this request, Apple will construe the term "End User  
23 License Agreement for Mac OS" to mean the Software License Agreement for Mac OS X. Apple  
24 objects on the grounds that the term "Mac OS" is overbroad, unduly burdensome and oppressive,  
25 compound, and not reasonably calculated to lead to the discovery of admissible evidence. In  
26 responding to this request, Apple will construe the term "Mac OS" as referring only to Mac OS X.  
27 Apple also objects on the ground that this request seeks information that is subject to expert  
28 testimony. Apple further objects to the extent that this request seeks an admission of a conclusion

1 of law.

2 Subject to and without waiving these objections and the General Statement and Objections  
3 and based on information currently available to Apple, Apple responds as follows: Denied.

4 REQUEST FOR ADMISSION NO. 19:

5 Admit that **PSYSTAR** does not infringe **APPLE COPYRIGHTS**.

6 RESPONSE TO REQUEST FOR ADMISSION NO. 19:

7 Apple incorporates by reference herein its General Statement and Objections stated above.  
8 Apple objects to the definition of "Apple Copyrights" as overbroad, unduly burdensome and  
9 oppressive, and not reasonably calculated to lead to the discovery of admissible evidence to the  
10 extent that it seeks information regarding copyrights that Apple is not asserting in this lawsuit.  
11 Apple further objects to the extent that this request seeks an admission of a conclusion of law.

12 Subject to and without waiving these objections and the General Statement and Objections,  
13 and based on information currently available to Apple, Apple responds as follows: Denied.

14 REQUEST FOR ADMISSION NO. 20:

15 Admit that **APPLE** has not sustained economic damage as a result of **PSYSTAR's** alleged  
16 infringement of **APPLE COPYRIGHTS**.

17 RESPONSE TO REQUEST FOR ADMISSION NO. 20:

18 Apple incorporates by reference herein its General Statement and Objections stated above.  
19 Apple objects to the definition of "Apple Copyrights" as overbroad, unduly burdensome and  
20 oppressive, and not reasonably calculated to lead to the discovery of admissible evidence to the  
21 extent that it seeks information regarding copyrights that Apple is not asserting in this lawsuit.  
22 Apple also objects on the ground that this request seeks information that is subject to expert  
23 testimony. Apple further objects to the extent that this request seeks an admission of a conclusion  
24 of law.

25 Subject to and without waiving these objections and the General Statement and Objections,  
26 and based on information currently available to Apple, Apple responds as follows: Denied.

27 REQUEST FOR ADMISSION NO. 21:

28 Admit that **PSYSTAR** does not induce infringement of **APPLE COPYRIGHTS**.

1 RESPONSE TO REQUEST FOR ADMISSION NO. 21:

2 Apple incorporates by reference herein its General Statement and Objections stated above.  
3 Apple objects to the definition of "Apple Copyrights" as overbroad, unduly burdensome and  
4 oppressive, and not reasonably calculated to lead to the discovery of admissible evidence to the  
5 extent that it seeks information regarding copyrights that Apple is not asserting in this lawsuit.  
6 Apple further objects to the extent that this request seeks an admission of a conclusion of law.

7 Subject to and without waiving these objections and the General Statement and Objections,  
8 and based on information currently available to Apple, Apple responds as follows: Denied.

9 REQUEST FOR ADMISSION NO. 22:

10 Admit that **APPLE** has not sustained economic damage as a result of **PSYSTAR's** alleged  
11 inducement of infringement of **APPLE COPYRIGHTS**.

12 RESPONSE TO REQUEST FOR ADMISSION NO. 22:

13 Apple incorporates by reference herein its General Statement and Objections stated above.  
14 Apple objects to the definition of "Apple Copyrights" as overbroad, unduly burdensome and  
15 oppressive, and not reasonably calculated to lead to the discovery of admissible evidence to the  
16 extent that it seeks information regarding copyrights that Apple is not asserting in this lawsuit.  
17 Apple also objects on the ground that this request seeks information that is subject to expert  
18 testimony. Apple further objects to the extent that this request seeks an admission of a conclusion  
19 of law.

20 Subject to and without waiving these objections and the General Statement and Objections,  
21 and based on information currently available to Apple, Apple responds as follows: Denied.

22 REQUEST FOR ADMISSION NO. 23:

23 Admit that **PSYSTAR** does not infringe **APPLE TRADEMARKS**.

24 RESPONSE TO REQUEST FOR ADMISSION NO. 23:

25 Apple incorporates by reference herein its General Statement and Objections stated above.  
26 Apple objects to the definition of "Apple Trademarks" as overbroad, unduly burdensome and  
27 oppressive, and not reasonably calculated to lead to the discovery of admissible evidence to the  
28 extent that it seeks information regarding trademarks, service marks and trade names that Apple is

1 not asserting in this lawsuit. Apple further objects to the extent that this request seeks an  
2 admission of a conclusion of law.

3 Subject to and without waiving these objections and the General Statement and Objections,  
4 and based on information currently available to Apple, Apple responds as follows: Denied.

5 REQUEST FOR ADMISSION NO. 24:

6 Admit that **APPLE** has not sustained economic damage as a result of **PSYSTAR's** alleged  
7 infringement of **APPLE TRADEMARKS**.

8 RESPONSE TO REQUEST FOR ADMISSION NO. 24:

9 Apple incorporates by reference herein its General Statement and Objections stated above.  
10 Apple objects to the definition of "Apple Trademarks" as overbroad, unduly burdensome and  
11 oppressive, and not reasonably calculated to lead to the discovery of admissible evidence to the  
12 extent that it seeks information regarding trademarks, service marks and trade names that Apple is  
13 not asserting in this lawsuit. Apple also objects on the ground that this request seeks information  
14 that is subject to expert testimony. Apple further objects to the extent that this request seeks an  
15 admission of a conclusion of law.

16 Subject to and without waiving these objections and the General Statement and Objections,  
17 and based on information currently available to Apple, Apple responds as follows: Denied.

18 REQUEST FOR ADMISSION NO. 25:

19 Admit that **PSYSTAR** does not induce infringement of **APPLE TRADEMARKS**.

20 RESPONSE TO REQUEST FOR ADMISSION NO. 25:

21 Apple incorporates by reference herein its General Statement and Objections stated above.  
22 Apple objects to the definition of "Apple Trademarks" as overbroad, unduly burdensome and  
23 oppressive, and not reasonably calculated to lead to the discovery of admissible evidence to the  
24 extent that it seeks information regarding trademarks, service marks and trade names that Apple is  
25 not asserting in this lawsuit. Apple further objects to the extent that this request seeks an  
26 admission of a conclusion of law. Apple also objects on the ground that the request is not relevant  
27 and not reasonably calculated to lead to the discovery of admissible evidence. Apple further  
28 objects to the phrase "induce infringement of Apple's Trademarks" as outside the claims asserted

1 by Apple in this action.

2 Subject to and without waiving these objections and the General Statement and Objections,  
3 and based on information currently available to Apple, Apple responds as follows:

4 Based on the above objections, Apple denies this request.

5 REQUEST FOR ADMISSION NO. 26:

6 Admit that **APPLE** has not sustained economic damage as a result of **PSYSTAR's** alleged  
7 inducement of infringement of **APPLE TRADEMARKS**.

8 RESPONSE TO REQUEST FOR ADMISSION NO. 26:

9 Apple incorporates by reference herein its General Statement and Objections stated above.  
10 Apple objects to the definition of "Apple Trademarks" as overbroad, unduly burdensome and  
11 oppressive, and not reasonably calculated to lead to the discovery of admissible evidence to the  
12 extent that it seeks information regarding trademarks, service marks and trade names that Apple is  
13 not asserting in this lawsuit. Apple further objects to the extent that this request seeks an  
14 admission of a conclusion of law. Apple also objects on the ground that the request is not relevant  
15 and not reasonably calculated to lead to the discovery of admissible evidence. Apple further  
16 objects to the phrase "inducement of infringement of Apple's Trademarks" as outside the claims  
17 asserted by Apple in this action.

18 Subject to and without waiving these objections and the General Statement and Objections,  
19 and based on information currently available to Apple, Apple responds as follows:

20 Based on the above objections, Apple denies this request.

21 REQUEST FOR ADMISSION NO. 27:

22 Admit that **PSYSTAR** does not dilute **APPLE TRADEMARKS**.

23 RESPONSE TO REQUEST FOR ADMISSION NO. 27:

24 Apple incorporates by reference herein its General Statement and Objections stated above.  
25 Apple objects to the definition of "Apple Trademarks" as overbroad, unduly burdensome and  
26 oppressive, and not reasonably calculated to lead to the discovery of admissible evidence to the  
27 extent that it seeks information regarding trademarks, service marks and trade names that Apple is  
28 not asserting in this lawsuit. Apple further objects to the extent that this request seeks an

1 admission of a conclusion of law.

2 Subject to and without waiving these objections and the General Statement and Objections,  
3 and based on information currently available to Apple, Apple responds as follows: Denied.

4 REQUEST FOR ADMISSION NO. 28:

5 Admit that **APPLE** has not sustained economic damage as a result of **PSYSTAR**'s alleged  
6 dilution of **APPLE TRADEMARKS**.

7 RESPONSE TO REQUEST FOR ADMISSION NO. 28:

8 Apple incorporates by reference herein its General Statement and Objections stated above.  
9 Apple objects to the definition of "Apple Trademarks" as overbroad, unduly burdensome and  
10 oppressive, and not reasonably calculated to lead to the discovery of admissible evidence to the  
11 extent that it seeks information regarding trademarks, service marks and trade names that Apple is  
12 not asserting in this lawsuit. Apple further objects to the extent that this request seeks an  
13 admission of a conclusion of law. Apple also objects on the ground that this request seeks  
14 information that is subject to expert testimony.

15 Subject to and without waiving these objections and the General Statement and Objections,  
16 and based on information currently available to Apple, Apple responds as follows: Denied.

17 REQUEST FOR ADMISSION NO. 29:

18 Admit that a **THIRD PARTY** who purchases a **MAC OS** cannot read the End User License  
19 Agreement before purchase.

20 RESPONSE TO REQUEST FOR ADMISSION NO. 29:

21 Apple incorporates by reference herein its General Statement and Objections stated above.  
22 Apple objects on the grounds that the term "Mac OS" is overbroad, unduly burdensome and  
23 oppressive, compound, and not reasonably calculated to lead to the discovery of admissible  
24 evidence. In responding to this request, Apple will construe the term "Mac OS" as referring only  
25 to Mac OS X. Apple also objects on the ground that "purchases," "purchase," "cannot read" and  
26 "End User License Agreement" are vague and ambiguous in this context. In responding to this  
27 request, Apple will construe the term "End User License Agreement for Mac OS" to mean the  
28 Software License Agreement for Mac OS X. Apple further objects to this request on the grounds

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1 that it seeks information that is not in Apple's possession, custody or control.

2 Subject to and without waiving these objections and the General Statement and Objections,  
3 and based on information currently available to Apple, Apple responds as follows: Denied.

4 REQUEST FOR ADMISSION NO. 30:

5 Admit that **APPLE** has knowledge that a majority of **THIRD PARTIES** who purchase a  
6 **MAC OS** do not read the End User License Agreement before purchase.

7 RESPONSE TO REQUEST FOR ADMISSION NO. 30:

8 Apple incorporates by reference herein its General Statement and Objections stated above.  
9 Apple objects on the grounds that the term "Mac OS" is overbroad, unduly burdensome and  
10 oppressive, compound, and not reasonably calculated to lead to the discovery of admissible  
11 evidence. In responding to this request, Apple will construe the term "Mac OS" as referring only  
12 to Mac OS X. Apple also objects on the ground that the terms "majority of third parties,"  
13 "purchase," and "End User License Agreement" are vague and ambiguous in this context. In  
14 responding to this request, Apple will construe the term "End User License Agreement for Mac  
15 OS" to mean the Software License Agreement for Mac OS X.

16 Subject to and without waiving these objections and the General Statement and Objections,  
17 and based on information currently available to Apple, Apple responds as follows: Denied.

18 REQUEST FOR ADMISSION NO. 31:

19 Admit that **APPLE** has knowledge that a majority of **THIRD PARTIES** who purchase a  
20 **MAC OS** do not read the End User License Agreement after purchase.

21 RESPONSE TO REQUEST FOR ADMISSION NO. 31:

22 Apple incorporates by reference herein its General Statement and Objections stated above.  
23 Apple objects on the grounds that the term "Mac OS" is overbroad, unduly burdensome and  
24 oppressive, compound, and not reasonably calculated to lead to the discovery of admissible  
25 evidence. In responding to this request, Apple will construe the term "Mac OS" as referring only  
26 to Mac OS X. Apple also objects on the ground that the terms "majority of third parties,"  
27 "purchase," and "End User License Agreement" are vague and ambiguous in this context. In  
28 responding to this request, Apple will construe the term "End User License Agreement for Mac

1 OS” to mean the Software License Agreement for Mac OS X.

2 Subject to and without waiving these objections and the General Statement and Objections,  
3 and based on information currently available to Apple, Apple responds as follows: Denied.

4 REQUEST FOR ADMISSION NO. 32:

5 Admit that **APPLE** is the exclusive manufacturer of **MAC OS**.

6 RESPONSE TO REQUEST FOR ADMISSION NO. 32:

7 Apple incorporates by reference herein its General Statement and Objections stated above.  
8 Apple also objects on the ground that the term “manufacturer” is vague and ambiguous. Apple  
9 further objects on the grounds that the term “Mac OS” is overbroad, unduly burdensome and  
10 oppressive, compound, and not reasonably calculated to lead to the discovery of admissible  
11 evidence. In responding to this request, Apple will construe the term “Mac OS” as referring only  
12 to Mac OS X.

13 Subject to and without waiving these objections and the General Statement and Objections,  
14 and based on information currently available to Apple, Apple responds as follows: Apple is the  
15 developer of Mac OS X but is unable to construe the meaning of “manufacturer” as used in this  
16 request. Accordingly, this request is Denied.

17 REQUEST FOR ADMISSION NO. 33:

18 Admit that **APPLE** is the exclusive licensor of **MAC OS**.

19 RESPONSE TO REQUEST FOR ADMISSION NO. 33:

20 Apple incorporates by reference herein its General Statement and Objections stated above.  
21 Apple objects on the grounds that the term “Mac OS” is overbroad, unduly burdensome and  
22 oppressive, compound, and not reasonably calculated to lead to the discovery of admissible  
23 evidence. In responding to this request, Apple will construe the term “Mac OS” as referring only  
24 to Mac OS X. Apple also objects on the ground that the term “exclusive licensor” is vague and  
25 ambiguous in this context.

26 Subject to and without waiving these objections and the General Statement and Objections,  
27 and based on information currently available to Apple, Apple responds as follows: Apple admits  
28 that it is the ultimate licensor of Mac OS X.

1 REQUEST FOR ADMISSION NO. 34:

2 Admit that in or around 1995, **APPLE** licensed Macintosh ROMs and system software to  
3 computer hardware manufacturers.

4 RESPONSE TO REQUEST FOR ADMISSION NO. 34:

5 Apple incorporates by reference herein its General Statement and Objections stated above.  
6 Apple further objects on the ground that this request is outside the scope of Rule 26 of the Federal  
7 Rules of Civil Procedure because the request seeks an admission on a subject that is not relevant to  
8 any claim or defense and not reasonably calculated to lead to the discovery of admissible  
9 evidence. Moreover, the date specified in this request is not relevant to any claim or defense and  
10 not reasonably calculated to lead to the discovery of admissible evidence. Apple also objects on  
11 the ground that the terms "Macintosh ROMs," "system software" and "computer hardware  
12 manufacturers" are vague and ambiguous in this context.

13 Subject to and without waiving these objections and the General Statement and Objections,  
14 and based on information currently available to Apple, Apple responds as follows:

15 Based on the above objections, Apple denies this request.

16 REQUEST FOR ADMISSION NO. 35:

17 Admit that in or around 1995, **APPLE** licensed Macintosh ROMs and system software to  
18 Radius.

19 RESPONSE TO REQUEST FOR ADMISSION NO. 35:

20 Apple incorporates by reference herein its General Statement and Objections stated above.  
21 Apple further objects on the ground that this request is outside the scope of Rule 26 of the Federal  
22 Rules of Civil Procedure because the request seeks an admission on a subject that is not relevant to  
23 any claim or defense and not reasonably calculated to lead to the discovery of admissible  
24 evidence. Moreover, the date specified in this request is not relevant to any claim or defense and  
25 not reasonably calculated to lead to the discovery of admissible evidence. Apple also objects on  
26 the ground that the terms "Macintosh ROMs" and "system software" are vague and ambiguous in  
27 this context.

28 Subject to and without waiving these objections and the General Statement and Objections,

1 and based on information currently available to Apple, Apple responds as follows:

2 Based on the above objections, Apple denies this request.

3 REQUEST FOR ADMISSION NO. 36:

4 Admit that in or around 1995, **APPLE** licensed Macintosh ROMs and system software to  
5 APS Technologies.

6 RESPONSE TO REQUEST FOR ADMISSION NO. 36:

7 Apple incorporates by reference herein its General Statement and Objections stated above.  
8 Apple further objects on the ground that this request is outside the scope of Rule 26 of the Federal  
9 Rules of Civil Procedure because the request seeks an admission on a subject that is not relevant to  
10 any claim or defense and not reasonably calculated to lead to the discovery of admissible  
11 evidence. Moreover, the date specified in this request is not relevant to any claim or defense and  
12 not reasonably calculated to lead to the discovery of admissible evidence. Apple also objects on  
13 the ground that the terms "Macintosh ROMs" and "system software" are vague and ambiguous in  
14 this context.

15 Subject to and without waiving these objections and the General Statement and Objections,  
16 and based on information currently available to Apple, Apple responds as follows:

17 Based on the above objections, Apple denies this request.

18 REQUEST FOR ADMISSION NO. 37:

19 Admit that in or around 1995, **APPLE** licensed Macintosh ROMs and system software to  
20 Motorola.

21 RESPONSE TO REQUEST FOR ADMISSION NO. 37:

22 Apple incorporates by reference herein its General Statement and Objections stated above.  
23 Apple further objects on the ground that this request is outside the scope of Rule 26 of the Federal  
24 Rules of Civil Procedure because the request seeks an admission on a subject that is not relevant to  
25 any claim or defense and not reasonably calculated to lead to the discovery of admissible  
26 evidence. Moreover, the date specified in this request is not relevant to any claim or defense and  
27 not reasonably calculated to lead to the discovery of admissible evidence. Apple also objects on  
28 the ground that the terms "Macintosh ROMs" and "system software" are vague and ambiguous in

1 this context.

2 Subject to and without waiving these objections and the General Statement and Objections,  
3 and based on information currently available to Apple, Apple responds as follows:

4 Based on the above objections, Apple denies this request.

5 REQUEST FOR ADMISSION NO. 38:

6 Admit that in or around 1995, **APPLE** licensed Macintosh ROMs and system software to  
7 DayStar Digital.

8 RESPONSE TO REQUEST FOR ADMISSION NO. 38:

9 Apple incorporates by reference herein its General Statement and Objections stated above.  
10 Apple further objects on the ground that this request is outside the scope of Rule 26 of the Federal  
11 Rules of Civil Procedure because the request seeks an admission on a subject that is not relevant to  
12 any claim or defense and not reasonably calculated to lead to the discovery of admissible  
13 evidence. Moreover, the date specified in this request is not relevant to any claim or defense and  
14 not reasonably calculated to lead to the discovery of admissible evidence. Apple also objects on  
15 the ground that the terms "Macintosh ROMs" and "system software" are vague and ambiguous in  
16 this context.

17 Subject to and without waiving these objections and the General Statement and Objections,  
18 and based on information currently available to Apple, Apple responds as follows:

19 Based on the above objections, Apple denies this request.

20 REQUEST FOR ADMISSION NO. 39:

21 Admit that in or around 1995, **APPLE** licensed Macintosh ROMs and system software to  
22 UMAX.

23 RESPONSE TO REQUEST FOR ADMISSION NO. 39:

24 Apple incorporates by reference herein its General Statement and Objections stated above.  
25 Apple further objects on the ground that this request is outside the scope of Rule 26 of the Federal  
26 Rules of Civil Procedure because the request seeks an admission on a subject that is not relevant to  
27 any claim or defense and not reasonably calculated to lead to the discovery of admissible  
28 evidence. Moreover, the date specified in this request is not relevant to any claim or defense and

1 not reasonably calculated to lead to the discovery of admissible evidence. Apple also objects on  
2 the ground that the terms “Macintosh ROMs” and “system software” are vague and ambiguous in  
3 this context.

4 Subject to and without waiving these objections and the General Statement and Objections,  
5 and based on information currently available to Apple, Apple responds as follows:

6 Based on the above objections, Apple denies this request.

7 REQUEST FOR ADMISSION NO. 40:

8 Admit that from 1995 to 1997, it was possible to buy a PowerPC-based computer running  
9 **MAC OS.**

10 RESPONSE TO REQUEST FOR ADMISSION NO. 40:

11 Apple incorporates by reference herein its General Statement and Objections stated above.  
12 Apple further objects on the ground that this request is outside the scope of Rule 26 of the Federal  
13 Rules of Civil Procedure because the request seeks an admission on a subject that is not relevant to  
14 any claim or defense and not reasonably calculated to lead to the discovery of admissible  
15 evidence. Moreover, the time period specified in this request is not relevant to any claim or  
16 defense and not reasonably calculated to lead to the discovery of admissible evidence. Apple  
17 objects on the grounds that the term “Mac OS” is overbroad, unduly burdensome and oppressive,  
18 compound, and not reasonably calculated to lead to the discovery of admissible evidence. Apple  
19 also objects on the ground that the term “possible to buy” is vague and ambiguous in this context.

20 Subject to and without waiving these objections and the General Statement and Objections,  
21 and based on information currently available to Apple, Apple responds as follows:

22 Based on the above objections, Apple denies this request.

23 REQUEST FOR ADMISSION NO. 41:

24 Admit that from 1995 to 1997, it was possible to buy a PowerPC-based computer running  
25 **MAC OS** from Power Computing Corporation.

26 RESPONSE TO REQUEST FOR ADMISSION NO. 41:

27 Apple incorporates by reference herein its General Statement and Objections stated above.  
28 Apple further objects on the ground that this request is outside the scope of Rule 26 of the Federal

1 Rules of Civil Procedure because the request seeks an admission on a subject that is not relevant to  
2 any claim or defense and not reasonably calculated to lead to the discovery of admissible  
3 evidence. Moreover, the time period specified in this request is not relevant to any claim or  
4 defense and not reasonably calculated to lead to the discovery of admissible evidence. Apple  
5 objects on the grounds that the term "Mac OS" is overbroad, unduly burdensome and oppressive,  
6 compound, and not reasonably calculated to lead to the discovery of admissible evidence. Apple  
7 also objects on the ground that the term "possible to buy" is vague and ambiguous in this context.

8 Subject to and without waiving these objections and the General Statement and Objections,  
9 and based on information currently available to Apple, Apple responds as follows:

10 Based on the above objections, Apple denies this request.

11 REQUEST FOR ADMISSION NO. 42:

12 Admit that from Steve Jobs was involved in the decision to end the licensing of **MAC OS** to  
13 computer hardware manufacturers.

14 RESPONSE TO REQUEST FOR ADMISSION NO. 42:

15 Apple incorporates by reference herein its General Statement and Objections stated above.  
16 Apple further objects on the ground that this request is outside the scope of Rule 26 of the Federal  
17 Rules of Civil Procedure because the request seeks an admission on a subject that is not relevant to  
18 any claim or defense and not reasonably calculated to lead to the discovery of admissible  
19 evidence. Moreover, the time period referred in this request is not relevant to any claim or defense  
20 and not reasonably calculated to lead to the discovery of admissible evidence. Apple objects on  
21 the grounds that the term "Mac OS" is overbroad, unduly burdensome and oppressive, compound,  
22 and not reasonably calculated to lead to the discovery of admissible evidence. Apple also objects  
23 on the ground that the terms "involved in the decision" and "computer hardware manufacturers"  
24 are vague and ambiguous in this context.

25 Subject to and without waiving these objections and the General Statement and Objections,  
26 and based on information currently available to Apple, Apple responds as follows:

27 Based on the above objections, Apple denies this request.

28 //

1 REQUEST FOR ADMISSION NO. 43:

2 Admit that within six months of **APPLE**'s cessation of the licensing of **MAC OS** to  
3 computer hardware manufacturers, **APPLE** modified its End User License Agreement to **MAC OS**  
4 to limit installation of **MAC OS** to hardware sold by **APPLE**.

5 RESPONSE TO REQUEST FOR ADMISSION NO. 43:

6 Apple incorporates by reference herein its General Statement and Objections stated above.  
7 Apple further objects on the ground that this request is outside the scope of Rule 26 of the Federal  
8 Rules of Civil Procedure because the request seeks an admission on a subject that is not relevant to  
9 any claim or defense and not reasonably calculated to lead to the discovery of admissible  
10 evidence. Moreover, the time period referred in this request is not relevant to any claim or defense  
11 and not reasonably calculated to lead to the discovery of admissible evidence. Apple objects on  
12 the grounds that the term "Mac OS" is overbroad, unduly burdensome and oppressive, compound,  
13 and not reasonably calculated to lead to the discovery of admissible evidence. Apple also objects  
14 on the ground that the phrase "End User License Agreement for MAC OS" is vague and  
15 ambiguous. Apple also objects on the ground that the phrases "cessation of the licensing" and  
16 "computer hardware manufacturers" are vague and ambiguous in this context.

17 Subject to and without waiving these objections and the General Statement and Objections,  
18 and based on information currently available to Apple, Apple responds as follows:

19 Based on the above objections, Apple denies this request.

20 REQUEST FOR ADMISSION NO. 44:

21 Admit that **APPLE** has identified **THIRD PARTIES** who violate the End User License  
22 Agreement to **MAC OS** but **APPLE** has not sought to enforce the End User License Agreement to  
23 **MAC OS** against those identified **THIRD PARTIES**.

24 RESPONSE TO REQUEST FOR ADMISSION NO. 44:

25 Apple incorporates by reference herein its General Statement and Objections stated above.  
26 Apple objects to the extent the requests seeks confidential information protected by the attorney-  
27 client privilege, the attorney work product doctrine, or any other available privilege or protection.  
28 Apple also objects on the ground that terms "identified" and "sought to enforce" are vague and

1 ambiguous in this context. Apple objects on the grounds that the term “Mac OS” is overbroad,  
2 unduly burdensome and oppressive, compound, and not reasonably calculated to lead to the  
3 discovery of admissible evidence. Apple also objects on the ground that the phrase “End User  
4 License Agreement for MAC OS” is vague and ambiguous. Apple further objects on the ground  
5 that the request is not relevant and not reasonably calculated to lead to the discovery of admissible  
6 evidence.

7 Subject to and without waiving these objections and the General Statement and Objections,  
8 and based on information currently available to Apple, Apple responds as follows:

9 Based on the above objections, Apple denies this request.

10 REQUEST FOR ADMISSION NO. 45:

11 Admit that **APPLE** embeds code in the **MAC OS** to cause the **MAC OS** to recognize  
12 computer hardware that is not sold by **APPLE**.

13 RESPONSE TO REQUEST FOR ADMISSION NO. 45:

14 Apple incorporates by reference herein its General Statement and Objections stated above.  
15 Apple objects to the extent the requests seeks sensitive business or technical information,  
16 confidential research, trade secret information, development or commercial information, or  
17 confidential or private personal information. Apple objects on the grounds that the term “Mac  
18 OS” is overbroad, unduly burdensome and oppressive, compound, and not reasonably calculated  
19 to lead to the discovery of admissible evidence. In responding to this request, Apple will construe  
20 the term “Mac OS” as referring only to Mac OS X. Apple also objects on the ground that the  
21 phrases “embeds code” and “recognize” are vague and ambiguous in this context.

22 Subject to and without waiving these objections and the General Statement and Objections,  
23 and based on information currently available to Apple, Apple responds as follows:

24 Apple includes code in Mac OS X that is a part of a system to control access to a  
25 copyrighted work. Apple is unable to discern the meaning of “embeds code in the **MAC OS** to  
26 prevent operability on computer hardware that is not sold by **APPLE**.” Accordingly, this request  
27 is Denied.

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1 REQUEST FOR ADMISSION NO. 46:

2 Admit that APPLE embeds code in the **MAC OS** to prevent operability on computer  
3 hardware that is not sold by **APPLE**.

4 RESPONSE TO REQUEST FOR ADMISSION NO. 46:

5 Apple incorporates by reference herein its General Statement and Objections stated above.  
6 Apple objects to the extent the request seeks sensitive business or technical information,  
7 confidential research, trade secret information, development or commercial information, or  
8 confidential or private personal information. Apple objects on the grounds that the term “Mac  
9 OS” is overbroad, unduly burdensome and oppressive, compound, and not reasonably calculated  
10 to lead to the discovery of admissible evidence. In responding to this request, Apple will construe  
11 the term “Mac OS” as referring only to Mac OS X. Apple also objects on the ground that the  
12 phrases “embeds code” and “prevent operability” are vague and ambiguous in this context.

13 Subject to and without waiving these objections and the General Statement and Objections,  
14 and based on information currently available to Apple, Apple responds as follows:

15 Apple includes code in Mac OS X that is a part of a system to control access to a  
16 copyrighted work. Apple is unable to discern the meaning of “embeds code in the **MAC OS** to  
17 prevent operability on computer hardware that is not sold by **APPLE**.” Accordingly, this request  
18 is Denied.

19 REQUEST FOR ADMISSION NO. 47:

20 Admit that modification of the **MAC OS** source code is not copyright infringement if the  
21 modified source code was licensed to **APPLE** under an open source license.

22 RESPONSE TO REQUEST FOR ADMISSION NO. 47:

23 Apple incorporates by reference herein its General Statement and Objections stated above.  
24 Apple objects on the grounds that the term “Mac OS” is overbroad, unduly burdensome and  
25 oppressive, compound, and not reasonably calculated to lead to the discovery of admissible  
26 evidence. Apple also objects to the request as vague, ambiguous and unintelligible, particularly  
27 the reference to “modified source code.” Moreover, Apple objects to the request on the grounds  
28 that it includes an incomplete hypothetical. Apple further objects to the extent that this request

1 seeks an admission of a conclusion of law. Accordingly, Apple is unable to admit or deny this  
2 request.

3 REQUEST FOR ADMISSION NO. 48:

4 Admit that modification of the **MAC OS** source code is not copyright infringement if the  
5 modified source code was licensed to **APPLE** under the GNU General Public License.

6 RESPONSE TO REQUEST FOR ADMISSION NO. 48:

7 Apple incorporates by reference herein its General Statement and Objections stated above.  
8 Apple objects on the grounds that the term “Mac OS” is overbroad, unduly burdensome and  
9 oppressive, compound, and not reasonably calculated to lead to the discovery of admissible  
10 evidence. Apple also objects to the request as vague, ambiguous and unintelligible, particularly  
11 the reference to “modified source code.” Moreover, Apple objects to the request on the grounds  
12 that it includes an incomplete hypothetical. Apple further objects to the extent that this request  
13 seeks an admission of a conclusion of law. Accordingly, Apple is unable to admit or deny this  
14 request.

15 REQUEST FOR ADMISSION NO. 49:

16 Admit that modification of the **MAC OS** source code is not copyright infringement if the  
17 modified source code was licensed to **APPLE** under the GNU Library/Lesser General Public  
18 License.

19 RESPONSE TO REQUEST FOR ADMISSION NO. 49:

20 Apple incorporates by reference herein its General Statement and Objections stated above.  
21 Apple objects on the grounds that the term “Mac OS” is overbroad, unduly burdensome and  
22 oppressive, compound, and not reasonably calculated to lead to the discovery of admissible  
23 evidence. Apple also objects to the request as vague, ambiguous and unintelligible, particularly  
24 the reference to “modified source code.” Moreover, Apple objects to the request on the ground  
25 that it includes an incomplete hypothetical. Apple further objects to the extent that this request  
26 seeks an admission of a conclusion of law. Accordingly, Apple is unable to admit or deny this  
27 request.

28 //

1 REQUEST FOR ADMISSION NO. 50:

2 Admit that modification of the **MAC OS** source code is not copyright infringement if the  
3 modified source code was licensed to **APPLE** under the IBM Public License.

4 RESPONSE TO REQUEST FOR ADMISSION NO. 50:

5 Apple incorporates by reference herein its General Statement and Objections stated above.  
6 Apple objects on the grounds that the term "Mac OS" is overbroad, unduly burdensome and  
7 oppressive, compound, and not reasonably calculated to lead to the discovery of admissible  
8 evidence. Apple also objects to the request as vague, ambiguous and unintelligible, particularly  
9 the reference to "modified source code." Moreover, Apple objects to the request on the ground  
10 that it includes an incomplete hypothetical. Apple further objects to the extent that this request  
11 seeks an admission of a conclusion of law. Accordingly, Apple is unable to admit or deny this  
12 request.

13 REQUEST FOR ADMISSION NO. 51:

14 Admit that modification of the **MAC OS** source code is not copyright infringement if the  
15 modified source code was licensed to **APPLE** under the Common Public License.

16 RESPONSE TO REQUEST FOR ADMISSION NO. 51:

17 Apple incorporates by reference herein its General Statement and Objections stated above.  
18 Apple objects on the grounds that the term "Mac OS" is overbroad, unduly burdensome and  
19 oppressive, compound, and not reasonably calculated to lead to the discovery of admissible  
20 evidence. Apple also objects to the request as vague, ambiguous and unintelligible, particularly  
21 the reference to "modified source code." Moreover, Apple objects to the request on the ground  
22 that it includes an incomplete hypothetical. Apple further objects to the extent that this request  
23 seeks an admission of a conclusion of law. Accordingly, Apple is unable to admit or deny this  
24 request.

25 REQUEST FOR ADMISSION NO. 52:

26 Admit that the **MAC OS** includes code licensed under the Apple Public Source License.

27 RESPONSE TO REQUEST FOR ADMISSION NO. 52:

28 Apple incorporates by reference herein its General Statement and Objections stated above.

1 Apple objects on the grounds that the term "Mac OS" is overbroad, unduly burdensome and  
2 oppressive, compound, and not reasonably calculated to lead to the discovery of admissible  
3 evidence. In responding to this request, Apple will construe the term "Mac OS" as referring only  
4 to Mac OS X.

5 Subject to and without waiving these objections and the General Statement and Objections,  
6 and based on information currently available to Apple, Apple responds as follows: Admitted.

7 REQUEST FOR ADMISSION NO. 53:

8 Admit that modification of the **MAC OS** source code is not copyright infringement if the  
9 modified source code is licensed under the Apple Public Source License.

10 RESPONSE TO REQUEST FOR ADMISSION NO. 53:

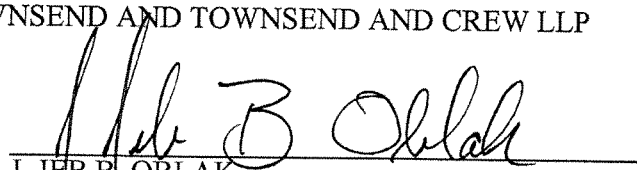
11 Apple incorporates by reference herein its General Statement and Objections stated above.  
12 Apple objects on the grounds that the term "Mac OS" is overbroad, unduly burdensome and  
13 oppressive, compound, and not reasonably calculated to lead to the discovery of admissible  
14 evidence. Apple also objects to the request as vague, ambiguous and unintelligible particularly the  
15 reference to "modified source code." Moreover, Apple objects to the request on the ground that it  
16 includes an incomplete hypothetical. Apple further objects to the extent that this request seeks an  
17 admission of a conclusion of law. Accordingly, Apple is unable to admit or deny this request.

18 DATED: January 9, 2009

Respectfully submitted,

19 TOWNSEND AND TOWNSEND AND CREW LLP

20  
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22 By:

  
J. JEB B. OBLAK

Attorneys for Plaintiff  
APPLE INC.

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25 61714452 v1

26 TOWNSEND  
and  
TOWNSEND  
and  
CREW  
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**CERTIFICATE OF SERVICE**

I, Jeb Oblak, declare I am employed in the City and County of San Francisco, California in the office of a member of the bar of this court at whose direction this service was made. I am over the age of eighteen and not a party to this action. My business address is Townsend and Townsend and Crew LLP, Two Embarcadero Center, Eighth Floor, San Francisco, California, 94111.

I served the following document exactly entitled: **RESPONSES OF PLAINTIFF APPLE INC. TO DEFENDANT PSYSTAR CORPORATION'S FIRST SET OF REQUESTS FOR ADMISSION (Nos. 1-53)** on the interested parties in this action by placing a true and correct copy thereof, on the above date, enclosed in a sealed envelope, following the ordinary business practice of Townsend and Townsend and Crew LLP, as follows:

Robert J. Yorio, Esq. Colby B. Springer, Esq. Christopher P. Grewe, Esq. Carr & Ferrell, LLP 2200 Geng Road Palo Alto, California 94303 Phone: 650-812-3400 Fax: 650-812-3444	email: <a href="mailto:ryorio@carrferrell.com">ryorio@carrferrell.com</a> email: <a href="mailto:cspringer@carrferrell.com">cspringer@carrferrell.com</a> email: <a href="mailto:cgrewe@carrferrell.com">cgrewe@carrferrell.com</a>
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[By First Class Mail] I am readily familiar with my employer's practice for collecting and processing documents for mailing with the United States Postal Service. On the date listed herein, following ordinary business practice, I served the within document(s) at my place of business, by placing a true copy thereof, enclosed in a sealed envelope, with postage thereon fully prepaid, for collection and mailing with the United States Postal Service where it would be deposited with the United States Postal Service that same day in the ordinary course of business.

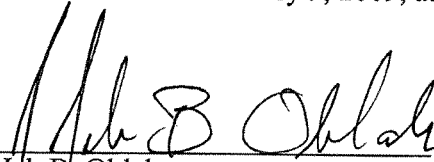
[By Overnight Courier] I caused each envelope to be delivered by a commercial carrier service for overnight delivery to the offices of the addressee(s).

[By Hand] I directed each envelope to the party(ies) so designated on the service list to be delivered by courier this date.

[By Facsimile Transmission] I caused said document to be sent by facsimile transmission to the fax number indicated for the party(ies) listed above.

[By Electronic Transmission] I caused said document to be sent by electronic transmission to the e-mail address indicated for the party(ies) listed above via the court's ECF notification system.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed on January 9, 2009, at San Francisco, California.

  
\_\_\_\_\_  
J. Jeb B. Oblak