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 10 Apple Computer, Inc.

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11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 12 COUNTY OF SANTA CLARA

11 Apple Computer, Inc.,  
 12 Plaintiff,  
 13 v.  
 14 Doe 1, an unknown individual, and Does  
 15 2-25, inclusive,  
 16 Defendants.

Case No. **104CV032178**  
**COMPLAINT**

17 For its Complaint, Plaintiff Apple Computer, Inc. ("Apple") states and  
 18 alleges as follows:

19 **INTRODUCTION**

- 20
- 21 1. Apple undertakes rigorous and extensive measures to safeguard
  - 22 information about its unreleased products. If these trade secrets are revealed, competitors
  - 23 can anticipate and counter Apple's business strategy, and Apple loses control over the
  - 24 timing and publicity for its product launches. Accordingly, this information is provided to
  - 25 persons only on a need-to-know basis under strict confidentiality agreements
  - 26
  - 27 2. An unidentified individual, acting alone or in concert with others, has
  - 28 recently misappropriated and disseminated through web sites confidential information
  - about an unreleased Apple product. This information could have been obtained only

1 through a breach of an Apple confidentiality agreement. The unauthorized use and  
2 distribution of this information constitutes a violation of California's trade secret statute  
3 and has caused irreparable harm to Apple. Therefore, Apple brings this action to seek the  
4 full measure of damages and other remedies permitted by law.

#### 5 PARTIES

6 3. Apple is a corporation organized and existing under the laws of the  
7 State of California and has its principal place of business in Cupertino, California. Apple  
8 is engaged in the business of developing, manufacturing, and selling computers and  
9 computer-related hardware, software, and services.

10 4. Apple is informed and believes and, on that basis, alleges that  
11 Defendant Doe 1 is an individual. Apple does not know the true name of Defendant Doe  
12 1 and therefore sues this Defendant pursuant to Section 474 of the California Code of  
13 Civil Procedure. Apple will amend this Complaint to state the true name of this  
14 Defendant once Apple discovers this information.

15 5. Apple does not know the true names or capacities, whether  
16 individual, associate, corporate or otherwise, of the Defendants sued herein as Does 2  
17 through 25, inclusive, and Apple therefore sues said Defendants by such fictitious names  
18 pursuant to Section 474 of the California Code of Civil Procedure. Apple will amend this  
19 Complaint to state the true names and capacities of these Defendants once they have been  
20 discovered. Apple is informed and believes and, on that basis, alleges that each  
21 Defendant sued herein by a fictitious name is in some way liable and responsible to Apple  
22 on the facts herein alleged for Apple's damages.

#### 23 APPLE'S TRADE SECRET FUTURE PRODUCT INFORMATION

24 6. Information about Apple's unannounced future products ("Future  
25 Product Information") is not commonly known to the public or to other persons who can  
26 obtain economic value from its disclosure or use. The secrecy of this information  
27 provides Apple a substantial business advantage.

28 7. Apple competes in highly competitive markets for personal

1 computer hardware and software. To succeed, Apple must develop innovative products  
2 and bring those products to market in advance of its competitors. If Apple's competitors  
3 were aware of Apple's Future Product Information, those competitors could benefit  
4 economically from that knowledge by directing their product development or marketing to  
5 frustrate Apple's plans. This strategic advantage to Apple's competitors could, in turn,  
6 harm Apple. Consequently, Apple maintains Future Product Information as a trade secret.

7 8. Apple makes significant investments in advertising and promotional  
8 activities surrounding the launch of a new product. The unauthorized disclosure of Future  
9 Product Information causes Apple to lose control over the timing and nature of product  
10 releases. The unauthorized disclosure of Future Product Information may also dampen  
11 customer demand for current products. For these reasons, Apple protects Future Product  
12 Information as a trade secret.

### 13 APPLE'S REASONABLE MEASURES TO PROTECT ITS TRADE SECRET

#### 14 FUTURE PRODUCT INFORMATION

15 9. Apple takes all reasonable steps under the circumstances to maintain  
16 the confidentiality of its Future Product Information. Apple has established trade secret  
17 policies for all its employees, maintains physical security in all its buildings, monitors  
18 computer access and requires all employees to execute strict confidentiality agreements.  
19 Apple limits access to its Future Product Information to individuals under non-disclosure  
20 obligations who have a need to know.

21 10. When hired, all Apple employees are required to agree to and sign a  
22 confidentiality agreement. That agreement specifically provides that information about  
23 product plans constitutes "Proprietary Information." The agreement prohibits an  
24 employee from disclosing such information to anyone outside of Apple at any time.  
25 Among other things, the agreement provides: "You understand and agree that your  
26 employment by Apple requires you to keep all Proprietary Information in confidence and  
27 trust for the tenure of your employment and thereafter, and that you will not use or  
28 disclose Proprietary Information without the written consent of Apple . . . ." During their

1 employment, Apple employees are repeatedly reminded that information learned at Apple  
2 is confidential. When employees leave Apple, they are required to return all property  
3 belonging to Apple.

4 11. Apple secures all of its computer networks behind a firewall. Persons  
5 outside of Apple cannot obtain access to Apple's computers without Apple's  
6 authorization.

7 12. Apple's facilities are secured. All doors leading into the main facility  
8 are locked at all times. To gain access to Apple's facilities, persons must have keycards  
9 issued by Apple that include their photographs. Only Apple and temporary employees  
10 and eligible vendors, associates, and contractors receive keycards. Any person lacking a  
11 keycard must be escorted by an Apple employee while within Apple's facilities.

12 **DISCLOSURE OF APPLE'S TRADE SECRET FUTURE PRODUCT**  
13 **INFORMATION**

14 13. Apple's Future Product Information constitutes "trade secrets" under  
15 California Civil Code § 3426.1 because it (1) is not generally known to the public or to  
16 other persons who can obtain economic value from its disclosure or use, (2) derives  
17 independent economic value from not being generally known, and (3) is subject to  
18 reasonable efforts by Apple to maintain its secrecy.

19 14. Beginning in or about November 2004, Doe 1, alone or in concert  
20 with Does 2 through 25, began disseminating Apple Future Product Information to the  
21 public. Among other things, Defendant or Defendants posted technical details and images  
22 of an undisclosed future Apple product on publicly accessible areas of the Internet.

23 15. More specifically, Doe 1, alone or in concert with Does 2 through 25,  
24 posted trade secret information about Apple's unannounced and undisclosed product  
25 prior to the date Apple intended to disclose that product to the public. Defendant or  
26 Defendants posted this information on or around November 19, 2004; November 22,  
27 2004; November 23, 2004; November 24, 2004; and November 26, 2004.

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1    1's position, and with the knowledge or reason to know that  
2    the Future Product Information was a trade secret and that  
3    knowledge of it had been acquired by mistake or accident.

4    18. Apple is entitled to recover from Defendants the damages sustained  
5 as a result of the misappropriation alleged herein. The amount of such damages cannot be  
6 determined at this time but will be proven at trial. Apple is further entitled to recover  
7 from Defendants the gains, profits, and advantages that Defendants obtained as a result of  
8 the misappropriation alleged herein. Apple is currently unable to ascertain the full extent  
9 of these gains, profits, and advantages, but will prove the value thereof at trial.

10     19. Apple is informed and believes that Defendants' acts of  
11 misappropriation were both willful and malicious, entitling Apple to exemplary damages.

12     20. Apple is informed and believes that Defendants are continuing and  
13 will continue to misappropriate Apple's Future Product Information. By reason of that  
14 ongoing misappropriation, Apple will suffer severe and irreparable harm and damage,  
15 which damage will be difficult to ascertain, and Apple will be without an adequate  
16 remedy at law.

17     21. Apple is entitled to an injunction restraining Defendants from  
18 misappropriating Apple's trade secret Future Product Information.

19  
20     WHEREFORE, plaintiff Apple Computer, Inc. prays for judgment against  
21 Defendants, and each of them, as follows:

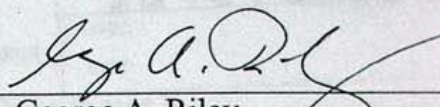
- 22     1. For a trial by jury;
- 23     2. For compensatory damages in an amount to be determined at trial;
- 24     3. For exemplary damages in an amount to be determined at trial;
- 25     4. For a preliminary injunction restraining the misappropriation of  
26     Apple's Future Product Information;
- 27     5. For an injunction permanently restraining the misappropriation of  
28     Apple's Future Product Information;

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- 6. For costs of suit incurred herein; and
- 7. For such other relief as the Court deems just and proper.

Dated: December \_\_, 2004

GEORGE A. RILEY  
DAVID EBERHART  
O'MELVENY & MYERS LLP

By   
George A. Riley  
Attorney for Plaintiff Apple Computer,  
Inc.