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12 Apple Computer, Inc.

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **COUNTY OF SANTA CLARA**

15 Apple Computer, Inc.,

16 Plaintiff,

17 v.

18 Doe 1, an unknown individual, and
19 Does 2-25, inclusive,

20 Defendants.

Case No. 104-cv-032178

COMMISSION

21 WHEREAS, a certain civil action is pending in the Superior Court for Santa
22 Clara County, California in which Apple Computer, Inc. ("Apple") is plaintiff and
23 defendants are unknown individuals; and

24 WHEREAS, Apple believes that Nfox.com, an entity that provides
25 collocation and e-mail server services for Powerpage.org, is likely to have information
26 relating to the identity of the proper defendant or defendants; and

27 WHEREAS, Apple has requested that the Clerk of the Court issue
28 a commission for a subpoena seeking documents from Nfox.com and/or its owner Karl
Kraft; and

WHEREAS, the documents requested by Apple are identified in the
Attachment hereto;

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WHEREAS, pursuant to California Code of Civil Procedure Section 2026(c), the Clerk may issue a commission for deposition in a foreign jurisdiction; and

WHEREAS, pursuant to California Code of Civil Procedure Section 2029, the Court will honor commissions from another state for deposition in California; and

NOW THEREFORE, the Court requests that process issue requiring the attendance and enforcing the obligations of Nfox.com and Karl Kraft to produce documents. Any document production may be effectuated and/or enforced by the methods authorized under the laws of the State of Nevada.

DATED: February 4, 2005



Kiri Torre
Chief Executive Officer/Clerk

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CLERK OF THE SUPERIOR COURT

1 every.”

2 6. All documents shall be produced in the booklet, binder, file, folder,
3 envelope, or other container in which the documents are kept or maintained by you. If for
4 any reason the container cannot be produced, please produce copies of all labels or other
5 identifying markings. Documents attached to each other should not be separated.

6 7. In the event any document is withheld on a claim of attorney/client privilege
7 or work product immunity, provide a detailed privilege log that describes the nature and
8 basis for your claim and the subject matter of the document withheld, in a manner
9 sufficient to disclose facts upon which you rely in asserting your claim, and to permit the
10 grounds and reasons for withholding the document to be identified. Such description
11 should, at a minimum:

- 12 a. state the date of the document;
- 13 b. identify each and every author of the document;
- 14 c. identify each and every person who prepared or participated in the
15 preparation of the document;
- 16 d. identify each and every person who received the document;
- 17 e. identify each and every person from whom the document was received;
- 18 f. state the present location of the document and all copies thereof;
- 19 g. identify each and every person having custody or control of the document
20 and all copies thereof;
- 21 h. describe the subject and purpose of the document; and
- 22 i. provide sufficient further information concerning the document and
23 circumstances thereof to explain the claim of privilege or immunity and
24 permit the adjudication of the propriety of that claim.

25 8. If a document once existed, but has been lost, destroyed, erased or otherwise
26 is no longer in your possession, identify the document and state the details concerning the
27 loss or destruction of such document, including the name and address of the present
28 custodian of any such document known to you.

DOCUMENT REQUESTS

DOCUMENT REQUEST NO. 1:

All documents relating to the identity of any person or entity who supplied information regarding an unreleased Apple product code-named "Asteroid" or "Q97" (the "Product"), including postings that appeared on Powerpage.com (the "Website") on November 19, November 22, November 23, and November 26, 2004. These documents include:

(a) all documents identifying any individual or individuals who provided information relating to the Product ("Disclosing Person(s)"), including true name(s), address(es), internet protocol ("IP") address(es), and e-mail address(es);

(b) all communications from or to any Disclosing Person(s) relating to the Product;

(c) all documents received from or sent to any Disclosing Person(s) relating to the Product; and

(d) all images, including photographs, sketches, schematics and renderings of the Product received from or sent to any Disclosing Person(s).

Dated: February 4, 2005

GEORGE A. RILEY
DAVID R. EBERHART
DHAI VAT H. SHAH
IAN N. RAMAGE
O'MELVENY & MYERS LLP

By 

David R. Eberhart
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