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PSYSTAR CORPORATION

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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12 APPLE INC., a California corporation,

13 Plaintiff,

14 v.

15 PSYSTAR CORPORATION, a Florida
16 corporation,

17 Defendant.

CASE NO. CV-08-03251-WHA

**PSYSTAR CORPORATION'S
FIRST AMENDED
COUNTERCLAIM FOR
DECLARATORY RELIEF AS TO
THE UNENFORCEABILITY OF
COPYRIGHTS AND
STATUTORY UNFAIR
COMPETITION**

18 AND RELATED COUNTERCLAIMS

JURY TRIAL REQUESTED

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20 **Nature of this Action**

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23 1. This is an action for declaratory relief under the Declaratory Judgment Act (28 U.S.C. §
24 2201) (hereinafter referred to as the "First Amended Counterclaim").
25 2. **PsyStar Corporation** ("PSYSTAR") seeks a declaration as to the unenforceability of certain
26 copyrights held and asserted by Apple Inc. ("APPLE") in its July 3, 2008 Complaint ("Complaint")
27 and December 2, 2008 Amended Complaint ("First Amended Complaint"). PSYSTAR's request
28 for declaratory relief as to unenforceability of these copyrights is predicated upon APPLE having