

1 contracts, copyright misuse, spurious litigation under the DMCA, and other anticompetitive
2 agreements that deter innovation, exclude competition, and deny customers of their right to choose
3 among competing alternatives

4 65. PSYSTAR is informed and believes, and thereon alleges, that APPLE's conduct adversely
5 affects innovation, including by impairing the incentive of APPLE's would-be competitors in the
6 Mac OS Capable Computer Hardware Systems market and potential competitors to undertake
7 research and development, because they know that APPLE can limit and has in the past limited the
8 rewards from any resulting innovation; impairing the ability of APPLE's competitors and potential
9 competitors to obtain financing for research and development; inhibiting APPLE's competitors that
10 nevertheless succeed in developing promising innovations from effectively marketing their
11 improved products to customers of the Mac OS; reducing the incentive and ability of Computer
12 Hardware Systems manufacturers to innovate and differentiate their products in ways that would
13 appeal to customers; and reducing competition and the spur to innovation by APPLE and others
14 that only competition can provide.

15 66. PSYSTAR is informed and believes, and thereon alleges, that the purpose and effect of
16 APPLE's conduct with respect to the Mac OS and Mac OS Capable Computer Hardware Systems
17 that are not Apple-Labeled Computer Hardware Systems have been and, if not restrained, will be to
18 preclude competition on the merits between Apple-Labeled Computer Hardware Systems and other
19 Mac OS Capable Computer Hardware System manufacturers and to maintain APPLE's Mac OS
20 exclusivity in the Apple-Labeled Computer Hardware System market. PSYSTAR, at the very least,
21 has been harmed through such anticompetitive conduct.

22
23
24
25
26
27
28