

1 21. As there is no technical reason that a third-party could not accumulate and assemble the
2 hardware components in an Apple-Labeled Computer Hardware System such that said system
3 would be capable of running the Mac OS, on information and belief PSYSTAR alleges that but for
4 the exclusionary and leveraging conduct of APPLE—said conduct amounting to unfair
5 competition—a third-party (as evidenced by the activities of PSYSTAR) could and would
6 accumulate, assemble, and market the hardware components capable of running the Mac OS.
7

8 **Apple-Labeled Computer Hardware Systems**

9 22. Notwithstanding the various computer hardware manufacturers in the marketplace, none of
10 the aforementioned companies currently manufacture computer hardware systems that support the
11 Mac OS. APPLE is the only manufacturer of systems operating the Mac OS. APPLE's exclusive
12 line of hardware systems that support the Mac OS include the Mac Pro, the Mac Mini, the
13 MacBook, the MacBook Air, MacBook Pro, and iMac. PSYSTAR, as noted above, refers to the
14 exclusive line of APPLE hardware systems that support the Mac OS as Apple-Labeled Computer
15 Hardware Systems. PSYSTAR is informed and believes, and thereon alleges, that but for the
16 anticompetitive conduct of APPLE as outlined herein, Apple-Labeled Computer Hardware Systems
17 would be a competing member of the otherwise diverse Mac OS Capable Computer Hardware
18 Systems market.

19 23. PSYSTAR alleges that by virtue of APPLE's leveraging of copyrights in the context of
20 APPLE's EULA, spurious litigation via the DMCA, and various other anti- and unfair competitive
21 conduct, there is no viable alternative to the purchase and use of Apple-Labeled Computer
22 Hardware Systems for users who wish to use the Mac OS, for a prospective buyer of the Mac OS,
23 or for a user of an older version of the Mac OS. Without an operating system, a computer hardware
24 system can perform virtually no useful tasks thus making the installation of the Mac OS a necessity.
25 The Mac OS—at least according to APPLE—can only be installed on Apple-Labeled-Computer
26 Hardware Systems, a restriction that APPLE enforces through the aforementioned misuse of its
27 copyrights. Mac OS users are—through APPLE's copyright misuse—thereby locked in to a
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1 component not otherwise covered by any APPLE copyright—an Apple-Labeled Computer
2 Hardware System.

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4 **Apple's Anticompetitive Conduct**

5 24. PSYSTAR, on information and belief, alleges that APPLE is content with the knowledge
6 that it has exclusive rights to the Mac OS and that nearly insurmountable barriers exist with respect
7 to any other entity introducing a Mac OS-like operating system. PSYSTAR is informed and
8 believes, and thereon alleges, that the most significant competitive threat to APPLE is not from a
9 new operating system but from computer hardware system manufacturers that may offer a
10 competing hardware platform upon which to run the Mac OS—Mac OS Capable Computer
11 Hardware Systems. Any such hardware platform would compete directly with Apple-Labeled
12 Computer Hardware Systems, which are manufactured by APPLE and available for purchase only
13 from APPLE and/or its authorized resellers.

14 25. PSYSTAR is informed and believes, and thereon alleges, that in order to protect itself from
15 potential competitive threats, APPLE has engaged in a series of anticompetitive activities
16 involving, *inter alia*, its copyrights. PSYSTAR is further informed and believes, and thereon
17 alleges, that APPLE's conduct includes contractual agreements tying the Mac OS to—and only to—
18 Apple-Labeled Hardware Systems, exclusionary agreements precluding customers or would be
19 competitors from installing, running, or using the Mac OS on any computer hardware system that is
20 not an Apple-Labeled Computer Hardware System, that is, Mac OS Capable Computer Hardware
21 Systems. These contractual ties are backed with the threat of litigation for infringement of one or
22 more APPLE copyrights.

23 26. PSYSTAR is informed and believes, and thereon alleges, that manufacturers of Mac OS
24 Capable Computer Hardware Systems that could run the Mac OS and that are not Apple-Labeled
25 Computer Hardware Systems pose a significant competitive threat to APPLE with respect to the
26 quality of such hardware systems and the pricing of such systems. If Mac OS Capable Computer
27 Hardware Systems that are not Apple-Labeled Systems were introduced into the overall
28 marketplace, APPLE would be forced to engage in significant research, development, and quality