

1 GEORGE A. RILEY (S.B. #118304)
SHARON M. BUNZEL (S.B. #181609)
2 O'MELVENY & MYERS LLP
Embarcadero Center West
3 275 Battery Street
San Francisco, CA 94111-3305
4 Telephone: (415) 984-8700
Facsimile: (415) 984-8701

5 Attorneys for Plaintiff
6 Apple Computer, Inc.

7
8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN FRANCISCO DIVISION**

11
12 Apple Computer, Inc.,
13 Plaintiff,
14 v.
15 Doug Steigerwald, Vivek Sambhara,
David Schwartzstein, and DOES 1
16 through 25,
17 Defendants.

Case No. C-04-5383 PJH

**STIPULATION RE ENTRY OF
JUDGMENT AS TO DEFENDANT
SCHWARTZSTEIN PURSUANT TO
FEDERAL RULE OF CIVIL
PROCEDURE 54(b)**

18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Plaintiff Apple Computer, Inc. ("Apple") and defendant David Schwartzstein ("Schwartzstein"), by and through their counsel of record, hereby stipulate as follows:

WHEREAS, Apple and Schwartzstein have entered into a Settlement Agreement and Release (the "Settlement Agreement"), pursuant to which each has agreed to entry of Judgment in this matter as to Schwartzstein in the form attached hereto as Exhibit A,

NOW, THEREFORE, Apple and Schwartzstein hereby stipulate and agree that final judgment be entered in this action as to Schwartzstein in the form attached hereto as Exhibit A.

SO STIPULATED.

Dated: December 13, 2005

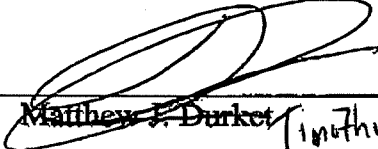
O'MELVENY & MYERS LLP

By: 
Sharon M. Bunzel

Attorneys for Plaintiff
APPLE COMPUTER, INC.

Dated: December 13, 2005

THE HERITAGE LAW GROUP, A.P.C.

By: 
Matthew J. Durkin Timothy A. Charshof

Attorneys for Defendant
DAVID SCHWARTZSTEIN

SF1:584008.1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A
PROPOSED FORM OF JUDGMENT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

GEORGE A. RILEY (S.B. #118304)
SHARON M. BUNZEL (S.B. #181609)
O'MELVENY & MYERS LLP
Embarcadero Center West
275 Battery Street
San Francisco, CA 94111-3305
Telephone: (415) 984-8700
Facsimile: (415) 984-8701

Attorneys for Plaintiff
Apple Computer, Inc.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

Apple Computer, Inc.,

Plaintiff,

v.

Doug Steigerwald, Vivek Sambhara,
David Schwartzstein, and DOES 1
through 25,

Defendants.

Case No. C-04-5383 PJH

**[PROPOSED] JUDGMENT AND
PERMANENT INJUNCTION AS TO
DEFENDANT SCHWARTZSTEIN
PURSUANT TO FEDERAL RULE OF
CIVIL PROCEDURE 54(b)**

1 Pursuant to the Stipulation of plaintiff Apple Computer, Inc. ("Apple") and
2 defendant David Schwartzstein ("Schwartzstein"), and for good cause shown,

3 IT IS HEREBY ADJUDGED, ORDERED, AND DECREED that:

4 1. Pursuant to Federal Rule of Civil Procedure 54(b), which allows
5 entry of judgment as to fewer than all of the parties, the Court finds that there is no just
6 reason to delay entry of judgment as to defendant Schwartzstein;

7 2. Final judgment is hereby ordered entered against Schwartzstein and
8 in favor of Apple.

9 3. Schwartzstein is hereby permanently enjoined from possessing,
10 controlling, distributing, transferring, copying, sharing, or communicating any
11 information or property belonging to Apple, including, but not limited to information
12 relating to products that Apple has not announced to the public as of the date of this
13 Order;

14 4. Schwartzstein is hereby permanently enjoined from possessing,
15 controlling, distributing, transferring, copying, sharing, or communicating any
16 information or property that he acquired as a result of his contractual agreement with
17 Apple, or his participation in the Apple Developer Connection program, including, but not
18 limited to information relating to products that Apple has not announced to the public as
19 of the date of this Order;

20 5. Schwartzstein shall immediately return to Apple any Apple information
21 or materials received or taken from Apple (whether or not confidential), excluding any
22 Apple hardware or software that Schwartzstein purchased in a retail setting.

23 6. None of the obligations or restrictions in this order shall apply to any
24 Apple hardware or software purchased by Schwartzstein in a retail setting.

25 7. This Court shall retain jurisdiction of this action for purposes of
26 resolving any disputes that may arise in the future regarding the Settlement Agreement
27 and/or this Judgment, and for purposes of issuing such further orders and directives as
28

1 may be necessary and appropriate for the interpretation, modification, or enforcement of
2 the Settlement Agreement and/or this Judgment.

3 IT IS SO ORDERED.

4 Dated: _____, 2005

The Honorable Phyllis J. Hamilton
United States District Court

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

SF1:584009.1

28