

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No.:

05-21136
CIV-LENARD

TIGER DIRECT, INC., a Florida
Corporation,

Plaintiff,

v.

APPLE COMPUTER, INC., a
California Corporation

Defendant.

KLEIN

**COMPLAINT FOR TRADEMARK INFRINGEMENT, TRADEMARK
DILUTION, FALSE DESIGNATION OF ORIGIN AND DECEPTIVE AND
UNFAIR TRADE PRACTICES AND DEMAND FOR JURY TRIAL**

Plaintiff Tiger Direct, Inc. ("Tiger Direct" or "Plaintiff"), files this Complaint on personal knowledge as to its own activities and on information and belief as to the activities of others:

THE PARTIES

1. Plaintiff Tiger Direct, Inc. is a corporation, organized and existing under the laws of the State of Florida, having its principal place of business at 7795 W. Flagler Suite. 35, Miami, Florida 33144.

2. Defendant Apple Computer, Inc. ("Apple Computer" or "Defendant") is a corporation, organized and existing under the laws of the State of California, having its principal place of business at 1 Infinite Loop, Cupertino, California 95014.

JURISDICTION AND VENUE

3. This Court has original federal question jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338 and 15 U.S.C. § 1121. This Court has diversity

jurisdiction over this action pursuant to 28 U.S.C. § 1332 because the parties are diverse and because Tiger Direct's damages exceed \$75,000. This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over Tiger Direct's claims arising under the laws of the State of Florida.

4. This Court has personal jurisdiction over Apple Computer because Apple Computer is registered to do business in the State of Florida as a "Foreign Profit" corporation and it continues to do business in the State of Florida, and because the willful actions alleged herein took place in and/or caused tortious injury to Tiger Direct in the State of Florida.

5. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because *inter alia* the facts giving rise to the acts or omissions alleged herein took place at least in part in this District and/or because Apple Computer is subject to personal jurisdiction in this District.

BACKGROUND FACTS

Tiger Direct's History and Products

6. Tiger Direct was established in 1987. After the success of Tiger Direct's first computer software product, a business form design application which sold almost 10,000,000 copies, Tiger Direct launched a mail-order division for software distribution known then as TigerSoftware, i.e. the precursor to today's TigerDirect. The company's stable of software products numbered twenty-five and reached \$15,000,000 in revenues by the end of 1991.

7. In 1995, Tiger Direct's attention turned to the Internet, and Tiger Direct had a total of 27 unique Internet storefronts operational and taking orders by early 1998. Tiger Direct also had the industry's first custom computer configurator for its TigerSystems that allowed customers to order custom computer system configurations on demand. Tiger Direct's various Internet storefronts included: TigerDirect; TigerSystems; TigerBooks (an early competitor with Amazon.com); TigerMedia;

TigerSat; and many more. Through a continuing series of Internet e-commerce sites, direct mail catalogs, television marketing and relationship marketers, Tiger Direct has grown to be one of the top retailers of computer hardware and related computer products in the United States.

8. In 2004, Alexa Internet ranked Tiger Direct's TigerDirect.com website as the third most popular computer hardware website (behind only Dell and Hewlett Packard, having displaced IBM.com in the third position). A recent report in *Internet Retailer Magazine* indicated that Internet shoppers spend more time on the TigerDirect.com website than at eBay or other leading computer and electronic sites including CompUSA, Circuit City, Best Buy, RadioShack, Sony Electronics, Sony.com and OSDN. The TigerDirect.com website was noted in the *New York Times* as one of "Top 25 Online Retailers."

9. Tiger Direct employs over 1400 persons in its corporate headquarters, telemarketing center, warehouse and retail outlets in Miami, Chicago and Raleigh, N.C. In 2004, Tiger Direct generated hundreds of millions of dollars in revenue in the United States.

Tiger Direct's Tiger Trademarks

10. Tiger Direct is the owner of the following family of Federally Registered Trademarks (the "Tiger Registered Marks"):

| Mark | Reg. No. | Reg. Date | First Use | Class/Goods & Services |
|-------------|----------|-----------|------------|---|
| TIGER | 2526739 | 1/8/2002 | 10/20/1987 | IC 035. US 100 101 102. Goods and Services: Mail order catalog services featuring computers and computer related products; and retail store services featuring computers and computer related products. |
| TIGERDIRECT | 2694989 | 3/11/03 | 1/31/1993 | IC 035. US 100 101 102. Goods and Services: Mail order services featuring |

| | | | | |
|----------------------|---------|-----------|-----------|--|
| | | | | computer hardware and software. |
| TIGERDIRECT (design) | 2694988 | 3/11/03 | 1/31/1993 | IC 035. US 100 101 102. Goods and Services: Mail order services featuring computer hardware and software. |
| TIGERSOFTWARE | 1641257 | 4/16/1991 | 09/1987 | IC 016. US 038. Goods and Services: catalogues promoting computer software. |
| TIGERDIRECT.COM | 2694957 | 3/11/2003 | 1/31/1993 | IC 035. US 100 101 102. Goods and Services: Mail order services featuring computer hardware and software. |
| TIGERTV.COM | 2845625 | 5/25/2004 | 3/2/2002 | IC 035. US 100 101 102. Retail store services available online and via television featuring computers and computer related products. |

11. Copies of the Registration information for these Trademarks from the United States Patent and Trademark Office website (www.uspto.gov) are attached hereto as Exhibit A.

12. Tiger Direct has further filed applications to register the additional, following trademarks, as part of its family of Tiger marks, with the United States Patent and Trademark Office (the "Tiger Pending Marks"):

| Mark | Ser. No. | Date Filed | First Use | Class/Goods & Services |
|--------------|----------|------------|-----------|--|
| TIGERPC.COM | 76430237 | 7/3/2002 | | IC 035. US 100 101 102. Goods and Services: Retail store services available online and via television featuring computers and computer related products. |
| TIGERSYSTEMS | 76367793 | 2/7/2002 | 1/1/1996 | IC 009. US 021 023 026 036 038. Goods and Services: Computer systems comprising computers, computer |

| | | | | |
|--|--|--|--|-------------------------------------|
| | | | | hardware, and computer peripherals. |
|--|--|--|--|-------------------------------------|

13. Copies of the Registration information for the applications for the Tiger Pending Marks from the United States Patent and Trademark Office website (www.uspto.gov) are attached hereto as Exhibit B.

14. Tiger Direct has also used the following common law trademarks in commerce (the "Tiger Common Law Marks") (the Tiger Common Law Marks, Tiger Registered Marks and Tiger Pending Marks are collectively referred to as the "Tiger Marks" or "Family of Tiger Marks"):

| Mark | Uses |
|-----------------------|--|
| TIGER | Credit Card for purchases from TigerDirect and TigerTV. |
| TIGERADVISOR | Online website for consumers and manufacturers, providing news, information, links and discussion forums concerning computers, software, accessories, downloads, new product listings and product reviews. |
| TIGERDIRECTINFO | Online website for consumers and manufacturers, providing news, information, links and discussion forums concerning computers, software, accessories, downloads, new product listings and product reviews. |
| TIGERWIRELESS | Online and catalog retailing of cellphone and wireless products and devices |
| TIGERDOMAINS | Online website for consumers to register domain names and arrange for website hosting by Tiger Direct |
| TIGERDIRECTDOMAINS | Online website for consumers to register domain names and arrange for website hosting by Tiger Direct |
| TIGEROUTLET | Retail sales outlets for consumers to purchase computer hardware and software, accessories, electronics including televisions, plasma displays and projectors, cellular phone products, VOIP service offerings and hardware and provide repair, upgrade and custom building of computer and electronic products. |
| TIGERDIRECTPARTSEARCH | Online site for retailing of specialized individual electronic replacement parts for hundreds of thousands of products. |

15. Tiger Direct has used its Family of Tiger Marks for the sales of computers, computer software and computer related products since 1987.

16. Since the first introduction of the TigerDirect catalog in 1987, Tiger Direct has sent out approximately 25 million catalogs per year utilizing its Family of Tiger Marks. It currently has a mailing list of approximately 27 million subscribers, each of whom receives the TigerDirect catalogs several times a year. In 2005, Tiger Direct has averaged millions of dollars in catalog sales per month.

17. Tiger Direct has also used its Family of Tiger Marks on the Internet to sell computers, computer software and computer related products since at least 1996. Tiger Direct has become one of the largest retailers, and one of the most visited websites, on the Internet. It is accessible by web addresses such as TigerDirect.com, TigerOnline.com and TigerComputers.com. In 2005, the Tiger Direct's websites have averaged over six million monthly unique visitors, and tens of millions of dollars in sales, per month.

18. Tiger Direct also utilizes several other websites utilizing various of its Family of Tiger Marks that offer ancillary services in support of its primary retail sales. For example, its TigerDomains.com and Tiger-Direct-Domains.com sites offer web site domain registration and web hosting services for consumers and businesses. Tiger Direct also maintains websites at TigerDirectInfo.com and TigerAdvisor.com for consumers and manufacturers that provide news, information, links and discussion forums concerning computers, software, accessories, downloads, new product listings and product reviews.

19. Through its catalogs, websites and retail stores, Tiger Direct sells a line of "Tiger" branded computers manufactured by its sister company, Systemax Manufacturing, Inc. Tiger Direct has marketed and sold Tiger branded "TigerSystems" and "TigerServer" products. Tiger Direct also sells software in its TigerDirect catalogs, and on the Internet in a special "TigerSoftware" section.

20. Tiger Direct offers a "Tiger" Gold Card, in conjunction with Wells Fargo Financial National Bank, to preferred customers with approved credit. It is promoted in Tiger Direct's television infomercials (TigerTV), television short-form advertisements,

Internet sites, catalogs and retail store promotion. The Tiger credit card can be used by consumers for purchases from Tiger Direct.

Tiger Direct Advertising Under Its Family of Tiger Marks

21. Tiger Direct has continually advertised nationwide using its Family of Tiger Marks since the late 1980s. It advertises and promotes its Tiger Marks in print advertising, television and radio advertising, Internet advertising, email advertising, various direct mail channels, and in its catalogs. Tiger Direct's print advertisements utilizing its Family of Tiger Marks have appeared and continue to appear in such national magazines as *PC Magazine*, *Computer Shopper*, *Laptop Magazine*, *Stuff*, and *Sky Mall* since 1987. As a result of the *Sky Mall* advertising, over ninety-five percent of all airline seats in the United States have immediate access to six to eight pages of Tiger Direct advertising.

22. Tiger Direct has historically sent unique promotional direct-mail pieces to customers and currently sends those same types of promotions as direct e-mailings. These mailings, utilizing its Family of Tiger Marks, have been sent to millions of individuals. As a general matter, these mailings were and are targeted to niche markets, including Macintosh computer users.

23. Tiger Direct has produced a series of television infomercials, utilizing its Family of Tiger Marks, for the sale of computers and computer related products. When doing so, it utilizes the Tiger Marks, particularly the "TigerTV" mark. Tiger Direct sells products utilizing the TigerTV trademark on its TigerDirect.com website.

Apple Computer's Infringement of The Family of Tiger Marks

24. Apple Computer is a retailer of, among other things, computers, computer software and computer related products.

25. Apple Computer no longer fancies itself a niche player in the personal computer world. Following the success of its iPod product beginning several years ago, Apple Computer has reformed itself, parlaying the success of that product into one of the

largest and most-successful computer companies today. By way of example, Apple's revenue *last quarter* jumped to \$3.24 billion, with profits totaling \$290 million.

26. Continuing with its new business model, Apple Computer announced that on April 29, 2005, it will begin selling a new operating system software for Apple Computer's Macintosh computers named "OS X v10.4 Tiger." Apple Computer has not, however, limited its infringing use of the Tiger mark in this form. Rather, Apple Computer has created and launched a nationwide media blitz led by Steven Jobs, overwhelming the computer world with a sea of Tiger references as discussed below (collectively the "Infringing Marks").

27. Apple Computer's Tiger operating system will not simply be sold on April 29, it will be **UNLEASHED**. Indeed, upon visiting Apple Computer's website, Internet Users are confronted with a huge, imposing **X** (representing the OS X software) on a jet-black background, taking up more than half the computer screen. The black background is strikingly offset with the phrase TIGER UNLEASHED in large bold white letters, and countdown below that presently states "ONLY THREE DAYS UNTIL TIGER IS AVAILABLE."

28. Apple Computer website follows on its infringing Tiger theme, with separate website pages and website links in its shopping site entitled "TIGER CENTER" and promoted bundled software products called the "TIGER FAMILY PACK." Apple Computer has further separated out various software and hardware products that it characterizes as "TIGER ESSENTIALS," and has listed its server version of OSX v10.4 as the "TIGER SERVER."

29. Finally, Apple Computer has announced a sales event that will take place between the hours of 6:00 p.m. and 12:00 midnight on April 29, 2005 at its nationwide Apple Computer retail stores called the "TIGER WORLD PREMIERE."

30. The implications of Apple Computer's infringing use of Tiger are far-reaching to say the least. Apple Computer's use of the term "Tiger" as the primary term

of reference for the Mac Os X 10.4 operating system has been picked up and repeated extensively by numerous media outlets. In turn, Apple Computer's use of the term "Tiger" has also affected search results in Internet search engines. Before Apple Computer's use of Tiger, an Internet search for the term "tiger" would result in Tiger Direct being the sole provider of computers, computer software and computer related products. Tiger Direct would also almost always appear in the first three responses to such a search.

31. Whereas searches for the term "Tiger" would not previously have had any reference to Apple Computer, or any other retailer of computer products, Apple Computer now inundates the results of Google searches and has become the first result in a search for "Tiger" in the Yahoo and MSN search engines. In addition, once the product is launched on April 29, 2005, it is expected that other retailers selling Apple Computer's OSX v10.4 Tiger product and other computer products will also start appearing in such searches.

32. Tiger Direct has not given Apple Computer permission or license to use its Family of Tiger Marks in connection with Apple Computer's products or services. To the contrary, Apple Computer infringed the Tiger Marks knowing full well of Tiger Direct's objection to such use. Apple Computer's use of the Infringing Marks on or in connection with the offering for sale, sale and distribution of its products is likely to cause confusion, or to cause mistake or to deceive.

FIRST CLAIM FOR RELIEF

(Trademark Infringement under 15 U.S.C. § 1114)

33. Tiger Direct realleges and incorporates by reference the allegations above.

34. The Family of Tiger Marks, and the goodwill of the businesses associated with them in the United States and throughout the world, are of great and incalculable value, are highly distinctive and arbitrary, and have become universally associated in the

public mind with the products and services of the very highest quality and reputation finding their source in Tiger Direct.

35. Without Tiger Direct's authorization or consent, and having knowledge of Tiger Direct's well-known and prior rights in the Tiger Marks, Apple Computer has advertised, marketed, offered for sale and/or sold products or services in or affecting interstate commerce under the Infringing Marks to the consuming public in direct competition with Tiger Direct Family of Tiger Marks.

36. Apple Computer's use of reproduction, copies, counterfeits or colorable imitations of the Family of Tiger Marks in the form of the Infringing Marks is likely to cause and is causing confusion, mistake and deception among the general purchasing public, including initial interest confusion.

37. Apple Computer's unauthorized use of the Infringing Marks on or in connection with its products or services was done with notice and full knowledge that such use was not authorized or licensed by Tiger Direct. Apple Computer has used and continues to willfully use the Infringing Marks with the intent to confuse, mislead, or deceive customers, purchasers, and members of the general public as to the origin, source, sponsorship, or affiliation of Apple Computer's products or services, and with the intent to trade on Tiger Direct's reputation and goodwill.

38. As a direct and proximate result of Apple Computer's conduct, Tiger Direct has suffered damage to its valuable Family of Tiger Marks, and other damages, in an amount that exceeds \$75,000.

39. Tiger Direct does not have an adequate remedy at law, and will continue to be damaged by Apple Computer's actions unless this Court enjoins Apple Computer from such business practices.

SECOND CLAIM FOR RELIEF

(Trademark Dilution under 15 U.S.C. § 1125(c))

40. Tiger Direct realleges and incorporates by reference the allegations above.

41. The Family of Tiger Marks are “famous marks” within the meaning of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c)(1) and have been famous marks prior to Apple Computer’s conduct as alleged herein. The Family of Tiger Marks became famous prior to Apple Computer’s use of the Infringing Marks.

42. Apple Computer’s commercial advertising, sale and offer for sale of products in interstate commerce under the Infringing Marks dilutes the distinctive quality of the Family of Tiger Marks, and was done with the willful intent to trade on Tiger Direct’s reputation and/or to cause dilution of its Family of Tiger Marks.

43. Apple Computer’s unauthorized use of the Family of Tiger Marks on or in connection with its products was done with notice and full knowledge that such use for sale was not authorized or licensed by Tiger Direct.

44. Apple Computer’s aforesaid acts are in knowing and willful violation of Tiger Direct’s rights under section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

45. As a direct and proximate result of Apple Computer’s conduct, Tiger Direct has suffered damage to its valuable Family of Tiger Marks, and other damages, in an amount that exceeds \$75,000.

46. Tiger Direct has no adequate remedy at law and, if Apple Computer’s activities are not enjoined, will continue to suffer irreparable harm and injury to Tiger Direct’s goodwill and reputation.

THIRD CLAIM FOR RELIEF

(False Designation of Origin under 15 U.S.C. § 1125(a))

47. Tiger Direct realleges and incorporates by reference the allegations above.

48. Tiger Direct is the sole owner of the Family of Tiger Marks. The Tiger Marks are arbitrary, fanciful or suggestive marks. The Tiger Marks have come to symbolize the reputation for quality and excellence of Tiger Direct’s products and services, and Tiger Direct has built up and owns valuable goodwill that is symbolized by the Family of Tiger Marks. Members of and consumers in the computer products

industry identify Tiger Direct as the source of products and services that employ the Family of Tiger Marks.

49. Apple Computer's use of reproduction, copies, counterfeits or colorable imitations of the Family of Tiger Marks in the form of the Infringing Marks constitutes false designations of the origin and/or sponsorship of Apple Computer's products or services in violation of Section 43(a) of the Lanham Act.

50. Apple Computer's unauthorized use of the Infringing Marks on or in connection with Apple Computer's products or services, as alleged above, is likely to confuse, mislead, or deceive customers, purchasers, and members of the general public as to the origin, source, sponsorship, or affiliation of Apple Computer's products or services, including as to initial interest confusion, and is likely to cause such people to believe in error that Apple Computer's products or services have been authorized, sponsored, approved, endorsed, or licensed by Tiger Direct, or that Apple Computer is in some way affiliated with Tiger Direct.

51. Apple Computer's unauthorized use of the Infringing Marks on or in connection with its products or services was done with notice and full knowledge that such use was not authorized or licensed by Tiger Direct. Apple Computer has used and continues to willfully use the Infringing Marks with the intent to confuse, mislead, or deceive customers, purchasers, and members of the general public as to the origin, source, sponsorship, or affiliation of Apple Computer's products or services, and with the intent to trade on Tiger Direct's reputation and goodwill.

52. As a direct and proximate result of Apple Computer's conduct, Tiger Direct has suffered damage to its valuable Family of Tiger Marks, and other damages, in an amount that exceeds \$75,000.

53. Tiger Direct does not have an adequate remedy at law, and will continue to be damaged by Apple Computer's actions unless this Court enjoins Apple Computer from such business practices.

FOURTH CLAIM FOR RELIEF

(Trademark Dilution, Fla. Stat. § 495.151 *et seq.*)

54. Tiger Direct realleges and incorporates by reference the allegations above.

55. Tiger Direct is the sole owner of the Family of Tiger Marks. Tiger Direct has used and continues to use the Family of Tiger Marks in commerce, including in Florida and in interstate commerce.

56. Apple Computer's actions as described above have caused and will continue to cause injury to Tiger Direct's business reputation and/or dilution of the distinctive quality of the Family of Tiger Marks as defined in Fla. Stat. § 495.151.

57. As a direct and proximate result of Apple Computer's conduct, Tiger Direct has suffered damage to its valuable Family of Tiger Marks, and other damages, in an amount that exceeds \$75,000.

58. Tiger Direct does not have an adequate remedy at law, and will continue to be damaged by Apple Computer's actions unless this Court enjoins Apple Computer from such business practices.

FIFTH CLAIM FOR RELIEF

(Deceptive and Unfair Trade Practices, Fla. Stat. § 501.201 *et seq.*)

59. Tiger Direct realleges and incorporates by reference the allegations above.

60. Tiger Direct and Apple Computer are commercial competitors. Apple Computer's actions as described above constitute deceptive and unfair trade practices as defined in Fla. Stat. § 501.203(3)(a)-(c).

61. Tiger Direct does not have an adequate remedy at law, and will continue to be damaged by Apple Computer's actions unless this Court enjoins Apple Computer from such business practices. Tiger Direct is entitled to recover its attorneys' fees and costs as provided by Fla. Stat. § 501.2105.

SIXTH CLAIM FOR RELIEF

(Common Law Trademark Infringement)

62. Tiger Direct realleges and incorporates by reference the allegations above.

63. Apple Computer's conduct as described above constitutes trademark infringement and passing off in violation of the common law of the State of Florida.

64. Apple Computer's acts of trademark infringement constitute intentional misconduct and/or gross negligence within the meaning of Fla. Stat. § 768.72(2)(a)-(b), entitling Tiger Direct to both compensatory damages in an amount to be determined at trial, but in no event less than \$75,000, and punitive damages under the common law and under Fla. Stat. § 768.72.

65. Tiger Direct does not have an adequate remedy at law, and will continue to be damaged by Apple Computer's actions unless this Court enjoins Apple Computer from such business practices.

PRAYER FOR RELIEF

WHEREFORE, Tiger Direct prays for judgment against Apple Computer as follows:

WHEREFORE, Tiger Direct prays for judgment as follows:

1. For a temporary, preliminary, and permanent injunction preventing Apple Computer from further engaging in the unlawful conduct set forth in this Complaint, including but not limited to, requiring that Apple Computer immediately:

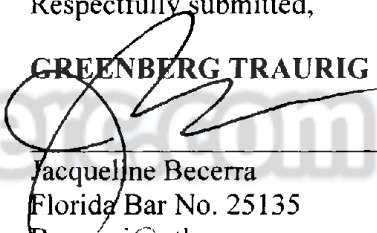
- a. Cease using the term "Tiger" on its websites, in Internet advertisements and/or in any new advertising placements or public comment other than as specifically required hereby;
- b. Remove all banner advertisements, flyers and other print advertisements using the term "Tiger" from its retail stores, and request that its retail customers do the same;
- c. Issue a press release stating that it is ceasing all use of the term "Tiger" to refer to its OS X v10.4 operating system, and request that the press do the same; and

- d. Cease any new order of packaging or printing of boxes, manuals and/or software using the term "Tiger."
 2. For actual damages in an amount to be proven at trial but in no event less than \$75,000, such amount to be trebled pursuant to 15 U.S.C. § 1117(a);
 3. For an accounting, disgorgement and restitution by Apple Computer to Tiger Direct of all amounts derived by Apple Computer by virtue of its unlawful conduct, such amount to be trebled pursuant to 15 U.S.C. § 1117(a);
 4. For punitive damages;
 5. For prejudgment interest;
 6. For attorneys' fees and costs incurred by Tiger Direct in connection with this action; and
- For such other and further relief as this Court may deem just and proper.

Dated: April 26, 2005

Respectfully submitted,

GREENBERG TRAURIG P.A.


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Attorneys for Plaintiff TIGER DIRECT, INC.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Tiger Direct demands a jury trial on all issues triable that are raised by this Complaint.

Dated: April 26, 2005

Respectfully submitted,


GREENBERG TRAURIG P.A.

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MacMerc.com
Attorneys for Plaintiff TIGER DIRECT, INC.

CIVIL COVER SHEET

The JS-44 Civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initialing the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

1(a) PLAINTIFFS - TIGER DIRECT, INC., a Florida Corporation

DEFENDANTS - APPLE COMPUTER, INC.

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF - Miami-Dade (foreign Plaintiff)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT - (IN U.S. PLAINTIFF CASES ONLY) Santa Clara County, CA

(EXCEPT IN U.S. PLAINTIFF CASES)
 Adocsa 21136 Renard/Klein
 (c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
 Jacqueline Becerra, Esq., Greenberg Traurig, P.A., 1221 Brickell Avenue, Miami, Florida 33131, (305) 579-0534

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(d) CIRCLE COUNTY WHERE ACTION AROSE: Miami-Dade County, Florida

II. BASIS OF JURISDICTION

(PLACE AN X IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity
 (Indicate Citizenship of Parties in item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Case Only)

- Citizen of This State
 Citizen of Another State
 Citizen or Subject of a Foreign Country

PTF DEF

- ☐ 1 ☐ 1
☐ 2 ☐ 2
☐ 3 ☐ 3

(PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- Incorporated or Principal Place of Business in This State
 Incorporated and Principal Place of Business in Another State
 Foreign Nation

PTF DEF

- ☐ 4 ☐ 4
☐ 5 ☐ 5
☐ 6 ☐ 6

IV. CAUSE OF ACTION For Temporary Restraining Order and Permanent Injunction.

IVa.

V. NATURE OF SUIT

(PLACE AN X IN ONE BOX ONLY)

| A CONTRACT | A TORTS | B FORFEITURE PENALTY | A BANKRUPTCY | A OTHER STATUS |
|--|--|---|--|--|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) B <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits B <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability | PERSONAL INJURY <input type="checkbox"/> 352 Personal Injury-Med. Malpractice <input type="checkbox"/> 355 Personal Injury-Product Liability <input type="checkbox"/> 358 Asbestos Personnel Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending B <input type="checkbox"/> 380 Other Personnel Property Damage <input type="checkbox"/> 385 Property Damage Product Liability PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights *A or B | <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety-Health <input type="checkbox"/> 690 Other A LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor Management Relations B <input type="checkbox"/> 730 Labor Management Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Ret. Inc. Security Act B | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 A PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark B SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395)(f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW 405(g) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RS (405(g)) A FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS Third Party 26 USC 7609 | <input type="checkbox"/> 490 States Reappointment <input type="checkbox"/> 495 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commercial/CC Rates/etc. B <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12USC3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice Statutes <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions * A or B |
| A REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure B <input type="checkbox"/> 230 Rent Lease and Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | A CIVIL RIGHTS <input type="checkbox"/> All Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights | | | |

VI. ORIGIN

(PLACE AN X IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
☐ 2 Removed From State Court
☐ 3 Remanded from Appellate Court
☐ 4 Retried
☐ 5 Transferred from another district (Specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT

CHECK IF THIS IS A

☐ under F.R.C.P. 23

☒ Check YES only if demanded in complaint.
☐ Yes
☐ No

JURY DEMAND:

VIII. RELATED CASE(S) IF ANY

(See Instructions):

JUDGE

DOCKET NUMBER

DATE April 26, 2005

SIGNATURE OF ATTORNEY OF RECORD

UNITED STATES DISTRICT COURT

FOR OFFICE USE ONLY:

RECEIPT NO.

919708

Amount:

250.00

Date Paid:

04/26/05

M/tp: