

## Judge OKs Apple's Refund Deal In Faulty Adapter Suit

By Ian Thoms

*Law360, New York (September 28, 2011, 2:26 PM EDT)* -- A California federal judge on Tuesday gave conditional approval to a class action settlement granting refunds to consumers who bought defective power adapters from Apple Inc. after closing a loophole in the agreement that the computing giant said would have exposed it to fraud.

U.S. District Judge James Ware called the agreement "fair, reasonable and adequate" and said the lawsuit meets class action standards for purposes of the settlement. Earlier this month, the judge altered the settlement to protect from possible abuses, saying customers would have to show proof of purchase to get a refund, rather than simply requiring claimants to submit adapters' serial numbers to receive compensation.

On Tuesday, Judge Ware also approved class representatives – Naotaka Kitagawa, Timothy J. Broad, Jesse Reisman, Tracey Hackwith and Michael Martin – and appointed class counsel – Helen I. Zeldes of Zeldes & Haeggquist LLP and Steven A. Skalet of Mehri & Skalet PLLC.

Consumers alleged in 2009 in two class actions that design flaws in Apple's MagSafe power adapters for laptops caused them to fray and spark, posing dangerous fire hazards, and that they otherwise failed prematurely.

Apple, they said, was well aware of the problems, but neglected to disclose it or warn consumers about the defects. When the adaptors did fail, consumers were forced to buy identical replacements because the MagSafe was the only plug-in power source for MacBook and MacBook Pro computers, according to the complaint.

Consumers alleged violations of California business and consumer law, breach of warranty, negligence and unjust enrichment.

The parties moved to settle in August, but earlier this month the court changed the proposed claim form to allow class members to obtain refunds by submitting the power adaptor's serial number and approximate purchase date without an accompanying proof of purchase.

According to Apple, the order created a loophole in the settlement that could lead to fraud.

"Actual proof of purchase is essential in this case," Apple said. "Without it, Apple is subject to massive fraud as well as significant risk of overpayment due to unintentional errors about purchase date. "

Last week, Judge Ware agreed to modify the settlement language to close the loophole. He said claimants would only be eligible for a refund if they could provide an invoice, receipt, credit card statement or other documentation to show that they had bought a new adapter to replace a defective device.

The settlement allows consumers to recover \$79, \$50 or \$35 for replacement adaptors, depending on when they bought them, Apple said.

Attorneys for the parties didn't immediately respond to requests for comment Wednesday.

The plaintiffs are represented by Alreen Haeggquist and Helen Zeldes of Zeldes & Haeggquist LLP, by Craig Briskin and Steven Skalet of Mehri & Skalet PLLC, and by Angela Agrusa of Liner Grode Stein Yankelevitz Sunshine Regenstreif & Taylor LLP.

Apple is represented by Alexei Klestoff, Andrew Muhlbach, Anne Hunter, Heather Moser and Penelope Prevolos of Morrison & Foerster LLP.

The case is In re: MagSafe Apple Power Adapter Litigation, case number 5:09-cv-01911, in the U.S. District Court for the Northern District of California.

--Additional reporting by Derek Hawkins. Editing by John Quinn.