

By Philip 2008, Apple News Editor

[Apple Can't Touch Psystar and Their Mac Clone, Attorney Says](#)

OEM (original equipment manufacturer) price of Leopard, Apple's only shot at damages from the Miami-based computer manufacturer

By now you must be quite familiar with [Psystar's Open Computer](#) (if not, [click here](#)) formerly known as the OpenMac, a system that violates Apple's EULA (end user license agreement) for coming pre-installed with Leopard at the buyer's request. Psystar has started making pretty big waves with its cheap Mac mini alternative and also stands a good chance to be able to continue selling its system, an attorney who used to write patents for Apple says. All the Cupertino-based corporation can do, according to the same man, is to claim the OEM (original equipment manufacturer) price of Leopard."Basically, when people go to a store or download software, they have a license with Apple to use this patented software on their computer. But breach of contract is one of the weakest forms of legal disputes," Abhyanker says, referring to EULA violations.Psystar is offering its Open Computer (formerly known as OpenMac) in two forms: 1 - the computer, period (no pre-installed OS); 2 - Open Computer with pre-installed Leopard, should the buyer opt for the OS too, adding around \$150 to the price of the \$400 system. Installation is free of charge - customers just pay for the OS and the Mac clone. Psystar says it can install Leopard's kernel straight from the OS X disc using an EFI (Extensible Firmware Interface) emulator and a few drivers.Abhyanker now runs his own patent firm. He says Apple will have a hard time keeping the likes of Psystar from selling Leopard-enabled systems. Adding insult to injury, Apple uses the same hardware as 99% of the rest of the PC industry, the same [Wired report](#) reveals, therefore suing another company for violating a contract doesn't even come close to what patent infringement would involve, Abhyanker claims:"Those types of litigation ultimately have a lot more remedies for a plaintiff," he says. "But if you look at breach of contract, it's usually limited (depending on the state) to the amount of services or the amount of goods as subject to the contract. The maximum damage Apple would be able to claim is the price of Leopard -- actually, the OEM (original equipment manufacturer) price of Leopard, which might be a few dollars," Abhyanker concludes.