

HowardRice

1 MARTIN R. GLICK (No. 40187)  
 email: mglick@howardrice.com  
 2 CLARA J. SHIN (No. 214809)  
 email: cshin@howardrice.com  
 3 SARAH J. GIVAN (No. 238301)  
 email: sgivan@howardrice.com  
 4 HOWARD RICE NEMEROVSKI CANADY  
 FALK & RABKIN  
 5 A Professional Corporation  
 Three Embarcadero Center, 7th Floor  
 6 San Francisco, California 94111-4024  
 Telephone: 415/434-1600  
 7 Facsimile: 415/677-6262

8 Attorneys for Defendants and Counter-Claimants  
 AMAZON.COM, INC., a Delaware corporation,  
 9 and AMAZON DIGITAL SERVICES, INC., a  
 Delaware corporation  
 10

11 UNITED STATES DISTRICT COURT  
 12 NORTHERN DISTRICT OF CALIFORNIA

14 APPLE INC., a California corporation,  
 15  
 Plaintiff and Counter-  
 Defendant,  
 16

17 v.

18 AMAZON.COM, INC., a Delaware corporation,  
 and AMAZON DIGITAL SERVICES, INC., a  
 Delaware corporation,  
 19

20 Defendants and Counter-  
 Claimants.  
 21

No. 11-cv-01327 PJH

Action Filed: March 18, 2011

DECLARATION OF AMEESH PALEJA IN  
 SUPPORT OF AMAZON.COM, INC. AND  
 AMAZON DIGITAL SERVICES, INC.'S  
 OPPOSITION TO MOTION FOR  
PRELIMINARY INJUNCTION

1 I, Ameesh Paleja, hereby declare as follows:

2 1. I am the Director of Engineering of Mobile Services for Amazon.com, Inc. (“Amazon”).  
3 I have worked for Amazon in various positions since July 2003. I make this Declaration in support  
4 of Defendants and Counter-Claimants Amazon.com, Inc. and Amazon Digital Services, Inc.’s  
5 Opposition To Plaintiff and Counter-Defendant Apple Inc.’s Motion For Preliminary Injunction  
6 (“Declaration”) upon personal knowledge except where indicated as to information and belief and, if  
7 called upon to testify, could and would testify competently hereto.

8 2. As the Director of Engineering of Mobile Services, I am responsible for the design,  
9 development, and operation of Amazon Appstore for Android. I supervise a team of approximately  
10 55 engineers, technical program managers, and quality assurance staff.

11 3. Apps sold at Amazon Appstore for Android work only on Android devices. Amazon  
12 Appstore for Android, Amazon’s app store, is located on Amazon.com’s website,  
13 www.amazon.com. A link to Amazon’s Appstore for Android appears on the left hand side of  
14 Amazon.com’s homepage. To purchase an app, a consumer must first enter an email address or  
15 mobile number in the box entitled “Get Started: Download the Amazon Appstore” on Amazon  
16 Appstore for Android’s homepage. Attached as Exhibit 1 is a true and correct copy of a screenshot  
17 of Amazon Appstore for Android’s homepage.

18 4. When a customer puts the cursor in the space provided to enter an email address in the  
19 “Get Started” box, a message window opens: “**What happens next?** After submitting your email  
20 address or phone number\*, you will receive a message with a link to download the Amazon  
21 Appstore for Android.” Attached as Exhibit 2 is a true and correct copy of a screenshot of this  
22 message window. Once the customer enters an email address and presses the “GO” button, another  
23 window opens up to a video welcoming the customer to “Amazon Appstore for Android.” This  
24 window provides instructions for “Getting Started with Amazon Appstore.” The first line of the  
25 instructions states, “Quickstart: Start using the Amazon Appstore on your Android device in a few  
26 simple clicks. Either watch the video to the right or follow the click-by-click guide below.” A  
27 “Click-by-Click Guide” follows with a picture of an Android smartphone appearing adjacent to each  
28 “Click” instruction. The Guide concludes with the following message: “That’s it! Sign in with your

1 Amazon.com account and start enjoying thousands of apps for Android. You need to do this only  
2 once for each device.” Attached hereto as Exhibit 3 is a true and correct copy of the “Quickstart”  
3 instructions.

4 5. Amazon.com also sends the customer a message to the email address provided with  
5 “Amazon Appstore Download” in the subject line. The email instructs as follows: “Download the  
6 Amazon Appstore app immediately by clicking <https://www.amazon.com/app-email> from your  
7 Android device, or follow the click-by-click guide below.” The remainder of the message is a  
8 “Click-by Click Guide.” Attached hereto as Exhibit 4 is a true and correct copy of this email.

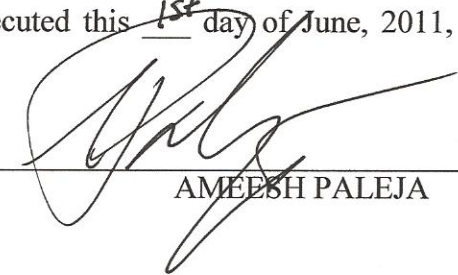
9 6. Android smartphones are powered by software developed by Google. Amazon tests  
10 each app that is sold through Amazon Appstore for Android for, among other things, security,  
11 usability, and content guidelines. Amazon’s current ingestion and testing processes make Amazon  
12 Appstore for Android one of the most trusted places to get apps for Android; Amazon is proactive in  
13 its security procedures and does not wait for security to become an issue before testing the app or  
14 safeguarding the customer. Amazon’s ingestion and testing process is comprised of three main  
15 steps: (1) automated analysis of the binary and its contents via custom developed software; (2) in-  
16 house testing and verification by Amazon employees; and (3) independent testing and analysis using  
17 third party firms.

18 7. Many Android applications require “root” access to function properly. “Rooting” is the  
19 process of enabling a phone to run Android applications with privilege control permissions; it does  
20 not mean that security features have been bypassed. For example, the applications Titanium Backup  
21 and SetCPU for Root Users require “root” access to function properly; Titanium Backup provides  
22 users with the ability to do a complete backup of their phones while SetCPU enables users to adjust  
23 how fast or slow their phone processor runs. In other words, the Android security model is a  
24 declarative system based on the application that the consumer chooses to download. A consumer  
25 cannot exceed the scope of the application by rooting one’s phone; for example, if an application  
26 does not request access to a user’s address book, the user would not be able to access the phone  
27 book irrespective of whether the phone has been rooted.

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge. Executed this 1<sup>st</sup> day of June, 2011, in Orange County, California.



---

AMEESH PALEJA