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 13 APPLE INC.

14 ADDITIONAL COUNSEL ON SIGNATURE PAGE

15 **UNITED STATES DISTRICT COURT**
 16 **NORTHERN DISTRICT OF CALIFORNIA**

17 APPLE INC., a California corporation,
 18
 19 Plaintiff and Counter-
 20 Defendant,
 21
 22 v.
 23
 24 AMAZON.COM, INC., a Delaware
 25 corporation, and AMAZON DIGITAL
 26 SERVICES, INC., a Delaware corporation,
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 28 Defendants and Counter-
 Claimants.

Case No. CV 11-01327 PJH

**STIPULATION AND [PROPOSED]
 ORDER RE FILING OF AND
 RESPONDING TO SECOND
 AMENDED COMPLAINT PURSUANT
 TO F.R.C.P. 15(a)(2)-(3)**

STIPULATION RE FILING OF AND
 RESPONDING TO
 SECOND AMENDED COMPLAINT
 CASE NO. CV 11-01327 PJH

1 Plaintiff and Counter-Defendant Apple, Inc. (“Apple”) and Defendants and Counter-
2 Claimants Amazon.com, Inc. and Amazon Digital Services, Inc. (collectively, “Amazon”), hereby
3 consent and stipulate as follows:

4 WHEREAS, Apple filed a Complaint on March 18, 2011;

5 WHEREAS, Apple’s currently-operative complaint is its Amended Complaint filed on
6 April 8, 2011;

7 WHEREAS, Apple seeks to file a Second Amended Complaint;

8 WHEREAS, Apple’s Second Amended Complaint is submitted concurrently herewith in
9 accordance with Civil L.R. 10-1;

10 WHEREAS, pursuant to Federal Rule of Civil Procedure 15(a)(2), Amazon consents to
11 Apple’s filing of the Second Amended Complaint;

12 WHEREAS, by consenting to the filing of a Second Amended Complaint, Amazon is not
13 in any way conceding, and expressly reserves its rights to contest by all permissible procedures
14 and means, (a) the truth of any factual allegation in the Second Amended Complaint; and (b) the
15 legal or factual adequacy of any claim asserted in the Second Amended Complaint.

16 **IT IS THEREFORE STIPULATED AND AGREED AS FOLLOWS:**

17 1. That pursuant to Federal Rule of Civil Procedure 15(a)(2), Apple’s Second Amended
18 Complaint shall be the now-operative pleading in the above-captioned litigation;

19 2. That, pursuant to Federal Rule of Civil Procedure 15(a)(3), Amazon shall have 30
20 days from service of the Second Amended Complaint in which to answer or otherwise respond to
21 the Second Amended Complaint

22
23 In accordance with N.D. Cal. General Order No. 45, Section X, the filer of this document
24 hereby attests that concurrence in the filing of this document has been obtained from the other
25 signatory hereto.

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27 **IT IS SO STIPULATED:**

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Dated: November 16, 2011

DAVID R. EBERHART
RYAN J. PADDEN
DAVID J. SEPANIK
O'MELVENY & MYERS LLP

By: /s/ David R. Eberhart
David R. Eberhart
Attorneys for Plaintiff and Counter-Defendant
APPLE INC.

Dated: November 16, 2011

MARTIN R. GLICK
CLARA J. SHIN
SARAH J. GIVAN
HOWARD RICE NEMEROVSKI CANADY
FALK & RABIN
A Professional Corporation

By: /s/ Martin R. Glick
Martin R. Glick
Attorney for Defendants and Counter-
Claimants AMAZON.COM, INC. and
AMAZON DIGITAL SERVICES, INC.

ORDER

Based upon the foregoing Stipulation and good cause appearing, IT IS SO ORDERED.

DATED: _____, 2011.

HONORABLE PHYLLIS J. HAMILTON
UNITED STATES DISTRICT JUDGE