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Case 5:05-cv-00037-JW Document 101 Filed 02/05/2007 Page 1 of 2 1 Robert A. Mittelstaedt #060359 Caroline N. Mitchell #143124 2 Adam R. Sand #217712 Tracy M. Strong #221540 3 JONES DAY 555 California Street, 26th Floor 4 San Francisco, CA 94104 (415) 626-3939 Telephone: 5 Facsimile: (415) 875-5700 ramittelstaedt@jonesday.com 6 cnmitchell@jonesday.com arsand@jonesday.com 7 tstrong@jonesday.com 8 Attorneys for Defendant 9 APPLE INC. f/k/a Apple Computer, Inc. 10 UNITED STATES DISTRICT COURT 11 NORTHERN DISTRICT OF CALIFORNIA 12 13 SOMTAI TROY CHAROENSAK and Case No. C 05 00037 JW (PVT) MARIANA ROSEN, individually, and 14 on behalf of all others similarly situated, **DECLARATION OF TRACY M. STRONG** IN SUPPORT OF PLAINTIFFS' 15 Plaintiffs, UNOPPOSED MOTION TO FILE THE **DECLARATION OF DR. JOHN** 16 PISARKIEWICZ IN SUPPORT OF v. PLAINTIFFS' MOTION FOR CLASS 17 **CERTIFICATION UNDER SEAL** APPLE COMPUTER, INC., 18 Defendant. Honorable Patricia V. Trumbell Courtroom 5, 4th Floor 19 20 21 I, Tracy M. Strong, declare: 22 1. I am an associate in the law firm of Jones Day, located at 555 California Street, 23 26th Floor, San Francisco, California, 94104, a member in good standing of the State Bar of 24 California, and one of the attorneys of record in this case for defendant. I have personal 25

knowledge of the facts set forth herein and, if called as a witness, I could and would competently testify thereto. I make this declaration pursuant to Local Rule 79-5(d) in support of plaintiffs' request to file the declaration of Dr. John Pisarkiewicz under seal.

SFI-560738v1 C 05 00037 JW

2. In discovery, Apple produced to plaintiffs confidential financial information
regarding direct sales in the United States of iPod products and music files from the iTunes Store
This information was designated "Confidential – Attorneys Eyes Only" pursuant to the Amended
Stipulation and Protective Order Regarding Confidential Information agreed to by the parties and
entered by this Court on January 17, 2007.

- 3. Information about sales per region is not disclosed in Apple's Form 10-K filings with the Securities Exchange Commission. Rather, Apple reports sales on a worldwide basis. Attached hereto as Exhibit A is a true and correct copy of excerpts from Apple's 10-K filings for fiscal years 2004, 2005 and 2006. The information produced to plaintiffs about direct sales of iPod products and music files from the iTunes Store in the United States is non-public financial information from a public company that should remain confidential.
- 4. Plaintiffs' expert Dr. John Pisarkiewicz relies on and quotes this confidential information in his declaration in support of plaintiffs' motion for class certification (paragraphs 11, 12, 17 and 18) and Exhibit 3 thereto (Tables 3 and 4, Figures 1 and 2). Plaintiffs have now moved to file this declaration under seal, as required by paragraph 7(f) of the Amended Stipulation and Protective Order. Apple requests that the confidential non-public financial information be placed under seal.

I declare under penalty of perjury of the laws of California and the United States of America that the foregoing is true and correct of my personal knowledge. Executed this 5th day of February, 2007 at San Francisco, California.

/s/ Tracy M. Strong
Tracy M. Strong