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9 THE KATRIEL LAW FIRM  
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16 Co-Lead Counsel for Plaintiffs

17 UNITED STATES DISTRICT COURT  
 18 NORTHERN DISTRICT OF CALIFORNIA  
 19 SAN JOSE DIVISION

20 THE APPLE IPOD ITUNES ANTI-TRUST )	Lead Case No. C-05-00037-JW(RS)
21 LITIGATION )	
22 _____ )	<u>CLASS ACTION</u>
23 This Document Relates To: )	DECLARATION OF BONNY E. SWEENEY
24 ALL ACTIONS. )	IN SUPPORT OF PLAINTIFFS' MOTION
25 _____ )	FOR CLASS CERTIFICATION AND
	APPOINTMENT OF CLASS COUNSEL

26 JUDGE: Hon. James Ware  
 27 DATE: November 10, 2008  
 28 TIME: 9:00 a.m.  
 CTRM: 8-4th Floor

1 I, Bonny E. Sweeney, declare as follows:

2 1. I am an attorney duly licensed to practice before all of the courts of the State of  
3 California and am a member of the law firm of Coughlin Stoia Geller Rudman & Robbins LLP. I  
4 have personal knowledge of the matters stated herein, and, if called upon, I could and would  
5 competently testify thereto.

6 2. I am Co-Lead Counsel on behalf of Melanie Tucker, Mariana Rosen, and Somtai  
7 Troy Charoensak (collectively, "Plaintiffs") in the above-entitled action.

8 3. Plaintiffs have submitted themselves to considerable deposition testimony. Plaintiff  
9 Somtai Charoensak was deposed on January 12, 2007 by Apple's counsel, Bob Mittelstaedt.  
10 Similarly, Plaintiff Mariana Rosen was deposed on January 24, 2007 and Plaintiff Melanie Tucker  
11 was deposed on October 26, 2007.

12 4. Plaintiffs have also provided substantial discovery, including, copies of all music files  
13 stored on their personal computers, copies of their iTunes Store purchase history, iTunes Store  
14 account names and passwords, copies of receipts documenting their iPod purchases from Apple, and  
15 lists of every compact disc they currently own.

16 5. I submit this declaration in support of Plaintiffs' Notice of Motion and Motion for  
17 Class Certification and Appointment of Class Counsel.

18 6. Attached hereto are true and correct copies of the following exhibits:

19 Exhibit 1: Declaration of Roger G. Noll, dated July 15, 2008;

20 Exhibit 2: Relevant Excerpts of Apple Inc., Annual Report (Form 10-K) (Sept. 29,  
21 2007);

22 Exhibit 3: Coughlin Stoia Geller Rudman & Robbins LLP Firm Resume;

23 Exhibit 4: The Katriel Law Firm Resume;

24 Exhibit 5: S. Jobs, *Thoughts on Music*, Feb. 6, 2007 available at  
[www.apple.com/hotnews/thoughtsonmusic/](http://www.apple.com/hotnews/thoughtsonmusic/);

25 Exhibit 6: Press Release, Apple, *Apple launches iTune Plus Higher Quality DRM-Free*  
26 *Tracks Now Available on the iTunes Store Worldwide*, May 30, 2007  
available at <http://www.apple.com/pr/library/2007/05/30itunesplus.html>;

27 Exhibit 7: Press Release, Apple, *iTunes Music Store Catalog Tops One Million Songs*,  
28 (Aug. 10, 2004) available at  
[www.apple.com/pr/library/2004/aug/10itms.html](http://www.apple.com/pr/library/2004/aug/10itms.html);

- 1 Exhibit 8: AAPL – Q4 2004 Earnings Conference Call (Oct. 13, 2004);
- 2 Exhibit 9: AAPL – Q3 2005 Earnings Conference Call (July 13, 2005);
- 3 Exhibit 10: AAPL – Q2 2006 Earnings Conference Call (Apr. 19, 2006);
- 4 Exhibit 11: AAPL – Q1 2007 Earnings Conference Call (Jan. 17, 2007);
- 5 Exhibit 12: Apple, Inc.’s Answer and Defenses to Plaintiffs’ Consolidated Complaint,  
6 filed June 6, 2007;
- 7 Exhibit 13: Reply in Support of Motion to Dismiss Antitrust Claims, filed November 11,  
8 2006;
- 9 Exhibit 14: Defendant’s Notice of Motion and Motion to Dismiss Antitrust Claims, filed  
10 August 21, 2006;
- 11 Exhibit 15: Warner Music Group F1Q07 Earnings Call Feb. 8, 2007 *available at*  
[http://seekingalpha.com/article/26496-warner-music-group-f1q07-qtr-end-  
12-31-06-earnings-call-transcript](http://seekingalpha.com/article/26496-warner-music-group-f1q07-qtr-end-12-31-06-earnings-call-transcript);
- 12 Exhibit 16: AAPL – Q4 2005 Earnings Conference Call (Oct. 11, 2005);
- 13 Exhibit 17: APPL – Apple Computer, Inc. at JP Morgan Technology & Telecom  
14 Conference(May 4, 2004);
- 15 Exhibit 18: AAPL-Q2 2005 Earnings Conference Call (April 13, 2005); and
- 16 Exhibit 19: Declaration of Lee Morse, filed Jan. 22, 2007.

17 I declare under penalty of perjury under the laws of the State of California that the foregoing  
18 is true and correct. Executed this 21st day of July, 2008, at San Diego, California.

19 \_\_\_\_\_  
20 s/ BONNY E. SWEENEY  
21 BONNY E. SWEENEY

22 S:\CasesSD\Apple Tying\DEC00052717\_BES.doc

1 CERTIFICATE OF SERVICE

2 I hereby certify that on July 21, 2008, I electronically filed the foregoing with the Clerk of  
3 the Court using the CM/ECF system which will send notification of such filing to the e-mail  
4 addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I have  
5 mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF  
6 participants indicated on the attached Manual Notice List.

7 I certify under penalty of perjury under the laws of the United States of America that the  
8 foregoing is true and correct. Executed on July 21, 2008.

9 s/ BONNY E. SWEENEY  
10 BONNY E. SWEENEY

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## Mailing Information for a Case 5:05-cv-00037-JW

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## Manual Notice List

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