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7 Attorneys for Defendant
APPLE INC.

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN JOSE DIVISION
12

13 THE APPLE IPOD iTUNES ANTI-TRUST
14 LITIGATION

Case No. C 05-00037 JW
C 06-04457 JW

15 **DECLARATION OF EDDY CUE IN**
16 **SUPPORT OF DEFENDANT'S**
17 **OPPOSITION TO**
18 **PLAINTIFFS' MOTION TO**
19 **MODIFY INJUNCTIVE RELIEF**
20 **CLASS DEFINITION**

21 **(SIGNATURE BY FAX)**

22 **Date:** October 5, 2009
23 **Time:** 9:00 A.M.
24 **Place:** Courtroom 8, 4th floor
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1 I, Eddy Cue, declare as follows:


2 1. I am employed by Apple Inc. as Vice President, Internet Services. I have held this
3 position since August 2008. I have had responsibility for the iTunes Store since 2003. I make
4 this declaration in support of Defendant's Opposition to Plaintiffs' Motion to Modify Injunctive
5 Relief Class Definition to Include iTMS Purchasers. The facts stated in this declaration are true
6 and based upon my own personal knowledge, and if called to testify to them, I would competently
7 do so.

8 2. Apple could not launch a completely DRM-free version of the iTunes Music Store
9 until all of the record labels that provided content to Apple agreed that Apple could sell their
10 music without the use of DRM. Well before the labels agreed to do so, Apple had publicly
11 expressed its desire to sell DRM-free music.

12 3. Now that the labels have agreed that Apple may sell music they provide to Apple
13 without the use of DRM, Apple sells only DRM-free music. The other major online-music stores
14 such as Wal-Mart and Amazon that compete with Apple similarly sell music without DRM.
15 Apple is not aware that the record labels have any plans to reinstitute a DRM requirement and
16 Apple has no intention of operating a music store that sells DRM music in the future.

17 I declare under penalty of perjury under the laws of the United States and the State of
18 California that the foregoing is true and correct.

19 Executed this 14 day of September 2009 in Cupertino, California.

20
21 
22 Eddy Cue

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24 SFI-618644v1