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20 Co-Lead Counsel for Plaintiffs

21 UNITED STATES DISTRICT COURT  
 22 NORTHERN DISTRICT OF CALIFORNIA  
 23 SAN JOSE DIVISION

24 THE APPLE IPOD ITUNES ANTI-TRUST ) Lead Case No. C-05-00037-JW(RS)  
 25 LITIGATION )  
 26 ) CLASS ACTION

27 This Document Relates To: )  
 28 ) DECLARATION OF THOMAS R.  
 ) MERRICK IN SUPPORT OF PLAINTIFFS'  
 ) MOTION TO FILE UNDER SEAL  
 ) PORTIONS OF PLAINTIFFS' REPLY  
 ) MEMORANDUM IN SUPPORT OF THEIR  
 ) MOTION TO MODIFY INJUNCTIVE  
 ) RELIEF CLASS DEFINITION TO INCLUDE  
 ) iTMS PURCHASERS AND EXHIBIT 1 TO  
 ) THE MERRICK DECLARATION  
 ) PURSUANT TO LOCAL RULE 79-5(b)-(c)

29 Judge: Hon. James Ware  
 30 Date: November 23, 2009  
 31 Time: 9:00 a.m.  
 32 CTRM: 8-4th Floor

1 I, THOMAS R. MERRICK, hereby declare as follows:

2 1. I am an attorney duly licensed to practice before all of the courts of the State of  
3 California. I am associated with the law firm of Coughlin Stoia Geller Rudman & Robbins LLP,  
4 Co-Lead Class Counsel of record for Plaintiffs Melanie Tucker, Mariana Rosen, and Somtai Troy  
5 Charoensak in this action. I have personal knowledge of the matters stated herein, and, if called  
6 upon, I could and would competently testify thereto.

7 2. I submit this declaration in support of Plaintiffs' Administrative Motion to File Under  
8 Seal Portions of Plaintiffs' Reply Memorandum in Support of Their Motion to Modify Injunctive  
9 Relief Class Definition to Include iTMS Purchasers ("Reply Memorandum") and Exhibit 1 to the  
10 Merrick Declaration ("Exhibit 1") Pursuant to Local Rule 79-5(b)-(c).

11 3. The requested relief is necessary and narrowly tailored to protect the confidentiality  
12 of Apple's commercially sensitive business information, including undisclosed internal emails. The  
13 confidential information has been redacted from the Reply Memorandum and Exhibit 1 to allow  
14 public access to the redacted Reply Memorandum and Exhibit 1. The redacted Reply Memorandum  
15 and Exhibit 1 are marked "REDACTED."

16 I declare under penalty of perjury under the laws of the United States of America that the  
17 foregoing is true and correct. Executed this 9th day of November, 2009, at San Diego, California.

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s/ Thomas R. Merrick  
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THOMAS R. MERRICK

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1 CERTIFICATE OF SERVICE

2 I hereby certify that on November 9, 2009, I electronically filed the foregoing with the Clerk  
3 of 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 November 9, 2009.

9  
10 s/ Thomas R. Merrick  
THOMAS R. MERRICK

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