

1 Robert A. Mittelstaedt #60359
ramittelstaedt@jonesday.com
2 Craig E. Stewart #129530
cestewart@jonesday.com
3 David C. Kiernan #215335
dkiernan@jonesday.com
4 Michael T. Scott #255282
michaelscott@jonesday.com
5 JONES DAY
555 California Street, 26th Floor
6 San Francisco, CA 94104
Telephone: (415) 626-3939
7 Facsimile: (415) 875-5700

8 Attorneys for Defendant
APPLE INC.
9

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION
13

14 THE APPLE IPOD iTUNES ANTI-TRUST
LITIGATION.
15

Case No. C 05-00037 JW (HRL)

[CLASS ACTION]

16 **DECLARATION OF EDDY CUE IN**
17 **SUPPORT OF DEFENDANT'S**
18 **RESPONSE TO PLAINTIFFS'**
19 **AMENDED ADMINISTRATIVE**
20 **MOTION TO FILE UNDER SEAL**

Judge: Honorable Howard R. Lloyd

Date: January 18, 2011

Time: 10:00 a.m.

Place: Courtroom 2-5th Floor
21
22
23
24

25 I, Eddy Cue, declare as follows:

26 1. I am Vice President, Internet Services at Apple Inc. ("Apple"). I have held this
27 position since August 2008. I have had responsibility for the iTunes Store since 2003.

28 2. I submit this declaration in support of Defendant's Response to Plaintiffs'

1 Amended Administrative Motion to File Under Seal Portions of Plaintiffs' Opposition to Apple
2 Inc.'s Motion for Protective Order Preventing Deposition of Steve Jobs, Portions of the Bernay
3 Declaration and Exhibits 1-4 and 6-11 Pursuant to Local Rule 79-5(b) and (c) ("Administrative
4 Motion"). The facts stated in this declaration are true and based upon my own personal
5 knowledge, and if called to testify to them, I would competently do so.

6 3. The relief requested in the Administrative Motion is necessary and narrowly
7 tailored to protect Apple's highly confidential and commercially sensitive business information.
8 The redacted portions of the Plaintiffs' Opposition (Dkt. 404) and the Bernay Declaration (Dkt.
9 405) contain highly confidential and sensitive information that must be kept confidential in order
10 to avoid causing substantial harm to Apple. The redactions specifically relate to (1) sensitive
11 contract terms and communications with record labels; (2) updates to Apple's FairPlay digital
12 rights management technology; and (3) business decisions and strategy at Apple.

13 4. Pages 4 and 10-11 of Plaintiffs' Opposition (Dkt. 404) and Exhibits 1 and 6-7 to
14 the Bernay Declaration (Dkt. 405) contain highly confidential and commercially sensitive
15 business information, including information regarding sensitive contract terms and
16 communications with record labels.

17 5. Apple's practices are that such information is to be kept highly confidential and
18 must not be publicly disclosed. Apple's contracts with record labels are subject to confidentiality
19 provisions and were produced to plaintiffs pursuant to the Stipulation and Protective Order
20 Regarding Confidential Information entered June 13, 2007 ("Protective Order," Dkt. 112).
21 Similarly, Apple's communications with the record labels contain highly confidential,
22 commercially sensitive business information and were produced plaintiffs pursuant to the
23 Protective Order. The public disclosure of this highly confidential information would cause
24 substantial harm to Apple.

25 6. Pages 4-8 of Plaintiffs' Opposition (Dkt. 404) and Page 1 and Exhibits 2, 4, 5, 6, 7,
26 8, 9, 10, and 11 to the Bernay Declaration (Dkt. 405) contain highly confidential and
27 commercially sensitive business information, including information regarding updates to Apple's
28 FairPlay DRM technology.

