

Exhibit A

JONES DAY

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michaelscott@jonesday.com

JP010581
Our Ref.: 825624-605002

December 20, 2010

Via U.S. Mail and E-Mail

Bonny E. Sweeney
Robbins Geller Rudman & Dowd LLP
655 West Broadway, Suite 1900
San Diego, CA 92101

Re: Plaintiffs' Responses to Apple's Discovery Requests

Bonny:

This letter regards plaintiffs' responses to Apple's October 27, 2010 discovery requests.

Interrogatories:

Apple granted plaintiffs a two-week extension of the deadline for plaintiffs' interrogatory responses with the understanding that plaintiffs would provide substantive responses. Plaintiffs' responses instead repeatedly recycle an objection regarding the volume of Apple's document production, making no effort to answer, even in part, 19 of the 21 interrogatories.

In response to requests that plaintiffs identify facts that they contend support their position, plaintiffs claim that the request seeks information that is equally available to Apple. That is incorrect. Apple cannot know which facts plaintiffs contend support their claims, and therefore asks that plaintiffs amend their responses to identify those facts.

Plaintiffs response to Interrogatory 17 is particularly unreasonable. The request calls for the identification of each software program, including those named in plaintiffs' own complaint, that plaintiffs have used to make iTunes-purchased music interoperable with a non-Apple device. In response, plaintiffs object that the information is equally available to Apple, irrelevant, and not reasonable calculated to lead to the discovery of admissible evidence.

Information regarding software programs used by plaintiffs is not in Apple's possession. Moreover, plaintiffs' objection that the requested information is irrelevant is baseless. Plaintiffs' claims against Apple regard alleged software updates denying consumers the ability to use such programs. Whether or not plaintiffs have in fact used the programs, and if so, which ones they have used, is relevant to these claims. Apple requests that plaintiffs amend their response to Interrogatory 17 right away.

Bonny E. Sweeney
December 20, 2010
Page 2

Interrogatory 21 calls for the sources of music on plaintiffs' portable digital media players and the percentage of music from the identified sources. Plaintiffs identified the sources of their music but did not indicate the percentage of music from those sources and offered no explanation for their failure to do so. Please amend these responses as well.

Requests for Production of Documents:

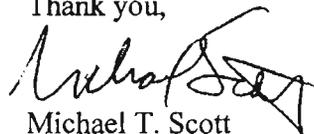
Plaintiffs object to Request for Production of Documents numbers 1, 2, and 6 on the puzzling grounds that discovery is ongoing. Though plaintiffs agreed to produce documents in response to other requests—despite the ongoing nature of discovery—they did not agree to produce documents in response to requests 1, 2, and 6. Essentially, plaintiffs have refused to fulfill their duty to provide responsive documents because the deadline for doing so has not passed. That is nonsensical and flies in the face of the requirements of the Federal Rules. Please produce documents responsive to these requests, or confirm that plaintiffs have no such documents, by the close of discovery on Monday, December 20.

Requests for Admission

Plaintiffs state in their complaint that “songs purchased from iTS that were encoded with FairPlay were incapable of being played by Portable Digital Media Players other than iPod,” and that programs like Hymn permitted consumers to play that music on other players. Nonetheless, plaintiffs denied Requests for Admission numbers 4, 5, and 6 that such programs removed or otherwise circumvented FairPlay. Given the language in the complaint, those denials are untenable. Apple requests that plaintiffs explain their denials of these requests or amend their responses to them.

Please provide a response to this letter no later than Tuesday, December 21. If plaintiffs fail to fulfill their obligation to answer these requests, Apple will move to compel.

Thank you,



Michael T. Scott

Exhibit B

Alexandra S. Bernay
XanB@rgrdlaw.com

December 21, 2010

VIA EMAIL AND U.S. MAIL

Michael T. Scott
Jones Day
555 California St., 26th Floor
San Francisco, CA 94101

Re: *The Apple iPod iTunes Anti-Trust Litigation*
No. C-05-00037-JW (N.D. Cal.)

Dear Michael:

I write regarding your letter of December 20, 2010 to Bonny Sweeney concerning Plaintiffs' responses to certain discovery propounded by Apple.

As you are aware, Apple has produced massive quantities of documents over the last four weeks. Indeed, even today Plaintiffs received in the mail additional CDs containing documents. Additionally, materials necessary for expert analysis were received by counsel for Plaintiffs late last night.

This late production of critical documents has hamstrung Plaintiffs and has made responding to certain of Apple's discovery requests impossible at this time. As courts recognize, frequently a party will not be able to provide useful answers to contention interrogatories until all discovery is completed. *See In re Convergent Tech. Sec. Litig.*, 108 F.R.D. 328 (N.D. Cal. 1985) (denying motion to compel responses to contention interrogatories and laying out standards for such discovery). Rule 33(c) permits contention interrogatories under certain circumstances, "but permits a court to defer an answer 'until after discovery has been completed or until a pretrial conference or other later time.'" *Manual for Complex Litigation* (Fourth) §11.462 (quoting Fed. R. Civ. P 33(c)).

Moreover, as is the case here, contention interrogatories that seek information directed at matters equally available to the proponents' own statements and conduct, may be particularly ill suited to responses at any time.

Michael T. Scott
December 21, 2010
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Plaintiffs are diligently reviewing the more than one million pages produced by Apple over the past few weeks and will be in a better position to respond to certain of Apple's contention interrogatories in due course. Some of the interrogatories, such as interrogatory Number 17, call for information from the named plaintiffs. We intend to provide more detailed answers to those interrogatories shortly and will include verifications at that time. We intend to supplement our responses, where appropriate, in time for Apple to make use of those answers in its reply in support of its upcoming motion for summary judgment. We believe this strikes a proper balance under the Federal Rules of Civil Procedure and obviates Apple's claimed need to move to compel.

As to Plaintiffs' responses to Apple's requests for production of documents, you complain that Plaintiffs have improperly answered. This is not so. Plaintiffs' objections are well founded. Additionally, many of the documents responsive to Apple's requests are based on Apple's interrogatories. As such, because those documents are either only just being produced or are in Apple's possession, custody or control, or equally available to Apple, Plaintiffs' responses at this time to Requests 1, 2 and 6 are proper.

Plaintiffs are generally available to discuss these issues prior to the Christmas holiday. Please contact me should you have any questions.

Very truly yours,



ALEXANDRA S. BERNAY

ASB:jpk

Exhibit C

Subject: Re: Apple iPod iTunes Antitrust Litigation 
From: Robert A Mittelstaedt
To: Xan Bernay, Michael Scott
Cc: "Paula Roach", David Kiernan

12/23/2010 02:41 PM

Absent a satisfactory resolution, we plan to move to compel this Monday. For those rogs you intend to answer, please identify the rogs and the date you will provide complete answers. Same for the RFPs you intend to comply with fully.

I can confer by phone anytime tomorrow morning. Please tell me what time works for you. It would be helpful to have the information requested above by then. Thanks.

This e-mail (including any attachments) may contain information that is private, confidential, or protected by attorney-client or other privilege. If you received this e-mail in error, please delete it from your system without copying it and notify sender by reply e-mail, so that our records can be corrected.

From: "Xan Bernay" [XanB@rgrdlaw.com]
Sent: 12/23/2010 02:33 PM PST
To: Michael Scott
Cc: "Paula Roach" <proach@rgrdlaw.com>; Robert Mittelstaedt; David Kiernan
Subject: RE: Apple iPod iTunes Antitrust Litigation

I write in response to your email of December 22, 2010 regarding discovery. As I previously explained in my December 21, 2010 letter, certain of defendant Apple's interrogatories can not be answered at this time because of the massive volume of documents produced by Apple over the past few weeks. Frequently a party will not be able to provide useful answers to contention interrogatories until all discovery is completed. *See In re Convergent Tech. Sec. Litig.*, 108 F.R.D. 328 (N.D. Cal. 1985) (denying motion to compel responses to contention interrogatories and laying out standards for such discovery). Your email seems to suggest plaintiffs be forced to partially and incompletely answer these contention interrogatories and supplement at a later time. This is an inefficient process and one that is unnecessary. As Fed. R. Civ. P. 33 states, "the court may order that the interrogatory need not be answered until designated discovery is complete, or until a pretrial conference or some other time."

As I also previously stated, plaintiffs are endeavoring to provide you with answers to certain interrogatories, including number 17, which relate to the named plaintiffs. As you are aware, the holidays are upon us and we are working diligently to provide this information to you. As I previously stated, we intend to provide more detailed answers to those interrogatories shortly and will include verifications at that time. I expect that we will be able to answer these plaintiff specific interrogatories very soon.

Plaintiffs have not refused to produce documents in response to Apple's requests for production number 1, 2 and 6. Instead, plaintiffs have objected to those requests and explained why, at this time, plaintiffs are unable to respond to those requests.

A meet and confer on these points, rather than a flurry of letters back and forth with unilateral demands from Apple, would be more productive. As I stated in my previous letter, plaintiffs are generally available to discuss these issues. Please feel free to contact me with any questions.

Happy Holidays,
Xan

From: Michael Scott [mailto:michaelscott@jonesday.com]

Sent: Wednesday, December 22, 2010 12:16 PM

To: Xan Bernay

Cc: Paula Roach; Robert A Mittelstaedt; David Kiernan

Subject: Apple iPod iTunes Antitrust Litigation

Xan,

This email responds to your letter to me dated December 21, 2010, dealing with plaintiffs' failure to answer Apple's interrogatories. As to plaintiffs' failure to address, even in part, 19 of 21 interrogatories, you claim that the volume of Apple's recent productions has made it impossible to answer them and say that plaintiffs intend to "supplement" their non-responses in time for Apple to rely on them in its reply in support of its anticipated motion for summary judgment. That is insufficient. Apple began producing documents over a year ago, and plaintiffs have relied on documents produced since then in their pleadings and depositions. Plaintiffs must answer Apple's interrogatories now with available information, and were granted a two-week extension to do just that. Please respond to these interrogatories right away. Plaintiffs can supplement those responses later as may be appropriate. Moreover, a proposal to respond prior to the due date for Apple's reply--rather than its motion for summary judgment--is unacceptable.

You also write that plaintiffs intend to respond to some interrogatories such as number 17, but that they require information from the named plaintiffs. The interrogatories were served on October 27, and again, plaintiffs were given an extra two weeks during which they could have collected this information. In all, plaintiffs have had almost two months to do so, and your letter does not explain why they have not. Please respond to these interrogatories immediately.

Plaintiffs have refused to produce documents in response to requests for production numbers 1, 2, and 6, claiming that discovery is ongoing. Rather than address the points in my December 20 letter, you write that "plaintiff's objections are well founded." That is not so, for reasons I've already noted. You also write that "many of the documents responsive to Apple's requests are based on Apple's interrogatories. As such, because those documents are either only just being produced or are in Apple's possession, custody or control, or equally available to Apple, Plaintiffs' responses at this time to Requests 1, 2 and 6 are proper." Please confirm that plaintiffs have no non-privileged documents in their possession, custody, or control that are responsive to these requests other than what Apple has produced. If they do, please produce them. Plaintiffs may supplement their production if necessary. Finally, this objection does not apply to request for production 6, which calls for documents relating to the hacks named in the complaint. Please confirm that plaintiffs have no non-privileged documents responsive to this request or produce such documents.

Absent a satisfactory resolution, Apple intends to move to compel on Monday.

Sincerely,
Mike Scott

Michael Scott
Jones Day

555 California St., 26th floor
San Francisco, CA 94104
(415) 875-5874 (phone)
(415) 963-6855 (fax)

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Exhibit D

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12 202/330-5593 (fax)
rak@katriellaw.com

13 Co-Lead Counsel for Plaintiffs

14 [Additional counsel appear on signature page.]

15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN JOSE DIVISION

18 THE APPLE IPOD ITUNES ANTI-TRUST) Lead Case No. C-05-00037-JW(HRL)
19 LITIGATION))
20)) CLASS ACTION
21 This Document Relates To:))
22 ALL ACTIONS.)) PLAINTIFF SOMTAI TROY
CHAROENSAK'S RESPONSE TO
DEFENDANT APPLE INC.'S FIRST
INTERROGATORIES

23
24 PROPOUNDING PARTY: APPLE INC.

25 RESPONDING PARTY: SOMTAI TROY CHAROENSAK

26 SET NO.: ONE

1 Plaintiff, by and through his attorneys and pursuant to Rule 33 of the Federal Rules of Civil
2 Procedure, hereby submits the following objections and responses to Defendant Apple, Inc.'s First
3 Interrogatories ("Interrogatories").

4 **I. PRELIMINARY STATEMENT**

5 Plaintiff has not completed investigation or analysis of the facts relating to this case, has not
6 completed discovery, has not completed expert analysis, and has not completed preparation for trial.
7 Plaintiff is still in the process of reviewing more than 1 million pages of documents produced by
8 Defendant Apple ("Apple") over the last month and deposing Apple's witnesses. No expert
9 discovery has been conducted. Accordingly, the responses herein given are without prejudice to
10 Plaintiff's right to produce evidence of any subsequently discovered facts or interpretations thereof
11 and/or to add to, modify or to otherwise change or amend the responses herein. The information set
12 forth below is true and correct to the best knowledge of Plaintiff at this particular time. Plaintiff
13 expressly reserves his right to supplemental these responses as additional information is forthcoming
14 in the discovery process.

15 **II. GENERAL OBJECTIONS**

16 Plaintiff asserts the following General Objections and hereby incorporates them into each
17 individual response below.

18 1. Plaintiff objects to the Definitions, Instructions and each Interrogatory to the extent
19 that they purport to impose any obligations on Plaintiff that are not imposed by law, or that are
20 otherwise inconsistent with Rule 33 of the Federal Rules of Civil Procedure.

21 2. Plaintiff objects to this discovery to the extent it calls for information that is protected
22 by the attorney-client privilege, the attorney work-product doctrine, or any other applicable
23 privilege.

24 3. Plaintiff objects to the Interrogatories to the extent that they are overly broad and
25 unduly burdensome.

26 4. Plaintiff objects to the Definitions, Instructions and Interrogatories to the extent that
27 they are vague or ambiguous.

28

1 5. Plaintiff objects to the Interrogatories to the extent the information requested is
2 neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

3 6. Plaintiff objects to the Interrogatories to the extent they fail to state with sufficient
4 particularity the information sought.

5 7. Plaintiff objects to the Interrogatories to the extent they seek information that is
6 improper or request that Plaintiff provides, under oath, information or contentions not within
7 Plaintiff's personal knowledge.

8 8. Plaintiff objects to the Interrogatories to the extent they seek information equally
9 available to Apple or information that originated from Apple's possession, custody or control.

10 9. Plaintiff also objects to the extent the Interrogatories seek information that is
11 ascertainable only through expert discovery, which is not completed, and/or calls for a legal
12 conclusion.

13 10. To the extent Plaintiff provides a response to the Interrogatories, such response shall
14 not constitute waiver of any objection to the Interrogatories. Plaintiff also expressly reserves his
15 right to object to the introduction of any response to these Interrogatories or any portion thereof into
16 evidence.

17 **III. RESPONSES AND SPECIFIC OBJECTIONS TO INTERROGATORIES**

18 In addition to the General Objections, above, Plaintiff has set forth the following Specific
19 Objections. By setting forth such Specific Objections, Plaintiff does not limit or restrict the General
20 Objections. Plaintiff reserves his right to supplement his responses.

21 INTERROGATORY NO. 1:

22 Please identify all facts that YOU contend support your position that Apple has "used its
23 dominant market position in the markets for Audio Downloads and Portable Digital Media Players to
24 stifle competition and strengthen its monopoly in these markets," as alleged in paragraph 2 of the
25 Complaint.

26 RESPONSE TO INTERROGATORY NO. 1:

27 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
28 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal

1 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
2 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
3 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
4 information that is equally available to Apple or information that originated from Apple's
5 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
6 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
7 has not completed discovery, has not completed expert analysis and has not completed preparation
8 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
9 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
10 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
11 of documents in the last three weeks of discovery.

12 INTERROGATORY NO. 2:

13 Please identify all facts that YOU contend support your position that "Apple engaged in
14 systematic conduct to shut out rivals' competing Audio Downloads and Portable Digital Media
15 Players by cutting off access to the marketplace," as alleged in paragraph 2 of the Complaint.

16 RESPONSE TO INTERROGATORY NO. 2:

17 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
18 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
19 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
20 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
21 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
22 information that is equally available to Apple or information that originated from Apple's
23 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
24 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
25 has not completed discovery, has not completed expert analysis and has not completed preparation
26 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
27 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
28

1 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
2 of documents in the last three weeks of discovery.

3 INTERROGATORY NO. 3:

4 Please identify all facts that YOU contend support your position that "In the process, Apple
5 deprived consumers of choice and innovation in the Audio Download Market and Portable Digital
6 Media Player Market," as alleged in paragraph 2 of the Complaint.

7 RESPONSE TO INTERROGATORY NO. 3:

8 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
9 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
10 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
11 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
12 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
13 information that is equally available to Apple or information that originated from Apple's
14 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
15 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
16 has not completed discovery, has not completed expert analysis and has not completed preparation
17 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
18 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
19 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
20 of documents in the last three weeks of discovery.

21 INTERROGATORY NO. 4:

22 Please identify all facts that YOU contend support your position that "Apple used unneeded
23 technological restrictions in conjunction with software updates to suppress new products that
24 threatened its monopoly power in the relevant product markets," as alleged in paragraph 2 of the
25 Complaint.

26 RESPONSE TO INTERROGATORY NO. 4:

27 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
28 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal

1 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
2 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
3 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
4 information that is equally available to Apple or information that originated from Apple's
5 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
6 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
7 has not completed discovery, has not completed expert analysis and has not completed preparation
8 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
9 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
10 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
11 of documents in the last three weeks of discovery.

12 INTERROGATORY NO. 5:

13 Please identify all facts that YOU contend support your position that "Apple initially gained
14 its monopoly power through the use of proprietary software on Audio Downloads purchased from
15 Apple's iTunes Store ("iTS") and Apple's iPod, known as FairPlay," as alleged in paragraph 3 of the
16 Complaint.

17 RESPONSE TO INTERROGATORY NO. 5:

18 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
19 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
20 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
21 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
22 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
23 information that is equally available to Apple or information that originated from Apple's
24 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
25 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
26 has not completed discovery, has not completed expert analysis and has not completed preparation
27 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
28 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18

1 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
2 of documents in the last three weeks of discovery.

3 INTERROGATORY NO. 6:

4 Please identify all facts that YOU contend support your position that "When competitors
5 attempted to enter either market by selling products compatible with Apple's market-leading iPod or
6 iTunes files, Apple promptly issued software updates to end the compatibility," as alleged in paragraph
7 4 of the Complaint.

8 RESPONSE TO INTERROGATORY NO. 6:

9 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
10 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
11 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
12 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
13 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
14 information that is equally available to Apple or information that originated from Apple's
15 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
16 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
17 has not completed discovery, has not completed expert analysis and has not completed preparation
18 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
19 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
20 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
21 of documents in the last three weeks of discovery.

22 INTERROGATORY NO. 7:

23 Please identify all facts that YOU contend support your position that "Consumers and
24 merchants have come to recognize the Audio Download Market as a separate and distinct market
25 from the market for music CDs," as alleged in paragraph 19 of the Complaint.

26 RESPONSE TO INTERROGATORY NO. 7:

27 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
28 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal

1 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
2 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
3 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
4 information that is equally available to Apple or information that originated from Apple's
5 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
6 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
7 has not completed discovery, has not completed expert analysis and has not completed preparation
8 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
9 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
10 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
11 of documents in the last three weeks of discovery.

12 INTERROGATORY NO. 8:

13 Please identify all facts that YOU contend support your position that "Barriers to entry in the
14 Audio Download Market are high," as alleged in paragraph 18 of the Complaint.

15 RESPONSE TO INTERROGATORY NO. 8:

16 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
17 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
18 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
19 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
20 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
21 information that is equally available to Apple or information that originated from Apple's
22 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
23 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
24 has not completed discovery, has not completed expert analysis and has not completed preparation
25 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
26 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
27 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
28 of documents in the last three weeks of discovery.

1 INTERROGATORY NO. 9:

2 Please identify all facts that YOU contend support your position that “Barriers to entry in the
3 Portable Digital Media Player Market are high,” as alleged in paragraph 28 of the Complaint.

4 RESPONSE TO INTERROGATORY NO. 9:

5 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
6 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
7 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
8 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
9 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
10 information that is equally available to Apple or information that originated from Apple’s
11 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
12 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
13 has not completed discovery, has not completed expert analysis and has not completed preparation
14 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
15 identify “all facts” in support of Plaintiff’s claims when Apple has, after delaying for more than 18
16 months, finally responded to Plaintiff’s discovery requests by producing more than 1 million pages
17 of documents in the last three weeks of discovery.

18 INTERROGATORY NO. 10:

19 Please identify all facts that YOU contend support your position that “But for Apple’s
20 anticompetitive intent, it would have been rational and profitable for Apple to license FairPlay to
21 competing manufacturers of Portable Digital Media Players because it would have expanded the
22 consumer base for iTS,” as alleged in paragraph 50 of the Complaint.

23 RESPONSE TO INTERROGATORY NO. 10:

24 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
25 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
26 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
27 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
28 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks

1 information that is equally available to Apple or information that originated from Apple's
2 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
3 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
4 has not completed discovery, has not completed expert analysis and has not completed preparation
5 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
6 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
7 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
8 of documents in the last three weeks of discovery.

9 INTERROGATORY NO. 11:

10 Please identify all facts that YOU contend support your position that "Apple also issued
11 several software updates intended to prevent Audio Downloads purchased from iTunes from being
12 played on competing Portable Digital Media Players," as alleged in paragraph 63 of the Complaint.

13 RESPONSE TO INTERROGATORY NO. 11:

14 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
15 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
16 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
17 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
18 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
19 information that is equally available to Apple or information that originated from Apple's
20 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
21 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
22 has not completed discovery, has not completed expert analysis and has not completed preparation
23 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
24 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
25 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
26 of documents in the last three weeks of discovery.

27
28

1 INTERROGATORY NO. 12:

2 Please identify all facts that YOU contend support the position that cellular telephones that
3 store and play digital music files – including but not limited to “smartphones” – do or do not
4 compete with Portable Digital Media Players.

5 RESPONSE TO INTERROGATORY NO. 12:

6 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
7 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
8 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
9 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
10 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
11 information that is equally available to Apple or information that originated from Apple’s
12 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
13 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
14 has not completed discovery, has not completed expert analysis and has not completed preparation
15 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
16 identify “all facts” in support of Plaintiff’s claims when Apple has, after delaying for more than 18
17 months, finally responded to Plaintiff’s discovery requests by producing more than 1 million pages
18 of documents in the last three weeks of discovery.

19 INTERROGATORY NO. 13:

20 Please identify all facts that YOU contend support the position that “As a direct result of
21 Apple’s anticompetitive use software updates, Plaintiffs and members of the Class paid
22 supracompetitive prices for iPods,” as alleged in paragraph 88 of the Complaint.

23 RESPONSE TO INTERROGATORY NO. 13:

24 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
25 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
26 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
27 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
28 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks

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2 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
3 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
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6 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
7 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
8 of documents in the last three weeks of discovery.

9 INTERROGATORY NO. 14:

10 Please state the amount that Plaintiffs and members of the Class would have paid but for
11 Apple's anticompetitive conduct as alleged in paragraph 88 of the Complaint.

12 RESPONSE TO INTERROGATORY NO. 14:

13 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
14 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
15 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
16 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
17 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
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19 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
20 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
21 has not completed discovery, has not completed expert analysis and has not completed preparation
22 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
23 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
24 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
25 of documents in the last three weeks of discovery.

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27

28

1 INTERROGATORY NO. 15:

2 Please identify all facts that YOU contend support your position that “Apple’s prices for
3 iPods paid by the Class and Plaintiffs were higher than they otherwise would have been,” as alleged
4 in paragraph 92 of the Complaint.

5 RESPONSE TO INTERROGATORY NO. 15:

6 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
7 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
8 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
9 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
10 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
11 information that is equally available to Apple or information that originated from Apple’s
12 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
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14 has not completed discovery, has not completed expert analysis and has not completed preparation
15 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
16 identify “all facts” in support of Plaintiff’s claims when Apple has, after delaying for more than 18
17 months, finally responded to Plaintiff’s discovery requests by producing more than 1 million pages
18 of documents in the last three weeks of discovery.

19 INTERROGATORY NO. 16:

20 Please state the amount that Plaintiffs and members of the Class would have paid but for
21 Apple’s anticompetitive conduct as alleged in paragraph 92 of the Complaint.

22 RESPONSE TO INTERROGATORY NO. 16:

23 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
24 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
25 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
26 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
27 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
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1 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
2 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
3 has not completed discovery, has not completed expert analysis and has not completed preparation
4 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
5 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
6 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
7 of documents in the last three weeks of discovery.

8 INTERROGATORY NO. 17:

9 Please identify each software program, including, without limitation, those referred to in
10 paragraphs 64 through 66, that YOU have used to make music YOU purchased from the iTunes
11 interoperable with any device not manufactured by Apple.

12 RESPONSE TO INTERROGATORY NO. 17:

13 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
14 burdensome, and compound. Plaintiff also objects that this Interrogatory seeks information that is
15 equally available to Apple. Plaintiff further objects that this Interrogatory seeks information that is
16 neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

17 INTERROGATORY NO. 18:

18 If your response to Request for Admission No. 7 was anything other than an unqualified
19 admission, please identify all facts that YOU contend support YOUR response to Request for
20 Admission No. 7.

21 RESPONSE TO INTERROGATORY NO. 18:

22 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
23 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
24 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
25 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
26 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
27 information that is equally available to Apple or information that originated from Apple's
28 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is

1 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
2 has not completed discovery, has not completed expert analysis and has not completed preparation
3 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
4 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
5 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
6 of documents in the last three weeks of discovery.

7 INTERROGATORY NO. 19:

8 If your response to Request for Admission No. 7 was anything other than an unqualified
9 admission, please identify all facts that YOU contend support YOUR response to Request for
10 Admission No. 7.

11 RESPONSE TO INTERROGATORY NO. 19:

12 This Interrogatory is redundant of Interrogatory No. 18. Plaintiff therefore incorporates his
13 response to Interrogatory No. 18 above.

14 INTERROGATORY NO. 20:

15 Please identify the model and manufacturer of each PORTABLE DIGITAL MEDIA
16 PLAYER that YOU have purchased or used.

17 RESPONSE TO INTERROGATORY NO. 20:

18 Plaintiff objects to this Interrogatory on grounds that it is overly broad, unduly burdensome,
19 compound, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence.
20 Plaintiff objects to identifying all portable digital media players that he has ever "purchased," to the
21 extent these include gifts, and objects to identifying all portable digital media players ever "used" as
22 being overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of
23 admissible evidence.

24 Subject to and without waiver of any of the foregoing Specific Objections and General
25 Objections, Plaintiff responds as follows:

26 Plaintiff purchased a 20GB Apple iPod.
27
28

1 INTERROGATORY NO. 21:

2 For each PORTABLE DIGITAL MEDIA PLAYER identified in response to Interrogatory
3 No. 20, please identify all sources of music on the PORTABLE DIGITAL MEDIA PLAYER and
4 the percentage of music on the PORTABLE DIGITAL MEDIA PLAYER from each source of
5 music.

6 RESPONSE TO INTERROGATORY NO. 21:

7 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
8 burdensome, compound, and not reasonably calculated to lead to the discovery of admissible
9 evidence. Plaintiff objects to the extent this request requires him to identify the sources of music on
10 portable digital media players that are not in his possession and/or portable digital media players that
11 he has never used.

12 Subject to and without waiver of any of the foregoing Specific Objections and General
13 Objections, Plaintiff responds as follows:

14 Approximately 80% of Plaintiff's music collection is from his CD collection, some of which
15 he has burned onto his library. The remaining estimated 20% comes from iTS purchases. Plaintiff
16 also made a one-time single purchase of a music file from a legal online MP3 music store, whose
17 name he does not recall.

18 INTERROGATORY NO. 22:

19 Please identify all facts that YOU contend support your position that the software programs
20 referred to in paragraphs 64-66 of the Complaint made iTS files inoperable with Portable Digital
21 Media Players other than the iPod.

22 RESPONSE TO INTERROGATORY NO. 22:

23 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
24 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
25 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
26 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
27 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
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2 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
3 has not completed discovery, has not completed expert analysis and has not completed preparation
4 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
5 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
6 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
7 of documents in the last three weeks of discovery.

8 DATED: December 16, 2010

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13 Co-Lead Counsel for Plaintiffs

14 [Additional counsel appear on signature page.]

15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN JOSE DIVISION

18 THE APPLE IPOD ITUNES ANTI-TRUST)	Lead Case No. C-05-00037-JW(HRL)
19 LITIGATION)	
20 _____)	<u>CLASS ACTION</u>
21 This Document Relates To:)	PLAINTIFF MARIANA ROSEN'S
22 ALL ACTIONS.)	RESPONSE TO DEFENDANT APPLE
	INC.'S FIRST INTERROGATORIES

23 PROPOUNDING PARTY: APPLE INC.
24 RESPONDING PARTY: MARIANA ROSEN
25 SET NO.: ONE
26
27
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1 Plaintiff, by and through her attorneys and pursuant to Rule 33 of the Federal Rules of Civil
2 Procedure, hereby submits the following objections and responses to Defendant Apple, Inc.'s First
3 Interrogatories ("Interrogatories").

4 **I. PRELIMINARY STATEMENT**

5 Plaintiff has not completed investigation or analysis of the facts relating to this case, has not
6 completed discovery, has not completed expert analysis, and has not completed preparation for trial.
7 Plaintiff is still in the process of reviewing more than 1 million pages of documents produced by
8 Defendant Apple ("Apple") over the last month and deposing Apple's witnesses. No expert
9 discovery has been conducted. Accordingly, the responses herein given are without prejudice to
10 Plaintiff's right to produce evidence of any subsequently discovered facts or interpretations thereof
11 and/or to add to, modify or to otherwise change or amend the responses herein. The information set
12 forth below is true and correct to the best knowledge of Plaintiff at this particular time. Plaintiff
13 expressly reserves her right to supplemental these responses as additional information is forthcoming
14 in the discovery process.

15 **II. GENERAL OBJECTIONS**

16 Plaintiff asserts the following General Objections and hereby incorporates them into each
17 individual response below.

18 1. Plaintiff objects to the Definitions, Instructions and each Interrogatory to the extent
19 that they purport to impose any obligations on Plaintiff that are not imposed by law, or that are
20 otherwise inconsistent with Rule 33 of the Federal Rules of Civil Procedure.

21 2. Plaintiff objects to this discovery to the extent it calls for information that is protected
22 by the attorney-client privilege, the attorney work-product doctrine, or any other applicable
23 privilege.

24 3. Plaintiff objects to the Interrogatories to the extent that they are overly broad and
25 unduly burdensome.

26 4. Plaintiff objects to the Definitions, Instructions and Interrogatories to the extent that
27 they are vague or ambiguous.

28

1 5. Plaintiff objects to the Interrogatories to the extent the information requested is
2 neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

3 6. Plaintiff objects to the Interrogatories to the extent they fail to state with sufficient
4 particularity the information sought.

5 7. Plaintiff objects to the Interrogatories to the extent they seek information that is
6 improper or request that Plaintiff provides, under oath, information or contentions not within
7 Plaintiff's personal knowledge.

8 8. Plaintiff objects to the Interrogatories to the extent they seek information equally
9 available to Apple or information that originated from Apple's possession, custody or control.

10 9. Plaintiff also objects to the extent the Interrogatories seek information that is
11 ascertainable only through expert discovery, which is not completed, and/or calls for a legal
12 conclusion.

13 10. To the extent Plaintiff provides a response to the Interrogatories, such response shall
14 not constitute waiver of any objection to the Interrogatories. Plaintiff also expressly reserves her
15 right to object to the introduction of any response to these Interrogatories or any portion thereof into
16 evidence.

17 **III. RESPONSES AND SPECIFIC OBJECTIONS TO INTERROGATORIES**

18 In addition to the General Objections, above, Plaintiff has set forth the following Specific
19 Objections. By setting forth such Specific Objections, Plaintiff does not limit or restrict the General
20 Objections. Plaintiff reserves her right to supplement her responses.

21 INTERROGATORY NO. 1:

22 Please identify all facts that YOU contend support your position that Apple has "used its
23 dominant market position in the markets for Audio Downloads and Portable Digital Media Players to
24 stifle competition and strengthen its monopoly in these markets," as alleged in paragraph 2 of the
25 Complaint.

26 RESPONSE TO INTERROGATORY NO. 1:

27 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
28 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal

1 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
2 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
3 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
4 information that is equally available to Apple or information that originated from Apple's
5 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
6 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
7 has not completed discovery, has not completed expert analysis and has not completed preparation
8 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
9 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
10 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
11 of documents in the last three weeks of discovery.

12 INTERROGATORY NO. 2:

13 Please identify all facts that YOU contend support your position that "Apple engaged in
14 systematic conduct to shut out rivals' competing Audio Downloads and Portable Digital Media
15 Players by cutting off access to the marketplace," as alleged in paragraph 2 of the Complaint.

16 RESPONSE TO INTERROGATORY NO. 2:

17 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
18 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
19 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
20 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
21 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
22 information that is equally available to Apple or information that originated from Apple's
23 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
24 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
25 has not completed discovery, has not completed expert analysis and has not completed preparation
26 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
27 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
28

1 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
2 of documents in the last three weeks of discovery.

3 INTERROGATORY NO. 3:

4 Please identify all facts that YOU contend support your position that "In the process, Apple
5 deprived consumers of choice and innovation in the Audio Download Market and Portable Digital
6 Media Player Market," as alleged in paragraph 2 of the Complaint.

7 RESPONSE TO INTERROGATORY NO. 3:

8 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
9 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
10 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
11 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
12 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
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17 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
18 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
19 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
20 of documents in the last three weeks of discovery.

21 INTERROGATORY NO. 4:

22 Please identify all facts that YOU contend support your position that "Apple used unneeded
23 technological restrictions in conjunction with software updates to suppress new products that
24 threatened its monopoly power in the relevant product markets," as alleged in paragraph 2 of the
25 Complaint.

26 RESPONSE TO INTERROGATORY NO. 4:

27 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
28 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal

1 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
2 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
3 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
4 information that is equally available to Apple or information that originated from Apple's
5 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
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8 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
9 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
10 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
11 of documents in the last three weeks of discovery.

12 INTERROGATORY NO. 5:

13 Please identify all facts that YOU contend support your position that "Apple initially gained
14 its monopoly power through the use of proprietary software on Audio Downloads purchased from
15 Apple's iTunes Store ("ITS") and Apple's iPod, known as FairPlay," as alleged in paragraph 3 of the
16 Complaint.

17 RESPONSE TO INTERROGATORY NO. 5:

18 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
19 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
20 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
21 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
22 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
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24 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
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28 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18

1 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
2 of documents in the last three weeks of discovery.

3 INTERROGATORY NO. 6:

4 Please identify all facts that YOU contend support your position that "When competitors
5 attempted to enter either market by selling products compatible with Apple's market-leading iPod or
6 iTunes files, Apple promptly issued software updates to end the compatibility," as alleged in paragraph
7 4 of the Complaint.

8 RESPONSE TO INTERROGATORY NO. 6:

9 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
10 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
11 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
12 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
13 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
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19 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
20 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
21 of documents in the last three weeks of discovery.

22 INTERROGATORY NO. 7:

23 Please identify all facts that YOU contend support your position that "Consumers and
24 merchants have come to recognize the Audio Download Market as a separate and distinct market
25 from the market for music CDs," as alleged in paragraph 19 of the Complaint.

26 RESPONSE TO INTERROGATORY NO. 7:

27 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
28 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal

1 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
2 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
3 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
4 information that is equally available to Apple or information that originated from Apple's
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9 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
10 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
11 of documents in the last three weeks of discovery.

12 INTERROGATORY NO. 8:

13 Please identify all facts that YOU contend support your position that "Barriers to entry in the
14 Audio Download Market are high," as alleged in paragraph 18 of the Complaint.

15 RESPONSE TO INTERROGATORY NO. 8:

16 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
17 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
18 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
19 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
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25 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
26 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
27 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
28 of documents in the last three weeks of discovery.

1 INTERROGATORY NO. 9:

2 Please identify all facts that YOU contend support your position that “Barriers to entry in the
3 Portable Digital Media Player Market are high,” as alleged in paragraph 28 of the Complaint.

4 RESPONSE TO INTERROGATORY NO. 9:

5 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
6 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
7 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
8 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
9 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
10 information that is equally available to Apple or information that originated from Apple’s
11 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
12 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
13 has not completed discovery, has not completed expert analysis and has not completed preparation
14 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
15 identify “all facts” in support of Plaintiff’s claims when Apple has, after delaying for more than 18
16 months, finally responded to Plaintiff’s discovery requests by producing more than 1 million pages
17 of documents in the last three weeks of discovery.

18 INTERROGATORY NO. 10:

19 Please identify all facts that YOU contend support your position that “But for Apple’s
20 anticompetitive intent, it would have been rational and profitable for Apple to license FairPlay to
21 competing manufacturers of Portable Digital Media Players because it would have expanded the
22 consumer base for iTunes,” as alleged in paragraph 50 of the Complaint.

23 RESPONSE TO INTERROGATORY NO. 10:

24 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
25 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
26 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
27 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
28 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks

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2 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
3 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
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5 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
6 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
7 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
8 of documents in the last three weeks of discovery.

9 INTERROGATORY NO. 11:

10 Please identify all facts that YOU contend support your position that "Apple also issued
11 several software updates intended to prevent Audio Downloads purchased from iTunes from being
12 played on competing Portable Digital Media Players," as alleged in paragraph 63 of the Complaint.

13 RESPONSE TO INTERROGATORY NO. 11:

14 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
15 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
16 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
17 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
18 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
19 information that is equally available to Apple or information that originated from Apple's
20 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
21 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
22 has not completed discovery, has not completed expert analysis and has not completed preparation
23 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
24 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
25 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
26 of documents in the last three weeks of discovery.

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1 INTERROGATORY NO. 12:

2 Please identify all facts that YOU contend support the position that cellular telephones that
3 store and play digital music files – including but not limited to “smartphones” – do or do not
4 compete with Portable Digital Media Players.

5 RESPONSE TO INTERROGATORY NO. 12:

6 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
7 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
8 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
9 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
10 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
11 information that is equally available to Apple or information that originated from Apple’s
12 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
13 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
14 has not completed discovery, has not completed expert analysis and has not completed preparation
15 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
16 identify “all facts” in support of Plaintiff’s claims when Apple has, after delaying for more than 18
17 months, finally responded to Plaintiff’s discovery requests by producing more than 1 million pages
18 of documents in the last three weeks of discovery.

19 INTERROGATORY NO. 13:

20 Please identify all facts that YOU contend support the position that “As a direct result of
21 Apple’s anticompetitive use software updates, Plaintiffs and members of the Class paid
22 supracompetitive prices for iPods,” as alleged in paragraph 88 of the Complaint.

23 RESPONSE TO INTERROGATORY NO. 13:

24 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
25 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
26 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
27 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
28 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks

1 information that is equally available to Apple or information that originated from Apple's
2 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
3 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
4 has not completed discovery, has not completed expert analysis and has not completed preparation
5 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
6 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
7 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
8 of documents in the last three weeks of discovery.

9 INTERROGATORY NO. 14:

10 Please state the amount that Plaintiffs and members of the Class would have paid but for
11 Apple's anticompetitive conduct as alleged in paragraph 88 of the Complaint.

12 RESPONSE TO INTERROGATORY NO. 14:

13 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
14 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
15 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
16 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
17 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
18 information that is equally available to Apple or information that originated from Apple's
19 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
20 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
21 has not completed discovery, has not completed expert analysis and has not completed preparation
22 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
23 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
24 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
25 of documents in the last three weeks of discovery.

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1 INTERROGATORY NO. 15:

2 Please identify all facts that YOU contend support your position that “Apple’s prices for
3 iPods paid by the Class and Plaintiffs were higher than they otherwise would have been,” as alleged
4 in paragraph 92 of the Complaint.

5 RESPONSE TO INTERROGATORY NO. 15:

6 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
7 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
8 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
9 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
10 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
11 information that is equally available to Apple or information that originated from Apple’s
12 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
13 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
14 has not completed discovery, has not completed expert analysis and has not completed preparation
15 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
16 identify “all facts” in support of Plaintiff’s claims when Apple has, after delaying for more than 18
17 months, finally responded to Plaintiff’s discovery requests by producing more than 1 million pages
18 of documents in the last three weeks of discovery.

19 INTERROGATORY NO. 16:

20 Please state the amount that Plaintiffs and members of the Class would have paid but for
21 Apple’s anticompetitive conduct as alleged in paragraph 92 of the Complaint.

22 RESPONSE TO INTERROGATORY NO. 16:

23 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
24 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
25 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
26 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
27 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
28 information that is equally available to Apple or information that originated from Apple’s

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2 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
3 has not completed discovery, has not completed expert analysis and has not completed preparation
4 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
5 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
6 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
7 of documents in the last three weeks of discovery.

8 INTERROGATORY NO. 17:

9 Please identify each software program, including, without limitation, those referred to in
10 paragraphs 64 through 66, that YOU have used to make music YOU purchased from the iTunes
11 interoperable with any device not manufactured by Apple.

12 RESPONSE TO INTERROGATORY NO. 17:

13 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
14 burdensome, and compound. Plaintiff also objects that this Interrogatory seeks information that is
15 equally available to Apple. Plaintiff further objects that this Interrogatory seeks information that is
16 neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

17 INTERROGATORY NO. 18:

18 If your response to Request for Admission No. 7 was anything other than an unqualified
19 admission, please identify all facts that YOU contend support YOUR response to Request for
20 Admission No. 7.

21 RESPONSE TO INTERROGATORY NO. 18:

22 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
23 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
24 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
25 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
26 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
27 information that is equally available to Apple or information that originated from Apple's
28 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is

1 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
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3 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
4 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
5 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
6 of documents in the last three weeks of discovery.

7 INTERROGATORY NO. 19:

8 If your response to Request for Admission No. 7 was anything other than an unqualified
9 admission, please identify all facts that YOU contend support YOUR response to Request for
10 Admission No. 7.

11 RESPONSE TO INTERROGATORY NO. 19:

12 This Interrogatory is redundant of Interrogatory No. 18. Plaintiff therefore incorporates her
13 response to Interrogatory No. 18 above.

14 INTERROGATORY NO. 20:

15 Please identify the model and manufacturer of each PORTABLE DIGITAL MEDIA
16 PLAYER that YOU have purchased or used.

17 RESPONSE TO INTERROGATORY NO. 20:

18 Plaintiff objects to this Interrogatory on grounds that it is overly broad, unduly burdensome,
19 compound, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence.
20 Plaintiff objects to identifying all portable digital media players that she has ever "purchased," to the
21 extent these include gifts, and objects to identifying all portable digital media players ever "used" as
22 being overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of
23 admissible evidence.

24 Subject to and without waiver of any of the foregoing Specific Objections and General
25 Objections, Plaintiff responds as follows:

26 Plaintiff has purchased a 15GB iPod, and a 30GB video iPod for her own use. She also
27 purchased an iPod Mini as a present for her sister. She has not purchased any other MP3 players.

28

1 INTERROGATORY NO. 21:

2 For each PORTABLE DIGITAL MEDIA PLAYER identified in response to Interrogatory
3 No. 20, please identify all sources of music on the PORTABLE DIGITAL MEDIA PLAYER and
4 the percentage of music on the PORTABLE DIGITAL MEDIA PLAYER from each source of
5 music.

6 RESPONSE TO INTERROGATORY NO. 21:

7 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
8 burdensome, compound, and not reasonably calculated to lead to the discovery of admissible
9 evidence. Plaintiff objects to the extent this request requires her to identify the sources of music on
10 portable digital media players that are not in her possession and/or portable digital media players that
11 she has never used.

12 Subject to and without waiver of any of the foregoing Specific Objections and General
13 Objections, Plaintiff responds as follows:

14 Plaintiff's music comes from two sources: her physical CD collections, some of which she
15 has downloaded onto her iTunes library; and, her music purchases from the iTS. Her best estimate is
16 that she has a 50-50 ratio of music from these two sources.

17 INTERROGATORY NO. 22:

18 Please identify all facts that YOU contend support your position that the software programs
19 referred to in paragraphs 64-66 of the Complaint made iTS files inoperable with Portable Digital
20 Media Players other than the iPod.

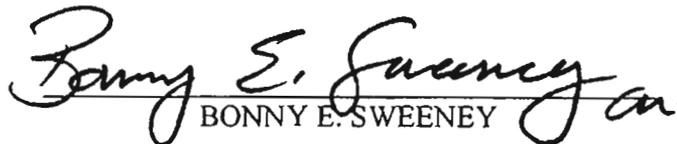
21 RESPONSE TO INTERROGATORY NO. 22:

22 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
23 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
24 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
25 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
26 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
27 information that is equally available to Apple or information that originated from Apple's
28 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is

1 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
2 has not completed discovery, has not completed expert analysis and has not completed preparation
3 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
4 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
5 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
6 of documents in the last three weeks of discovery.

7 DATED: December 16, 2010

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13 Co-Lead Counsel for Plaintiffs

14 [Additional counsel appear on signature page.]

15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN JOSE DIVISION

18 THE APPLE IPOD ITUNES ANTI-TRUST)	Lead Case No. C-05-00037-JW(HRL)
19 LITIGATION)	
20 _____)	<u>CLASS ACTION</u>
21 This Document Relates To:)	PLAINTIFF MELANIE TUCKER'S
22 ALL ACTIONS.)	RESPONSE TO DEFENDANT APPLE
	INC.'S FIRST INTERROGATORIES

23 PROPOUNDING PARTY: APPLE INC.

24 RESPONDING PARTY: MELANIE TUCKER

25 SET NO.: ONE

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1 Plaintiff, by and through her attorneys and pursuant to Rule 33 of the Federal Rules of Civil
2 Procedure, hereby submits the following objections and responses to Defendant Apple, Inc.'s First
3 Interrogatories ("Interrogatories").

4 **I. PRELIMINARY STATEMENT**

5 Plaintiff has not completed investigation or analysis of the facts relating to this case, has not
6 completed discovery, has not completed expert analysis, and has not completed preparation for trial.
7 Plaintiff is still in the process of reviewing more than 1 million pages of documents produced by
8 Defendant Apple ("Apple") over the last month and deposing Apple's witnesses. No expert
9 discovery has been conducted. Accordingly, the responses herein given are without prejudice to
10 Plaintiff's right to produce evidence of any subsequently discovered facts or interpretations thereof
11 and/or to add to, modify or to otherwise change or amend the responses herein. The information set
12 forth below is true and correct to the best knowledge of Plaintiff at this particular time. Plaintiff
13 expressly reserves her right to supplemental these responses as additional information is forthcoming
14 in the discovery process.

15 **II. GENERAL OBJECTIONS**

16 Plaintiff asserts the following General Objections and hereby incorporates them into each
17 individual response below.

18 1. Plaintiff objects to the Definitions, Instructions and each Interrogatory to the extent
19 that they purport to impose any obligations on Plaintiff that are not imposed by law, or that are
20 otherwise inconsistent with Rule 33 of the Federal Rules of Civil Procedure.

21 2. Plaintiff objects to this discovery to the extent it calls for information that is protected
22 by the attorney-client privilege, the attorney work-product doctrine, or any other applicable
23 privilege.

24 3. Plaintiff objects to the Interrogatories to the extent that they are overly broad and
25 unduly burdensome.

26 4. Plaintiff objects to the Definitions, Instructions and Interrogatories to the extent that
27 they are vague or ambiguous.

28

1 5. Plaintiff objects to the Interrogatories to the extent the information requested is
2 neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

3 6. Plaintiff objects to the Interrogatories to the extent they fail to state with sufficient
4 particularity the information sought.

5 7. Plaintiff objects to the Interrogatories to the extent they seek information that is
6 improper or request that Plaintiff provides, under oath, information or contentions not within
7 Plaintiff's personal knowledge.

8 8. Plaintiff objects to the Interrogatories to the extent they seek information equally
9 available to Apple or information that originated from Apple's possession, custody or control.

10 9. Plaintiff also objects to the extent the Interrogatories seek information that is
11 ascertainable only through expert discovery, which is not completed, and/or calls for a legal
12 conclusion.

13 10. To the extent Plaintiff provides a response to the Interrogatories, such response shall
14 not constitute waiver of any objection to the Interrogatories. Plaintiff also expressly reserves her
15 right to object to the introduction of any response to these Interrogatories or any portion thereof into
16 evidence.

17 **III. RESPONSES AND SPECIFIC OBJECTIONS TO INTERROGATORIES**

18 In addition to the General Objections, above, Plaintiff has set forth the following Specific
19 Objections. By setting forth such Specific Objections, Plaintiff does not limit or restrict the General
20 Objections. Plaintiff reserves her right to supplement her responses.

21 INTERROGATORY NO. 1:

22 Please identify all facts that YOU contend support your position that Apple has "used its
23 dominant market position in the markets for Audio Downloads and Portable Digital Media Players to
24 stifle competition and strengthen its monopoly in these markets," as alleged in paragraph 2 of the
25 Complaint.

26 RESPONSE TO INTERROGATORY NO. 1:

27 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
28 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal

1 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
2 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
3 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
4 information that is equally available to Apple or information that originated from Apple's
5 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
6 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
7 has not completed discovery, has not completed expert analysis and has not completed preparation
8 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
9 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
10 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
11 of documents in the last three weeks of discovery.

12 INTERROGATORY NO. 2:

13 Please identify all facts that YOU contend support your position that "Apple engaged in
14 systematic conduct to shut out rivals' competing Audio Downloads and Portable Digital Media
15 Players by cutting off access to the marketplace," as alleged in paragraph 2 of the Complaint.

16 RESPONSE TO INTERROGATORY NO. 2:

17 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
18 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
19 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
20 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
21 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
22 information that is equally available to Apple or information that originated from Apple's
23 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
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25 has not completed discovery, has not completed expert analysis and has not completed preparation
26 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
27 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
28

1 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
2 of documents in the last three weeks of discovery.

3 INTERROGATORY NO. 3:

4 Please identify all facts that YOU contend support your position that "In the process, Apple
5 deprived consumers of choice and innovation in the Audio Download Market and Portable Digital
6 Media Player Market," as alleged in paragraph 2 of the Complaint.

7 RESPONSE TO INTERROGATORY NO. 3:

8 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
9 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
10 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
11 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
12 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
13 information that is equally available to Apple or information that originated from Apple's
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17 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
18 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
19 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
20 of documents in the last three weeks of discovery.

21 INTERROGATORY NO. 4:

22 Please identify all facts that YOU contend support your position that "Apple used unneeded
23 technological restrictions in conjunction with software updates to suppress new products that
24 threatened its monopoly power in the relevant product markets," as alleged in paragraph 2 of the
25 Complaint.

26 RESPONSE TO INTERROGATORY NO. 4:

27 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
28 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal

1 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
2 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
3 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
4 information that is equally available to Apple or information that originated from Apple's
5 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
6 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
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9 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
10 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
11 of documents in the last three weeks of discovery.

12 INTERROGATORY NO. 5:

13 Please identify all facts that YOU contend support your position that "Apple initially gained
14 its monopoly power through the use of proprietary software on Audio Downloads purchased from
15 Apple's iTunes Store ("iTS") and Apple's iPod, known as FairPlay," as alleged in paragraph 3 of the
16 Complaint.

17 RESPONSE TO INTERROGATORY NO. 5:

18 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
19 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
20 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
21 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
22 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
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28 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18

1 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
2 of documents in the last three weeks of discovery.

3 INTERROGATORY NO. 6:

4 Please identify all facts that YOU contend support your position that "When competitors
5 attempted to enter either market by selling products compatible with Apple's market-leading iPod or
6 iTunes files, Apple promptly issued software updates to end the compatibility," as alleged in paragraph
7 4 of the Complaint.

8 RESPONSE TO INTERROGATORY NO. 6:

9 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
10 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
11 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
12 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
13 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
14 information that is equally available to Apple or information that originated from Apple's
15 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
16 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
17 has not completed discovery, has not completed expert analysis and has not completed preparation
18 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
19 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
20 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
21 of documents in the last three weeks of discovery.

22 INTERROGATORY NO. 7:

23 Please identify all facts that YOU contend support your position that "Consumers and
24 merchants have come to recognize the Audio Download Market as a separate and distinct market
25 from the market for music CDs," as alleged in paragraph 19 of the Complaint.

26 RESPONSE TO INTERROGATORY NO. 7:

27 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
28 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal

1 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
2 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
3 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
4 information that is equally available to Apple or information that originated from Apple's
5 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
6 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
7 has not completed discovery, has not completed expert analysis and has not completed preparation
8 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
9 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
10 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
11 of documents in the last three weeks of discovery.

12 INTERROGATORY NO. 8:

13 Please identify all facts that YOU contend support your position that "Barriers to entry in the
14 Audio Download Market are high," as alleged in paragraph 18 of the Complaint.

15 RESPONSE TO INTERROGATORY NO. 8:

16 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
17 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
18 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
19 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
20 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
21 information that is equally available to Apple or information that originated from Apple's
22 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
23 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
24 has not completed discovery, has not completed expert analysis and has not completed preparation
25 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
26 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
27 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
28 of documents in the last three weeks of discovery.

1 INTERROGATORY NO. 9:

2 Please identify all facts that YOU contend support your position that “Barriers to entry in the
3 Portable Digital Media Player Market are high,” as alleged in paragraph 28 of the Complaint.

4 RESPONSE TO INTERROGATORY NO. 9:

5 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
6 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
7 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
8 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
9 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
10 information that is equally available to Apple or information that originated from Apple’s
11 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
12 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
13 has not completed discovery, has not completed expert analysis and has not completed preparation
14 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
15 identify “all facts” in support of Plaintiff’s claims when Apple has, after delaying for more than 18
16 months, finally responded to Plaintiff’s discovery requests by producing more than 1 million pages
17 of documents in the last three weeks of discovery.

18 INTERROGATORY NO. 10:

19 Please identify all facts that YOU contend support your position that “But for Apple’s
20 anticompetitive intent, it would have been rational and profitable for Apple to license FairPlay to
21 competing manufacturers of Portable Digital Media Players because it would have expanded the
22 consumer base for iTS,” as alleged in paragraph 50 of the Complaint.

23 RESPONSE TO INTERROGATORY NO. 10:

24 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
25 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
26 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
27 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
28 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks

1 information that is equally available to Apple or information that originated from Apple's
2 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
3 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
4 has not completed discovery, has not completed expert analysis and has not completed preparation
5 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
6 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
7 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
8 of documents in the last three weeks of discovery.

9 INTERROGATORY NO. 11:

10 Please identify all facts that YOU contend support your position that "Apple also issued
11 several software updates intended to prevent Audio Downloads purchased from iTunes from being
12 played on competing Portable Digital Media Players," as alleged in paragraph 63 of the Complaint.

13 RESPONSE TO INTERROGATORY NO. 11:

14 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
15 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
16 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
17 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
18 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
19 information that is equally available to Apple or information that originated from Apple's
20 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
21 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
22 has not completed discovery, has not completed expert analysis and has not completed preparation
23 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
24 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
25 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
26 of documents in the last three weeks of discovery.

27

28

1 INTERROGATORY NO. 12:

2 Please identify all facts that YOU contend support the position that cellular telephones that
3 store and play digital music files – including but not limited to “smartphones” – do or do not
4 compete with Portable Digital Media Players.

5 RESPONSE TO INTERROGATORY NO. 12:

6 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
7 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
8 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
9 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
10 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
11 information that is equally available to Apple or information that originated from Apple’s
12 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
13 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
14 has not completed discovery, has not completed expert analysis and has not completed preparation
15 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
16 identify “all facts” in support of Plaintiff’s claims when Apple has, after delaying for more than 18
17 months, finally responded to Plaintiff’s discovery requests by producing more than 1 million pages
18 of documents in the last three weeks of discovery.

19 INTERROGATORY NO. 13:

20 Please identify all facts that YOU contend support the position that “As a direct result of
21 Apple’s anticompetitive use software updates, Plaintiffs and members of the Class paid
22 supracompetitive prices for iPods,” as alleged in paragraph 88 of the Complaint.

23 RESPONSE TO INTERROGATORY NO. 13:

24 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
25 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
26 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
27 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
28 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks

1 information that is equally available to Apple or information that originated from Apple's
2 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
3 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
4 has not completed discovery, has not completed expert analysis and has not completed preparation
5 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
6 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
7 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
8 of documents in the last three weeks of discovery.

9 INTERROGATORY NO. 14:

10 Please state the amount that Plaintiffs and members of the Class would have paid but for
11 Apple's anticompetitive conduct as alleged in paragraph 88 of the Complaint.

12 RESPONSE TO INTERROGATORY NO. 14:

13 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
14 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
15 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
16 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
17 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
18 information that is equally available to Apple or information that originated from Apple's
19 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
20 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
21 has not completed discovery, has not completed expert analysis and has not completed preparation
22 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
23 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
24 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
25 of documents in the last three weeks of discovery.

26

27

28

1 INTERROGATORY NO. 15:

2 Please identify all facts that YOU contend support your position that "Apple's prices for
3 iPods paid by the Class and Plaintiffs were higher than they otherwise would have been," as alleged
4 in paragraph 92 of the Complaint.

5 RESPONSE TO INTERROGATORY NO. 15:

6 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
7 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
8 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
9 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
10 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
11 information that is equally available to Apple or information that originated from Apple's
12 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
13 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
14 has not completed discovery, has not completed expert analysis and has not completed preparation
15 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
16 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
17 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
18 of documents in the last three weeks of discovery.

19 INTERROGATORY NO. 16:

20 Please state the amount that Plaintiffs and members of the Class would have paid but for
21 Apple's anticompetitive conduct as alleged in paragraph 92 of the Complaint.

22 RESPONSE TO INTERROGATORY NO. 16:

23 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
24 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
25 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
26 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
27 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
28 information that is equally available to Apple or information that originated from Apple's

1 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
2 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
3 has not completed discovery, has not completed expert analysis and has not completed preparation
4 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
5 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
6 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
7 of documents in the last three weeks of discovery.

8 INTERROGATORY NO. 17:

9 Please identify each software program, including, without limitation, those referred to in
10 paragraphs 64 through 66, that YOU have used to make music YOU purchased from the iTunes
11 interoperable with any device not manufactured by Apple.

12 RESPONSE TO INTERROGATORY NO. 17:

13 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
14 burdensome, and compound. Plaintiff also objects that this Interrogatory seeks information that is
15 equally available to Apple. Plaintiff further objects that this Interrogatory seeks information that is
16 neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

17 INTERROGATORY NO. 18:

18 If your response to Request for Admission No. 7 was anything other than an unqualified
19 admission, please identify all facts that YOU contend support YOUR response to Request for
20 Admission No. 7.

21 RESPONSE TO INTERROGATORY NO. 18:

22 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
23 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
24 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
25 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
26 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
27 information that is equally available to Apple or information that originated from Apple's
28 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is

1 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,
2 has not completed discovery, has not completed expert analysis and has not completed preparation
3 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
4 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
5 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
6 of documents in the last three weeks of discovery.

7 INTERROGATORY NO. 19:

8 If your response to Request for Admission No. 7 was anything other than an unqualified
9 admission, please identify all facts that YOU contend support YOUR response to Request for
10 Admission No. 7.

11 RESPONSE TO INTERROGATORY NO. 19:

12 This Interrogatory is redundant of Interrogatory No. 18. Plaintiff therefore incorporates her
13 response to Interrogatory No. 18 above.

14 INTERROGATORY NO. 20:

15 Please identify the model and manufacturer of each PORTABLE DIGITAL MEDIA
16 PLAYER that YOU have purchased or used.

17 RESPONSE TO INTERROGATORY NO. 20:

18 Plaintiff objects to this Interrogatory on grounds that it is overly broad, unduly burdensome,
19 compound, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence.
20 Plaintiff objects to identifying all portable digital media players that she has ever "purchased," to the
21 extent these include gifts, and objects to identifying all portable digital media players ever "used" as
22 being overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of
23 admissible evidence.

24 Subject to and without waiver of any of the foregoing Specific Objections and General
25 Objections, Plaintiff responds as follows:

26 Plaintiff purchased a 20GB iPod and an iPod video from Apple.
27
28

1 INTERROGATORY NO. 21:

2 For each PORTABLE DIGITAL MEDIA PLAYER identified in response to Interrogatory
3 No. 20, please identify all sources of music on the PORTABLE DIGITAL MEDIA PLAYER and
4 the percentage of music on the PORTABLE DIGITAL MEDIA PLAYER from each source of
5 music.

6 RESPONSE TO INTERROGATORY NO. 21:

7 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
8 burdensome, compound, and not reasonably calculated to lead to the discovery of admissible
9 evidence. Plaintiff objects to the extent this request requires her to identify the sources of music on
10 portable digital media players that are not in her possession and/or portable digital media players that
11 she has never used.

12 Subject to and without waiver of any of the foregoing Specific Objections and General
13 Objections, Plaintiff responds as follows:

14 Plaintiff has music from both the iTS and CDs in her online music library and her portable
15 digital media players.

16 INTERROGATORY NO. 22:

17 Please identify all facts that YOU contend support your position that the software programs
18 referred to in paragraphs 64-66 of the Complaint made iTS files inoperable with Portable Digital
19 Media Players other than the iPod.

20 RESPONSE TO INTERROGATORY NO. 22:

21 Plaintiff objects to this Interrogatory on grounds that it is overly broad and unduly
22 burdensome, and compound. Plaintiff further objects to the extent this Interrogatory calls for a legal
23 conclusion and/or opinion and purports to seek expert opinions. Plaintiff also objects to this
24 Interrogatory to the extent Apple has not yet fully complied with its duties and obligations to
25 respond to requested discovery. Plaintiff also objects that this Interrogatory is premature and seeks
26 information that is equally available to Apple or information that originated from Apple's
27 possession, custody or control. This Interrogatory is also objectionable on the grounds that it is
28 premature, as Plaintiff has not completed investigation or analysis of the facts relating to this case,

1 has not completed discovery, has not completed expert analysis and has not completed preparation
2 for trial. Plaintiff further objects that it is harassing and overly burdensome in that it asks Plaintiff to
3 identify "all facts" in support of Plaintiff's claims when Apple has, after delaying for more than 18
4 months, finally responded to Plaintiff's discovery requests by producing more than 1 million pages
5 of documents in the last three weeks of discovery.

6 DATED: December 16, 2010

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13 Co-Lead Counsel for Plaintiffs
14 [Additional counsel appear on signature page.]

15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN JOSE DIVISION

18 THE APPLE IPOD ITUNES ANTI-TRUST) Lead Case No. C-05-00037-JW(HRL)
19 LITIGATION))
20)) CLASS ACTION
This Document Relates To:))
21)) PLAINTIFF SOMTAI TROY
22)) CHAROENSAK'S RESPONSE TO
ALL ACTIONS.)) DEFENDANT APPLE INC.'S FIRST
23)) REQUESTS FOR PRODUCTION OF
DOCUMENTS

24 PROPOUNDING PARTY: APPLE INC.
25 RESPONDING PARTY: SOMTAI TROY CHAROENSAK
26 SET NUMBER: ONE
27
28

1 Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Plaintiff Somtai Troy
2 Charoensak ("Plaintiff") hereby responds and objects to Defendant Apple Inc.'s First Requests for
3 Production of Documents ("RFPs"), dated October 27, 2010.

4 **I. PRELIMINARY STATEMENT**

5 Plaintiff has not completed investigation or analysis of the facts relating to this case, has not
6 completed discovery and has not completed preparation for trial. Plaintiff is still in the process of
7 reviewing hundreds of thousands of pages of documents produced by Defendant Apple in the last
8 few weeks. Accordingly, the responses herein given are without prejudice to Plaintiff's right to
9 produce evidence of any subsequently discovered facts or interpretations thereof and/or to add to,
10 modify or to otherwise change or amend the responses herein. The information set forth below is
11 true and correct to the best of Plaintiff's knowledge at this particular time. Plaintiff expressly
12 reserves the right to supplement these responses as additional information is forthcoming in the
13 discovery process.

14 **II. GENERAL OBJECTIONS**

15 1. Plaintiff asserts the following general objections and hereby incorporates them into
16 each individual response below.

17 2. Plaintiff objects to the "Definitions," "Instructions," and each RFP to the extent that
18 they purport to impose any obligations on Plaintiff that are not imposed by law, or that are otherwise
19 inconsistent with Rule 34 of the Federal Rules of Civil Procedure.

20 3. Plaintiff objects to this discovery to the extent it calls for information that is protected
21 by the attorney-client privilege, the attorney work-product doctrine, or any other applicable
22 privilege.

23 4. Plaintiff objects to the RFPs to the extent that the requests are overly broad and
24 unduly burdensome.

25 5. Plaintiff objects to the "Definitions," "Instructions," and RFPs to the extent that they
26 are vague or ambiguous.

27 6. Plaintiff objects to the RFPs to the extent the information requested is neither relevant
28 nor reasonably calculated to lead to the discovery of admissible evidence.

1 7. Plaintiff objects to the RFPs to the extent they fail to state with sufficient particularity
2 the documents sought.

3 8. Plaintiff objects to the RFPs to the extent they seek information that is improper or
4 request that Plaintiff provides documents not within Plaintiff's possession, custody or control.

5 9. Plaintiff objects to the RFPs to the extent they seek documents equally available to
6 Defendant Apple or documents that originated from Defendant Apple's possession, custody or
7 control.

8 10. Plaintiffs also objects to the extent the RFPs seek information that is ascertainable
9 only through expert discovery, which is not completed, and/or calls for a legal conclusion.

10 11. To the extent Plaintiff provides a response to the RFPs, such response shall not
11 constitute waiver of any objection to the request. Plaintiff also expressly reserves his right to object
12 to the introduction of any response to these RFPs or any portion thereof into evidence.

13 12. Plaintiff objects to the definition of "OTHERS" as overly broad and unduly
14 burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

15 **III. RESPONSES AND OBJECTIONS TO SPECIFIC REQUESTS**

16 REQUEST FOR PRODUCTION NO. 1:

17 All documents that tend to support, tend to refute, or otherwise relate to YOUR answers to
18 Apple's First Interrogatories.

19 RESPONSE TO REQUEST FOR PRODUCTION NO. 1:

20 Plaintiff objects that this request is overly broad, unduly burdensome, and vague. Plaintiff
21 objects to the phrases "tend to support" and "tend to refute" as undefined and vague. Plaintiff
22 further objects to the extent this request seeks documents that are in Apple's possession, custody or
23 control, or equally available to Apple. Plaintiff also objects that this request is premature because
24 discovery is ongoing.

25 REQUEST FOR PRODUCTION NO. 2:

26 All documents that tend to support, tend to refute, or otherwise relate to YOUR answers to
27 Apple's First Requests for Admission.

28

1 RESPONSE TO REQUEST FOR PRODUCTION NO. 2:

2 Plaintiff objects that this request is overly broad, unduly burdensome, and vague. Plaintiff
3 objects to the phrases “tend to support” and “tend to refute” as undefined and vague. Plaintiff
4 further objects to the extent this request seeks documents that are in Apple’s possession, custody or
5 control, or equally available to Apple. Plaintiff also objects that this request is premature because
6 discovery is ongoing.

7 REQUEST FOR PRODUCTION NO. 3:

8 All documents that YOU have obtained from any source, including from non-parties, that
9 relate in any way to this litigation.

10 RESPONSE TO REQUEST FOR PRODUCTION NO. 3:

11 Plaintiff objects that this request is overly broad, unduly burdensome, and vague. Plaintiff
12 objects to the phrase “any source” as overly broad and unduly burdensome. Plaintiff also objects to
13 the extent this request seeks documents protected by the attorney-client privilege or work-product
14 doctrine. Plaintiff further objects to the extent this request seeks documents that originated from
15 Apple’s possession, custody, or control, or are equally available to Apple from public sources.

16 Subject to and without waiving these objections and the General Objections, Plaintiff will
17 produce, subject to the current Stipulation and Order Governing Electronic Discovery, all documents
18 not already produced to Defendant Apple that were obtained by subpoena from third parties.

19 REQUEST FOR PRODUCTION NO. 4:

20 All witness statements that YOU have obtained that relate in any way to this litigation.

21 RESPONSE TO REQUEST FOR PRODUCTION NO. 4:

22 Plaintiff objects that this request is overly broad, unduly burdensome, and vague. Plaintiff
23 also objects to the extent this request seeks documents protected by the attorney-client privilege or
24 work-product doctrine. Plaintiff further objects that this request is not reasonably calculated to lead
25 to the discovery of admissible evidence.

26 Subject to and without waiving these objections and the General Objections, Plaintiff will
27 produce all documents, to the extent they exist, not subject to attorney-client privilege or the work-
28 product doctrine.

1 REQUEST FOR PRODUCTION NO. 5:

2 All notes of interviews or other communications that YOU have had with any person that
3 relate in any way to this litigation.

4 RESPONSE TO REQUEST FOR PRODUCTION NO. 5:

5 Plaintiff objects that this request is overly broad, unduly burdensome, and vague. Plaintiff
6 also objects to the extent this request seeks documents protected by the attorney-client privilege or
7 work-product doctrine. Plaintiff further objects that this request is not reasonably calculated to lead
8 to the discovery of admissible evidence.

9 Subject to and without waiving these objections and the General Objections, Plaintiff will
10 produce all documents, to the extent they exist, not subject to attorney-client privilege or the work-
11 product doctrine.

12 REQUEST FOR PRODUCTION NO. 6:

13 All documents that reflect, refer, or relate to any of the “software programs” referred to in
14 paragraphs 64 through 66 of the Complaint, including, without limitation, JHymn, QTFairUse, and
15 PlayFair.

16 RESPONSE TO REQUEST FOR PRODUCTION NO. 6:

17 Plaintiff objects that this request is overly broad, unduly burdensome, and vague. Plaintiff
18 further objects to the extent this request seeks documents that are in Apple’s possession, custody or
19 control, or equally available to Apple. Plaintiff also objects that this request is premature because
20 discovery is ongoing. Plaintiff further objects to the extent this request seeks documents protected
21 by the attorney-client privilege or work-product doctrine.

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1 DATED: November 29, 2010

2 ROBBINS GELLER RUDMAN
3 & DOWD LLP
4 JOHN J. STOLA, JR.
5 BONNY E. SWEENEY
6 THOMAS R. MERRICK
7 ALEXANDRA S. BERNAY
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13 Co-Lead Counsel for Plaintiffs

14 [Additional counsel appear on signature page.]

15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN JOSE DIVISION

18 THE APPLE IPOD ITUNES ANTI-TRUST)	Lead Case No. C-05-00037-JW(HRL)
19 LITIGATION)	
20 _____)	<u>CLASS ACTION</u>
21 This Document Relates To:)	PLAINTIFF MARIANA ROSEN'S
22 ALL ACTIONS.)	RESPONSE TO DEFENDANT APPLE
_____)	INC.'S FIRST REQUESTS FOR
	PRODUCTION OF DOCUMENTS

23
24 PROPOUNDING PARTY: APPLE INC.

25 RESPONDING PARTY: MARIANA ROSEN

26 SET NUMBER: ONE

1 Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Plaintiff Mariana Rosen
2 (“Plaintiff”) hereby responds and objects to Defendant Apple Inc.’s First Requests for Production of
3 Documents (“RFPs”), dated October 27, 2010.

4 **I. PRELIMINARY STATEMENT**

5 Plaintiff has not completed investigation or analysis of the facts relating to this case, has not
6 completed discovery and has not completed preparation for trial. Plaintiff is still in the process of
7 reviewing hundreds of thousands of pages of documents produced by Defendant Apple in the last
8 few weeks. Accordingly, the responses herein given are without prejudice to Plaintiff’s right to
9 produce evidence of any subsequently discovered facts or interpretations thereof and/or to add to,
10 modify or to otherwise change or amend the responses herein. The information set forth below is
11 true and correct to the best of Plaintiff’s knowledge at this particular time. Plaintiff expressly
12 reserves the right to supplement these responses as additional information is forthcoming in the
13 discovery process.

14 **II. GENERAL OBJECTIONS**

15 1. Plaintiff asserts the following general objections and hereby incorporates them into
16 each individual response below.

17 2. Plaintiff objects to the “Definitions,” “Instructions,” and each RFP to the extent that
18 they purport to impose any obligations on Plaintiff that are not imposed by law, or that are otherwise
19 inconsistent with Rule 34 of the Federal Rules of Civil Procedure.

20 3. Plaintiff objects to this discovery to the extent it calls for information that is protected
21 by the attorney-client privilege, the attorney work-product doctrine, or any other applicable
22 privilege.

23 4. Plaintiff objects to the RFPs to the extent that the requests are overly broad and
24 unduly burdensome.

25 5. Plaintiff objects to the “Definitions,” “Instructions,” and RFPs to the extent that they
26 are vague or ambiguous.

27 6. Plaintiff objects to the RFPs to the extent the information requested is neither relevant
28 nor reasonably calculated to lead to the discovery of admissible evidence.

1 7. Plaintiff objects to the RFPs to the extent they fail to state with sufficient particularity
2 the documents sought.

3 8. Plaintiff objects to the RFPs to the extent they seek information that is improper or
4 request that Plaintiff provides documents not within Plaintiff's possession, custody or control.

5 9. Plaintiff objects to the RFPs to the extent they seek documents equally available to
6 Defendant Apple or documents that originated from Defendant Apple's possession, custody or
7 control.

8 10. Plaintiffs also objects to the extent the RFPs seek information that is ascertainable
9 only through expert discovery, which is not completed, and/or calls for a legal conclusion.

10 11. To the extent Plaintiff provides a response to the RFPs, such response shall not
11 constitute waiver of any objection to the request. Plaintiff also expressly reserves her right to object
12 to the introduction of any response to these RFPs or any portion thereof into evidence.

13 12. Plaintiff objects to the definition of "OTHERS" as overly broad and unduly
14 burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

15 **III. RESPONSES AND OBJECTIONS TO SPECIFIC REQUESTS**

16 REQUEST FOR PRODUCTION NO. 1:

17 All documents that tend to support, tend to refute, or otherwise relate to YOUR answers to
18 Apple's First Interrogatories.

19 RESPONSE TO REQUEST FOR PRODUCTION NO. 1:

20 Plaintiff objects that this request is overly broad, unduly burdensome, and vague. Plaintiff
21 objects to the phrases "tend to support" and "tend to refute" as undefined and vague. Plaintiff
22 further objects to the extent this request seeks documents that are in Apple's possession, custody or
23 control, or equally available to Apple. Plaintiff also objects that this request is premature because
24 discovery is ongoing.

25 REQUEST FOR PRODUCTION NO. 2:

26 All documents that tend to support, tend to refute, or otherwise relate to YOUR answers to
27 Apple's First Requests for Admission.

28

1 RESPONSE TO REQUEST FOR PRODUCTION NO. 2:

2 Plaintiff objects that this request is overly broad, unduly burdensome, and vague. Plaintiff
3 objects to the phrases “tend to support” and “tend to refute” as undefined and vague. Plaintiff
4 further objects to the extent this request seeks documents that are in Apple’s possession, custody or
5 control, or equally available to Apple. Plaintiff also objects that this request is premature because
6 discovery is ongoing.

7 REQUEST FOR PRODUCTION NO. 3:

8 All documents that YOU have obtained from any source, including from non-parties, that
9 relate in any way to this litigation.

10 RESPONSE TO REQUEST FOR PRODUCTION NO. 3:

11 Plaintiff objects that this request is overly broad, unduly burdensome, and vague. Plaintiff
12 objects to the phrase “any source” as overly broad and unduly burdensome. Plaintiff also objects to
13 the extent this request seeks documents protected by the attorney-client privilege or work-product
14 doctrine. Plaintiff further objects to the extent this request seeks documents that originated from
15 Apple’s possession, custody, or control, or are equally available to Apple from public sources.

16 Subject to and without waiving these objections and the General Objections, Plaintiff will
17 produce, subject to the current Stipulation and Order Governing Electronic Discovery, all documents
18 not already produced to Defendant Apple that were obtained by subpoena from third parties.

19 REQUEST FOR PRODUCTION NO. 4:

20 All witness statements that YOU have obtained that relate in any way to this litigation.

21 RESPONSE TO REQUEST FOR PRODUCTION NO. 4:

22 Plaintiff objects that this request is overly broad, unduly burdensome, and vague. Plaintiff
23 also objects to the extent this request seeks documents protected by the attorney-client privilege or
24 work-product doctrine. Plaintiff further objects that this request is not reasonably calculated to lead
25 to the discovery of admissible evidence.

26 Subject to and without waiving these objections and the General Objections, Plaintiff will
27 produce all documents, to the extent they exist, not subject to attorney-client privilege or the work-
28 product doctrine.

1 REQUEST FOR PRODUCTION NO. 5:

2 All notes of interviews or other communications that YOU have had with any person that
3 relate in any way to this litigation.

4 RESPONSE TO REQUEST FOR PRODUCTION NO. 5:

5 Plaintiff objects that this request is overly broad, unduly burdensome, and vague. Plaintiff
6 also objects to the extent this request seeks documents protected by the attorney-client privilege or
7 work-product doctrine. Plaintiff further objects that this request is not reasonably calculated to lead
8 to the discovery of admissible evidence.

9 Subject to and without waiving these objections and the General Objections, Plaintiff will
10 produce all documents, to the extent they exist, not subject to attorney-client privilege or the work-
11 product doctrine.

12 REQUEST FOR PRODUCTION NO. 6:

13 All documents that reflect, refer, or relate to any of the “software programs” referred to in
14 paragraphs 64 through 66 of the Complaint, including, without limitation, JHymn, QTFairUse, and
15 PlayFair.

16 RESPONSE TO REQUEST FOR PRODUCTION NO. 6:

17 Plaintiff objects that this request is overly broad, unduly burdensome, and vague. Plaintiff
18 further objects to the extent this request seeks documents that are in Apple’s possession, custody or
19 control, or equally available to Apple. Plaintiff also objects that this request is premature because
20 discovery is ongoing. Plaintiff further objects to the extent this request seeks documents protected
21 by the attorney-client privilege or work-product doctrine.

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1 DATED: November 29, 2010

ROBBINS GELLER RUDMAN
& DOWD LLP
JOHN J. STOIA, JR.
BONNY E. SWEENEY
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14 Co-Lead Counsel for Plaintiffs

15 [Additional counsel appear on signature page.]

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

18 THE APPLE IPOD ITUNES ANTI-TRUST) Lead Case No. C-05-00037-JW(HRL)
19 LITIGATION))
20)) CLASS ACTION
21 This Document Relates To:)) PLAINTIFF MELANIE TUCKER'S
22 ALL ACTIONS.)) RESPONSE TO DEFENDANT APPLE
INC.'S FIRST REQUESTS FOR
PRODUCTION OF DOCUMENTS

23
24 PROPOUNDING PARTY: APPLE INC.
25 RESPONDING PARTY: MELANIE TUCKER
26 SET NUMBER: ONE
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28

1 Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Plaintiff Melanie Tucker
2 (“Plaintiff”) hereby responds and objects to Defendant Apple Inc.’s First Requests for Production of
3 Documents (“RFPs”), dated October 27, 2010.

4 **I. PRELIMINARY STATEMENT**

5 Plaintiff has not completed investigation or analysis of the facts relating to this case, has not
6 completed discovery and has not completed preparation for trial. Plaintiff is still in the process of
7 reviewing hundreds of thousands of pages of documents produced by Defendant Apple in the last
8 few weeks. Accordingly, the responses herein given are without prejudice to Plaintiff’s right to
9 produce evidence of any subsequently discovered facts or interpretations thereof and/or to add to,
10 modify or to otherwise change or amend the responses herein. The information set forth below is
11 true and correct to the best of Plaintiff’s knowledge at this particular time. Plaintiff expressly
12 reserves the right to supplement these responses as additional information is forthcoming in the
13 discovery process.

14 **II. GENERAL OBJECTIONS**

15 1. Plaintiff asserts the following general objections and hereby incorporates them into
16 each individual response below.

17 2. Plaintiff objects to the “Definitions,” “Instructions,” and each RFP to the extent that
18 they purport to impose any obligations on Plaintiff that are not imposed by law, or that are otherwise
19 inconsistent with Rule 34 of the Federal Rules of Civil Procedure.

20 3. Plaintiff objects to this discovery to the extent it calls for information that is protected
21 by the attorney-client privilege, the attorney work-product doctrine, or any other applicable
22 privilege.

23 4. Plaintiff objects to the RFPs to the extent that the requests are overly broad and
24 unduly burdensome.

25 5. Plaintiff objects to the “Definitions,” “Instructions,” and RFPs to the extent that they
26 are vague or ambiguous.

27 6. Plaintiff objects to the RFPs to the extent the information requested is neither relevant
28 nor reasonably calculated to lead to the discovery of admissible evidence.

1 7. Plaintiff objects to the RFPs to the extent they fail to state with sufficient particularity
2 the documents sought.

3 8. Plaintiff objects to the RFPs to the extent they seek information that is improper or
4 request that Plaintiff provides documents not within Plaintiff's possession, custody or control.

5 9. Plaintiff objects to the RFPs to the extent they seek documents equally available to
6 Defendant Apple or documents that originated from Defendant Apple's possession, custody or
7 control.

8 10. Plaintiffs also objects to the extent the RFPs seek information that is ascertainable
9 only through expert discovery, which is not completed, and/or calls for a legal conclusion.

10 11. To the extent Plaintiff provides a response to the RFPs, such response shall not
11 constitute waiver of any objection to the request. Plaintiff also expressly reserves her right to object
12 to the introduction of any response to these RFPs or any portion thereof into evidence.

13 12. Plaintiff objects to the definition of "OTHERS" as overly broad and unduly
14 burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

15 **III. RESPONSES AND OBJECTIONS TO SPECIFIC REQUESTS**

16 REQUEST FOR PRODUCTION NO. 1:

17 All documents that tend to support, tend to refute, or otherwise relate to YOUR answers to
18 Apple's First Interrogatories.

19 RESPONSE TO REQUEST FOR PRODUCTION NO. 1:

20 Plaintiff objects that this request is overly broad, unduly burdensome, and vague. Plaintiff
21 objects to the phrases "tend to support" and "tend to refute" as undefined and vague. Plaintiff
22 further objects to the extent this request seeks documents that are in Apple's possession, custody or
23 control, or equally available to Apple. Plaintiff also objects that this request is premature because
24 discovery is ongoing.

25 REQUEST FOR PRODUCTION NO. 2:

26 All documents that tend to support, tend to refute, or otherwise relate to YOUR answers to
27 Apple's First Requests for Admission.

28

1 RESPONSE TO REQUEST FOR PRODUCTION NO. 2:

2 Plaintiff objects that this request is overly broad, unduly burdensome, and vague. Plaintiff
3 objects to the phrases “tend to support” and “tend to refute” as undefined and vague. Plaintiff
4 further objects to the extent this request seeks documents that are in Apple’s possession, custody or
5 control, or equally available to Apple. Plaintiff also objects that this request is premature because
6 discovery is ongoing.

7 REQUEST FOR PRODUCTION NO. 3:

8 All documents that YOU have obtained from any source, including from non-parties, that
9 relate in any way to this litigation.

10 RESPONSE TO REQUEST FOR PRODUCTION NO. 3:

11 Plaintiff objects that this request is overly broad, unduly burdensome, and vague. Plaintiff
12 objects to the phrase “any source” as overly broad and unduly burdensome. Plaintiff also objects to
13 the extent this request seeks documents protected by the attorney-client privilege or work-product
14 doctrine. Plaintiff further objects to the extent this request seeks documents that originated from
15 Apple’s possession, custody, or control, or are equally available to Apple from public sources.

16 Subject to and without waiving these objections and the General Objections, Plaintiff will
17 produce, subject to the current Stipulation and Order Governing Electronic Discovery, all documents
18 not already produced to Defendant Apple that were obtained by subpoena from third parties.

19 REQUEST FOR PRODUCTION NO. 4:

20 All witness statements that YOU have obtained that relate in any way to this litigation.

21 RESPONSE TO REQUEST FOR PRODUCTION NO. 4:

22 Plaintiff objects that this request is overly broad, unduly burdensome, and vague. Plaintiff
23 also objects to the extent this request seeks documents protected by the attorney-client privilege or
24 work-product doctrine. Plaintiff further objects that this request is not reasonably calculated to lead
25 to the discovery of admissible evidence.

26 Subject to and without waiving these objections and the General Objections, Plaintiff will
27 produce all documents, to the extent they exist, not subject to attorney-client privilege or the work-
28 product doctrine.

1 REQUEST FOR PRODUCTION NO. 5:

2 All notes of interviews or other communications that YOU have had with any person that
3 relate in any way to this litigation.

4 RESPONSE TO REQUEST FOR PRODUCTION NO. 5:

5 Plaintiff objects that this request is overly broad, unduly burdensome, and vague. Plaintiff
6 also objects to the extent this request seeks documents protected by the attorney-client privilege or
7 work-product doctrine. Plaintiff further objects that this request is not reasonably calculated to lead
8 to the discovery of admissible evidence.

9 Subject to and without waiving these objections and the General Objections, Plaintiff will
10 produce all documents, to the extent they exist, not subject to attorney-client privilege or the work-
11 product doctrine.

12 REQUEST FOR PRODUCTION NO. 6:

13 All documents that reflect, refer, or relate to any of the “software programs” referred to in
14 paragraphs 64 through 66 of the Complaint, including, without limitation, JHymn, QTFairUse, and
15 PlayFair.

16 RESPONSE TO REQUEST FOR PRODUCTION NO. 6:

17 Plaintiff objects that this request is overly broad, unduly burdensome, and vague. Plaintiff
18 further objects to the extent this request seeks documents that are in Apple’s possession, custody or
19 control, or equally available to Apple. Plaintiff also objects that this request is premature because
20 discovery is ongoing. Plaintiff further objects to the extent this request seeks documents protected
21 by the attorney-client privilege or work-product doctrine.

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1 DATED: November 29, 2010

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& DOWD LLP
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BONNY E. SWEENEY
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Additional Counsel for Plaintiffs

Exhibit F

Subject: Re: Apple iPod iTunes Antitrust Litigation 
From: Robert A Mittelstaedt
To: Xan Bernay
Cc: David Kiernan, Michael Scott, "Paula Roach", "Bonny Sweeney"

12/27/2010 03:06 PM

My understanding from david was that the only objection is the timing of your answers. If you are refusing in addition to ever answering some of the discovery requests, please identify them so we can include in today's motion to compel.

This e-mail (including any attachments) may contain information that is private, confidential, or protected by attorney-client or other privilege. If you received this e-mail in error, please delete it from your system without copying it and notify sender by reply e-mail, so that our records can be corrected.

From: "Xan Bernay" [XanB@rgrdlaw.com]
Sent: 12/27/2010 02:47 PM PST
To: Robert Mittelstaedt
Cc: David Kiernan; Michael Scott; "Paula Roach" <proach@rgrdlaw.com>; "Bonny Sweeney" <BonnyS@rgrdlaw.com>
Subject: RE: Apple iPod iTunes Antitrust Litigation

During our call on the 24th, David and I reached certain agreements, but it is not wholly accurate that the remaining dispute is only as to timing. Plaintiffs continue to object to certain of the discovery requests on various grounds, including burden and Apple's late production of a tremendous number of documents, as we have stated in our responses and in a number of communications.

I committed to David that plaintiffs would, as to Interrogatory 21, find out from the named plaintiffs the total number of songs they currently have on their iPods. We will be asking the plaintiffs for this information right away and hope to have an answer shortly now that David was able to clarify for me what information would be responsive to this interrogatory. I also committed to following up on Interrogatory 17 with the named plaintiffs. I expect to have this information very soon.

As we have stated repeatedly, plaintiffs do not believe piecemeal responses to Apple's contention interrogatories are proper or required under the Federal Rules. Again, due to the massive volume of documents produced by defendant Apple at the end of the discovery period, plaintiffs are unable to fully respond to many of Apple's contention interrogatories.

As we stated in a prior communications and I told David on the 24th, we plan to supplement our responses in time for use in Apple's reply in support of summary judgment.

-----Original Message-----

From: Robert A Mittelstaedt [<mailto:ramittelstaedt@JonesDay.com>]
Sent: Mon 12/27/2010 9:04 AM
To: Xan Bernay
Cc: David Kiernan; Michael Scott; Paula Roach
Subject: RE: Apple iPod iTunes Antitrust Litigation

Xan: I understand from David that Plaintiffs have now agreed to provide complete, substantive answers and that the remaining dispute is over timing. My suggestion is that, without further delay, Plaintiffs provide answers based on currently available information including, for example, the information on which the allegations were initially made and any further information obtained and already reviewed by plaintiffs, and that you supplement based on review of the documents recently produced by defendants.

Robert A. Mittelstaedt
JONES DAY
San Francisco, California
T: (415) 875-5710
F: (415) 875-5700
E-mail: ramittelstaedt@jonesday.com
www.jonesday.com

From: "Xan Bernay" <XanB@rgrdlaw.com>
To: "Michael Scott" <michaelscott@jonesday.com>
Cc: "Paula Roach" <proach@rgrdlaw.com>, "Robert A Mittelstaedt" <ramittelstaedt@JonesDay.com>, "David Kiernan" <dkiernan@JonesDay.com>
Date: 12/23/2010 02:33 PM
Subject: RE: Apple iPod iTunes Antitrust Litigation

I write in response to your email of December 22, 2010 regarding discovery. As I previously explained in my December 21, 2010 letter, certain of defendant Apple's interrogatories can not be answered at this time because of the massive volume of documents produced by Apple over the past few weeks. Frequently a party will not be able to provide useful answers to contention interrogatories until all discovery is completed. See *In re Convergent Tech. Sec. Litig.*, 108 F.R.D. 328 (N.D. Cal. 1985) (denying motion to compel responses to contention interrogatories and laying out standards for such discovery). Your email seems to suggest plaintiffs be forced to partially and incompletely answer these contention interrogatories and supplement at a later time. This is an inefficient process and one that is unnecessary. As Fed. R. Civ. P. 33 states, "the court may order that the interrogatory need not be answered until designated discovery is complete, or until a pretrial conference or some other time."

As I also previously stated, plaintiffs are endeavoring to provide you with answers to certain interrogatories, including number 17, which relate to the named plaintiffs. As you are aware, the holidays are upon us and we are working diligently to provide this information to you. As I previously stated, we intend to provide more detailed answers to those interrogatories shortly and will include verifications at that time. I expect that we will be able to answer these plaintiff specific interrogatories very soon.

Plaintiffs have not refused to produce documents in response to Apple's requests for production number 1, 2 and 6. Instead, plaintiffs have objected to those requests and explained why, at this time, plaintiffs are unable to respond to those requests.

A meet and confer on these points, rather than a flurry of letters back and forth with unilateral demands from Apple, would be more productive. As I stated in my previous letter, plaintiffs are generally available to discuss these issues. Please feel free to contact me with any questions.
Happy Holidays,

Xan

From: Michael Scott [<mailto:michaelscott@jonesday.com> <<mailto:michaelscott@jonesday.com>>]
Sent: Wednesday, December 22, 2010 12:16 PM
To: Xan Bernay
Cc: Paula Roach; Robert A Mittelstaedt; David Kiernan
Subject: Apple iPod iTunes Antitrust Litigation

Xan,

This email responds to your letter to me dated December 21, 2010, dealing with plaintiffs' failure to answer Apple's interrogatories. As to plaintiffs' failure to address, even in part, 19 of 21 interrogatories, you claim that the volume of Apple's recent productions has made it impossible to answer them and say that plaintiffs intend to "supplement" their non-responses in time for Apple to rely on them in its reply in support of its anticipated motion for summary judgment. That is insufficient. Apple began producing documents over a year ago, and plaintiffs have relied on documents produced since then in their pleadings and depositions. Plaintiffs must answer Apple's interrogatories now with available information, and were granted a two-week extension to do just that. Please respond to these interrogatories right away. Plaintiffs can supplement those responses later as may be appropriate. Moreover, a proposal to respond prior to the due date for Apple's reply--rather than its motion for summary judgment--is unacceptable.

You also write that plaintiffs intend to respond to some interrogatories such as number 17, but that they require information from the named plaintiffs. The interrogatories were served on October 27, and again, plaintiffs were given an extra two weeks during which they could have collected this information. In all, plaintiffs have had almost two months to do so, and your letter does not explain why they have not. Please respond to these interrogatories immediately.

Plaintiffs have refused to produce documents in response to requests for production numbers 1, 2, and 6, claiming that discovery is ongoing. Rather than address the points in my December 20 letter, you write that "plaintiff's objections are well founded." That is not so, for reasons I've already noted. You also write that "many of the documents responsive to Apple's requests are based on Apple's interrogatories. As such, because those documents are either only just being produced or are in Apple's possession, custody or control, or equally available to Apple, Plaintiffs' responses at this time to Requests 1, 2 and 6 are proper." Please confirm that plaintiffs have no non-privileged documents in their possession, custody, or control that are responsive to these requests other than what Apple has produced. If they do, please produce them. Plaintiffs may supplement their production if necessary. Finally, this objection does not apply to request for production 6, which calls for documents relating to the hacks named in the complaint. Please confirm that plaintiffs have no non-privileged documents responsive to this request or produce such documents.

Absent a satisfactory resolution, Apple intends to move to compel on Monday.

Sincerely,
Mike Scott

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