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7 Attorneys for Defendant
 APPLE COMPUTER, INC.

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10

11 **THOMAS WILLIAM SLATTERY,**
 12 **Individually, And On Behalf Of All**
 13 **Others Similarly Situated,**

14 **Plaintiff,**

15 v.

16 **APPLE COMPUTER, INC.,**

17 **Defendant.**

Case No. C 05 00037 JW

CLASS ACTION

**MISCELLANEOUS ADMINISTRATIVE
 REQUEST FOR AN ORDER THAT
 PLAINTIFF'S DEPOSITION TESTIMONY
 NEED NOT BE FILED UNDER SEAL**

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 19 Defendant wishes to file portions of the deposition transcript of Thomas William Slattery
 20 taken January 30, 2006, designated confidential by plaintiff, in support of its request for leave to
 21 file a motion for summary judgment. Plaintiff designated the entire deposition transcript
 22 confidential, even though there is no protective order regarding deposition testimony entered in
 23 this case and none of the testimony was confidential in any event. In light of plaintiff's
 24 designation, however, defendant makes this request pursuant to Local Civil Rule 79-5(d) in an
 25 abundance of caution.

26 Defendant lodges unredacted and redacted versions of its administrative request for leave
 27 to file a motion for summary judgment along with the portions of the deposition transcript
 28 attached as Exhibit A to the declaration of Tracy M. Strong supporting that request. This Request

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is supported by the below declaration of Tracy M. Strong. Pursuant to Local Rule 79-5, a proposed order accompanies this Request.

Dated: February 21, 2006

JONES DAY

By: /s/
Tracy M. Strong

Counsel for Defendant
APPLE COMPUTER, INC.

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DECLARATION OF TRACY M. STRONG IN SUPPORT OF DEFENDANT'S MISCELLANEOUS ADMINISTRATIVE REQUEST FOR AN ORDER THAT PLAINTIFF'S DEPOSITION NEED NOT BE FILED UNDER SEAL

I, Tracy M. Strong, declare as follows:

1. I am an attorney duly admitted to practice in California and before this Court. I am an associate in the law firm of Jones Day in San Francisco, California, counsel for defendant Apple Computer, Inc. in the above-captioned action. I make this declaration of my own personal knowledge, and, if called as a witness, I could and would testify competently to the facts set forth herein.

2. Pursuant to Local Civil Rule 79-5(d), defendant is lodging the following documents containing information designated as confidential by plaintiff:

a. Apple Computer, Inc.'s Administrative Request for Leave to File Motion for Summary Judgment (Unredacted Version);

b. Declaration of Tracy M. Strong in Support of Apple Computer, Inc.'s Administrative Request for Leave to File Motion for Summary Judgment, including Exhibit A, which is a true and correct copy of excerpts from the deposition transcript of Thomas William Slattery, taken January 30, 2006.

Defendant also lodges redacted versions of these documents for the Court's convenience.

3. Defendant seeks this order because plaintiff designated the deposition confidential without any basis. There is no protective order in this case covering deposition testimony. Sealing these documents is not warranted under Federal Rule of Civil Procedure 26(c).

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration was executed on February 21, 2006.


Tracy M. Strong