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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)
) CLASS ACTION

20 This Document Relates To:)
 21) DECLARATION OF ALEXANDRA S.
) BERNAY IN SUPPORT OF PLAINTIFFS
 22) MELANIE TUCKER, MARIANA ROSEN,
) AND SOMTAI TROY CHAROENSAK'S
) MEMORANDUM IN OPPOSITION TO
 23) DEFENDANT APPLE INC.'S MOTION TO
) COMPEL RESPONSES TO
 24) INTERROGATORIES AND REQUESTS
) FOR PRODUCTION

25 JUDGE: Hon. Howard R. Lloyd
 26 DATE: February 1, 2011
 27 TIME: 10:00 a.m.
 CTRM: 2, 5th Floor

28 [REDACTED]

1 I, ALEXANDRA S. BERNAY, hereby declare as follows:

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

7 2. Between October 27, 2010, the date Apple Inc.'s ("Apple") served its contention
8 requests, and December 20, 2010, the close of fact discovery, Apple produced 1,509,635 pages of
9 documents plus data needed by Plaintiffs' and their experts.

10 3. This dwarfs Apple's production of a mere 97,316 pages of documents in the previous
11 three years of ongoing discovery leading up to the date Apple's contention requests were served.

12 4. On November 29, 2010 Plaintiffs served their responses to Apple's requests for
13 production and requests for admissions, lodging objections and answering those requests for
14 production and admissions that they were in a position to answer. On December 16, 2010 Plaintiffs
15 served their responses to Apple's interrogatories, setting forth objections and answering those
16 interrogatories that they were in a position to answer. Several meet and confers followed Plaintiffs'
17 responses to the discovery. I took part in those meet and confer sessions. During those meetings,
18 including a telephonic conference on December 24, 2010, Plaintiffs repeatedly stressed that they
19 could not presently answer many of the contention interrogatories because the material need to
20 properly answer was not available to Plaintiffs. I also informed Apple's counsel that Plaintiffs were
21 continuing to object to certain of the requests including on burden grounds as set forth in the
22 December 16, 2010 responses and objections.

23 5. Plaintiffs explained to Apple that they will respond to Apple's contention
24 interrogatories and related document requests after they have had an opportunity to review the
25 documents recently produced by Apple and take any additional depositions necessitated by the late
26 production of documents.

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1 6. Plaintiffs are still reviewing corrected data received last week and additional data
2 production from Apple needed to answer some of the requests, received as recently as three days
3 ago.

4 7. In fact, Apple is still providing data, in large part because the data previously
5 produced was missing significant amounts of critical information. For example, on December 14,
6 2010, Apple produced [REDACTED]

7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]

12 [REDACTED]. On Wednesday, January 5, 2011, Apple provided what purports to be the
13 missing data, but Plaintiffs' experts have not yet been able to determine whether all missing
14 information for that database has been provided. Moreover, I am aware that Apple is still providing
15 data and information that is needed in order to respond fully to several of Apple's discovery
16 requests.

17 8. Additionally, on January 8, 2011, Apple produced [REDACTED]
18 [REDACTED]. Plaintiffs' experts have not yet had time to review this data.

19 9. As of January 11, 2011, Plaintiff Melanie Tucker has provided supplemental
20 responses to Interrogatory Nos. 17, 20 and 21. Plaintiffs are endeavoring to get additional
21 information regarding Interrogatory No. 17 from Plaintiffs Mariana Rosen and Sontai Troy
22 Charoensak and expect to have that information soon. Plaintiffs have also provided a response to
23 Request for Production No. 6 on January 11, 2011.

24 I declare under penalty of perjury under the laws of the United States of America that the
25 foregoing is true and correct. Executed this 11th day of January, 2011, at San Diego, California.

26 s/ Alexandra S. Bernay
27 _____
28 ALEXANDRA S. BERNAY

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CERTIFICATE OF SERVICE

I hereby certify that on January 11, 2011, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I caused to be mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on January 11, 2011.

s/ Alexandra S. Bernay
ALEXANDRA S. BERNAY

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