

Exhibit 2

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8

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

13 THE APPLE IPOD iTUNES ANTI-TRUST
14 LITIGATION.

Case No. C 05-00037 JW
C 06-04457 JW

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

21 I, Eddy Cue, declare as follows:

22 1. I am employed by Apple Inc. as Vice President, Internet Services. I have held this
23 position since August 2008. I have had responsibility for the iTunes Store since 2003. I make
24 this declaration in support of Defendant's Response to Plaintiffs' Administrative Motion to Seal
25 portions of Plaintiffs' Reply Memorandum In Support of Their Motion to Modify Injunctive
26 Relief Class Definition to Include iTMS Purchasers ("Reply"), and the Declaration of Thomas
27 Merrick ("Merrick Declaration") in support thereof. The facts stated in this declaration are true
28

Decl. ISO Defendant's Response to Plaintiffs'
Administrative Motion to Seal
C 05 00037 JW, C 06-04457 JW

1 and based upon my own personal knowledge, and if called to testify to them, I would competently
2 do so.

3 1. Portions of plaintiffs' Reply refer to highly confidential internal Apple
4 communications attached to the Merrick Declaration.

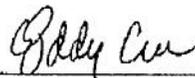
5 2. Exhibit 1 to the Merrick Declaration ("Exhibit 1") is an internal Apple
6 communication containing highly confidential and commercially sensitive business information,
7 including discussions among Apple employees regarding potential public comments on an iPod
8 hack by RealNetworks and Apple's regular iTunes update schedule.

9 3. Apple's practices are that such information is to be kept highly confidential and
10 must not be publicly disclosed. Exhibit 1 has been kept confidential and has not been disclosed
11 outside of Apple except to plaintiffs pursuant to the Stipulation and Protective Order Regarding
12 Confidential Information entered March 14, 2008 ("Protective Order," Document No. 18). The
13 information produced to plaintiffs is non-public information from a public company that should
14 remain confidential.

15 4. Harm to Apple Inc. would result from the disclosure of the information contained
16 in these documents without the "Confidential -Attorneys Eyes Only" protections provided by the
17 Protective Order. The harm of disclosure would not be mitigated if certain portions of Exhibit 1
18 were redacted.

19 I declare under penalty of perjury under the laws of the United States and the State of
20 California that the foregoing is true and correct.

21 Executed this 16 day of November, 2009 in Cupertino, California.

22 

23 _____
24 Eddy Cue

25 SFI-604267v1