

# Exhibit 3

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

14 THE APPLE IPOD iTUNES ANTI-TRUST  
 LITIGATION.  
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**Case No. C 05-00037 JW (HRL)**  
**C 06-04457 JW (HRL)**

**DECLARATION OF EDDY CUE IN  
 SUPPORT OF DEFENDANT'S  
 RESPONSE TO PLAINTIFFS'  
 ADMINISTRATIVE MOTION TO SEAL**

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 22 I, Eddy Cue, declare as follows:

23 1. I am Vice President, Internet Services at Apple Inc ("Apple"). I have held this  
 24 position since August 2008. I have had responsibility for the iTunes Store since 2003. I make  
 25 this declaration in support of Defendant's Response to Plaintiffs' Administrative Motion to File  
 26 Under Seal (Doc. 304). The facts stated in this declaration are true and based upon my own  
 27 personal knowledge, and if called to testify to them, I would competently do so.  
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1           2.       Exhibits 23 (Request For Admission Nos. 3-4), 24 and 35 to the Declaration of  
2 Paula M. Roach in Support of Plaintiffs' Motion to Compel Further Response from Defendant  
3 Apple Inc. ("Roach Declaration") include highly confidential and commercially sensitive  
4 business information, including sensitive contract terms and communications between Apple and  
5 record labels regarding iTunes Store music sales.

6           3.       Apple's practices are that such information is to be kept highly confidential and  
7 must not be publicly disclosed. Apple's contracts with record labels are subject to confidentiality  
8 provisions and have not been disclosed outside of Apple except to plaintiffs pursuant to the  
9 Stipulation and Protective Order Regarding Confidential Information entered June 13, 2007  
10 ("Protective Order," Doc. 112). Similarly, Apple's communications with the record labels are  
11 kept highly confidential and have not been disclosed outside of Apple except to plaintiffs  
12 pursuant to the Protective Order. The information produced to plaintiffs is non-public  
13 information from a public company that should remain confidential. Harm to Apple would result  
14 from the public disclosure of the redacted highly confidential information contained in these  
15 documents.

16           4.       Pages 8-9 and 16-19 of Plaintiffs' Motion to Compel (Doc. 306), page 4 of the  
17 Roach Declaration, and Exhibits 22 (Interrogatory Nos. 1-5), 24, and 30 to the Roach Declaration  
18 contain highly confidential and commercially sensitive business information, including  
19 information regarding Apple Inc.'s payment of royalties and/or licensing fees required to  
20 manufacture and/or sell its products.

21           5.       Exhibits 22 (Interrogatory Nos. 7-8) and 23 (Request For Admission Nos. 1-2, 5-  
22 6) to the Roach Declaration include highly confidential and commercially sensitive business  
23 information, including information regarding iPod and iTunes sales in the United States, iPod  
24 manufacturing costs, and reseller pricing and advertising programs.

25           6.       Apple's practices are that the information described in paragraphs 4 and 5 above is  
26 to be kept highly confidential and must not be publicly disclosed. The information has not been  
27 disclosed outside of Apple except to plaintiffs pursuant to the Protective Order. The information  
28 produced to plaintiffs is non-public information from a public company that should remain

1 confidential. Harm to Apple would result from the public disclosure of the redacted information  
2 contained in these documents. The public disclosure of iPod or iTunes sales figures, iPod  
3 manufacturing costs, features of Apple's reseller pricing and advertising programs, or information  
4 regarding Apple's payment of royalties and/or licensing fees would put Apple at a significant  
5 business disadvantage.

6 7. Exhibit 22 (Interrogatory No. 6) to the Roach Declaration includes highly  
7 confidential and commercially sensitive research, including methodology and possible  
8 limitations. Apple's practices are that such information is to be kept highly confidential and must  
9 not be publicly disclosed. The information has not been disclosed outside of Apple except to  
10 plaintiffs pursuant to the Protective Order. The information produced to plaintiffs is non-public  
11 information from a public company that should remain confidential. Harm to Apple would result  
12 from the public disclosure of the redacted information contained in this document.

13 8. Page 2 of the Roach Declaration and Exhibits 11, 30, and 35 attached thereto  
14 contain highly confidential and commercially sensitive business information, including  
15 descriptions of software updates. Apple's practices are that such information is to be kept highly  
16 confidential and must not be publicly disclosed. This information has not been disclosed outside  
17 of Apple except to plaintiffs pursuant to the Protective Order. The information produced to  
18 plaintiffs is non-public information from a public company that should remain confidential.  
19 Harm to Apple would result from the disclosure of the highly confidential information regarding  
20 software updates to the public.

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

23 Executed this 22 day of January, 2010 in New York, New York.

24 /s/ Eddy Cue

25 Eddy Cue

26 I, as filer, attest that Eddy Cue has concurred in the filing of this document pursuant to  
27 General Order No. 45.

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/s/ David Kiernan  
David Kiernan