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13 Co-Lead Counsel for Plaintiffs

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

17 THE APPLE IPOD ITUNES ANTI-TRUST	)	Lead Case No. C-05-00037-JW(HRL)
18 LITIGATION	)	
	)	<u>CLASS ACTION</u>
19 _____	)	
20 This Document Relates To:	)	DECLARATION OF BONNY E. SWEENEY
	)	IN SUPPORT OF PLAINTIFFS'
21 ALL ACTIONS.	)	MEMORANDUM IN OPPOSITION TO
_____	)	APPLE'S MOTION FOR SUMMARY
	)	JUDGMENT

JUDGE: Hon. James Ware  
 DATE: April 18, 2011  
 TIME: 9:00 a.m.  
 24 CTRM; 8, 4th Floor

25 [REDACTED]

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1 I, BONNY E. SWEENEY, 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 a member of the law firm of Robbins Geller Rudman & Dowd LLP, Co-Lead Class  
4 Counsel of record for plaintiffs Melanie Tucker, Mariana Rosen, and Somtai Troy Charoensak  
5 (“Plaintiffs”) in this action. I have personal knowledge of the matters stated herein, and, if called  
6 upon, I could and would competently testify thereto.

7 2. Attached hereto are true and correct copies of the following documents:

8 Exhibit 1: Declaration of Howie Singer, dated December 22, 2010  
9 (“Warner Decl.”);

10 Exhibit 2: Declaration of Lawrence Kanusher, dated December 22,  
2010 (“Sony Decl.”);

11 Exhibit 3: Declaration of Amanda Marks, dated December 28,  
2010 (“Universal Decl.”);

12 Exhibit 4: Declaration of Mark Piibe, dated December 22, 2010  
13 (“EMI Decl.”);

14 Exhibit 5: Relevant Excerpts from the Deposition Transcript of  
Eddy Cue, taken December 17, 2010 **[filed under seal]**;

15 Exhibit 6: Apple\_AIIA01333677-82 **[filed under seal]**;

16 Exhibit 7: Relevant Excerpts from the Deposition Transcript of  
17 Jeffrey L. Robbin, taken December 3, 2010 **[filed  
under seal]**;

18 Exhibit 8: Relevant Excerpts from the Deposition Transcript of  
19 Augustin J. Farrugia, taken December 8, 2010 **[filed  
under seal]**;

20 Exhibit 9: Apple\_AIIA00098417**[filed under seal]**;

21 Exhibit 10: Relevant Excerpts from the Deposition Transcript of  
22 David K. Heller, taken December 15, 2010 **[filed under  
seal]**;

23 Exhibit 11: Apple\_AIIA00099408-09**[filed under seal]**;

24 Exhibit 12: Press Release, *iPod Claims 82% HD-Based Retail  
Market Share; 42% All Players* (Oct. 11, 2004);

25 Exhibit 13: Declaration of Lee Morse, dated January 19, 2007;


26 Exhibit 14: Apple\_AIIA00090429-31**[filed under seal]**;

27 Exhibit 15: Apple\_AIIA01344648-49**[filed under seal]**;

28 Exhibit 16: Apple\_AIIA00098491-93**[filed under seal]**;

- 1 Exhibit 17: Apple\_AIIA00098511-12[**filed under seal**];
- 2 Exhibit 18: Apple\_AIIA00094370-82 [**filed under seal**];
- 3 Exhibit 19: Press Release, *Apple Motorola & Cingular Launch*  
4 *World's First Mobile Phone with iTunes* (Sept. 7,  
5 2005);
- 6 Exhibit 20: Apple\_AIIA01278810-11[**filed under seal**];
- 7 Exhibit 21: Apple\_AIIA01385106 [**filed under seal**];
- 8 Exhibit 22: Apple\_AIIA00090441-43 (Cue Deposition Exhibit  
9 64)[**filed under seal**];
- 10 Exhibit 23: Apple\_AIIA00090471[**filed under seal**];
- 11 Exhibit 24: Apple\_AIIA00090405-07[**filed under seal**];
- 12 Exhibit 25: Apple\_AIIA00327951-52 (Cue Deposition Exhibit 71)  
13 [**filed under seal**];
- 14 Exhibit 26: Apple\_AIIA00091049-51 [**filed under seal**];
- 15 Exhibit 27: Affidavit of Reasonable Diligence of Mike Noble, dated  
16 December 21, 2010;
- 17 Exhibit 28: Apple\_AIIA00093875-76[**filed under seal**];
- 18 Exhibit 29: Press Release, *Apple Accuses RealNetworks of Hacking*,  
19 (Jul. 30, 2004);
- 20 Exhibit 30: Apple\_AIIA01384975-76 [**filed under seal**];
- 21 Exhibit 31: Apple\_AIIA01384977-78[**filed under seal**];
- 22 Exhibit 32: Apple\_AIIA00090427[**filed under seal**];
- 23 Exhibit 33: Apple\_AIIA00090428[**filed under seal**];
- 24 Exhibit 34: Apple\_AIIA00329373[**filed under seal**];
- 25 Exhibit 35: Apple\_AIIA00093265 [**filed under seal**];
- 26 Exhibit 36: Apple\_AIIA00330727-34 (Robbin Deposition Exhibit  
27 4) [**filed under seal**];
- 28 Exhibit 37: Apple\_AIIA00090485-88[**filed under seal**];
- Exhibit 38: Apple\_AIIA00094563-69[**filed under seal**];
- Exhibit 39: Apple\_AIIA\_B\_000001-103 (Farrugia Deposition  
Exhibit 29) [**filed under seal**];
- Exhibit 40: Apple\_AIIA01278671-74 [**filed under seal**];
- Exhibit 41: Apple\_AIIA00802966-67 [**filed under seal**];
- Exhibit 42: Apple\_AIIA00807080-81 [**filed under seal**];

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- Exhibit 43: Apple\_AIIA00320482-84 (Cue Deposition Exhibit 58) **[filed under seal]**;
- Exhibit 44: Apple\_AIIA00093504 **[filed under seal]**;
- Exhibit 45: Apple\_AIIA01385473-74 **[filed under seal]**;
- Exhibit 46: Apple\_AIIA00799692 **[filed under seal]**;
- Exhibit 47: Apple\_AIIA01278697 **[filed under seal]**;
- Exhibit 48: Apple\_AIIA01083490-514 **[filed under seal]**;
- Exhibit 49: Federal Trade Commission, *The Role of Static and Dynamic Analysis in Pharmaceutical Antitrust* (Feb. 15, 2010)
- Exhibit 50: Apple\_AIIA00001977-1993 **[filed under seal]**;
- Exhibit 51: Apple\_AIIA00001955-1965 **[filed under seal]**;
- Exhibit 52: Apple\_AIIA\_C\_00204897 **[filed under seal]**;  
Apple\_AIIA\_C\_00205403 **[filed under seal]**;  
Apple\_AIIA\_C\_00205532 **[filed under seal]**;
- Exhibit 53: Press Release, RealNetworks breaks Apple's hold on iPod (July 26, 2004);
- Exhibit 54:  **[filed under seal]**;
- Exhibit 55: Apple\_AIIA00090447-49 **[filed under seal]**;
- Exhibit 56: Apple\_AIIA\_00092388 **[filed under seal]**; and
- Exhibit 57: Apple\_AIIA\_00090785-87 (Cue Deposition Exhibit 7) **[filed under seal]**.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 28th day of February, 2011, at San Diego, California.

s/ Bonny E. Sweeney  
\_\_\_\_\_  
BONNY E. SWEENEY

1 CERTIFICATE OF SERVICE

2 I hereby certify that on February 28, 2011, I authorized the electronic filing of the foregoing  
3 with the Clerk of the Court using the CM/ECF system which will send notification of such filing to  
4 the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I  
5 caused to be mailed the foregoing document or paper via the United States Postal Service to the non-  
6 CM/ECF participants indicated on the attached Manual Notice List.

7 I certify under penalty of perjury under the laws of the United States of America that the  
8 foregoing is true and correct. Executed on February 28, 2011.

9 s/ Bonny E. Sweeney  
10 BONNY E. SWEENEY

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### Electronic Mail Notice List

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## Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

- (No manual recipients)