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 APPLE INC.

9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA
 11 OAKLAND DIVISION

13 THE APPLE IPOD iTUNES ANTI-TRUST
 LITIGATION.

Lead Case No. C 05-00037 YGR

[CLASS ACTION]

16 This Document Relates To:

17 ALL ACTIONS.

**DECLARATION OF DAVID KIERNAN
 IN SUPPORT OF STIPULATED
 PROPOSED ORDER REGARDING THE
 SCHEDULE**

20 1. I am a partner in the law firm of Jones Day, located at 555 California Street, 26th
 21 Floor, San Francisco, CA 94104. I submit this declaration in support of the parties Stipulated
 22 Proposed Order Regarding Schedule. The facts stated in this declaration are true and based upon
 23 my own personal knowledge, and if called to testify to them, I would competently do so.

24 2. On January 28, 2013, this Court entered the schedule for expert discovery and
 25 other events proposed by the parties.

26 3. On April 1, 2013, as part of a case management conference statement, the parties
 27 submitted stipulated amendments to the schedule based on information then known to them.

28 4. After the parties' submission, counsel for Apple (Mr. Mittelstaedt, Mr. Stewart,

1 and Mr. Kiernan) received an order in another complex antitrust case that reset the schedule in
2 that case and imposed substantial new briefing and discovery obligations, with deadlines
3 occurring during the same period as the deadlines in this case for Apple's expert reports.

4 5. Among other things, counsel for Apple in the other matter is currently preparing to
5 take the depositions of experts, preparing rebuttal expert reports, and drafting an opposition brief.
6 Apple's counsel has worked diligently to meet the deadlines in both this case and in the other
7 case, but despite that effort believes that the current deadline for Apple's expert reports in this
8 case does not afford Apple adequate additional time to complete its expert reports.

9 6. In addition to Apple's scheduling issues, I understand that plaintiffs class counsel
10 and their experts are also faced with conflicts. According to counsel for plaintiffs, counsel has a
11 final approval hearing on the settlement of another large complex antitrust action on September
12 12, and a trial call on another on September 17, 2013. Further, plaintiffs' economist expert is
13 unavailable from the end of July through the first two weeks of August, 2013.

14 7. After meeting and conferring over the last eleven days on dates that will avoid
15 conflicts and accommodate the schedules of counsel for plaintiffs and their experts, the parties
16 have agreed and stipulate to amend the dates in the schedule as set forth in the stipulated proposed
17 order.

18 8. The proposed changes to the schedule will not impact the trial date in this action,
19 which has not been set.

20
21 Executed this 31st day of May, 2013 in San Francisco, California.

22
23 /s/ David C. Kiernan

24 David C. Kiernan