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UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 OAKLAND DIVISION

THE APPLE IPOD ITUNES ANTI-TRUST )	Lead Case No. C-05-00037-YGR
LITIGATION )	
_____ )	<u>CLASS ACTION</u>
This Document Relates To: )	DECLARATION OF BONNY E. SWEENEY
ALL ACTIONS. )	IN SUPPORT OF PLAINTIFFS'
_____ )	MEMORANDUM OF LAW IN
	OPPOSITION TO DEFENDANT'S MOTION
	FOR SUMMARY JUDGMENT AND TO
	EXCLUDE EXPERT TESTIMONY OF
	ROGER G. NOLL

DATE: February 18, 2014  
 TIME: 2:00 p.m.  
 CTRM: 5, 2nd Floor  
 JUDGE: Hon. Yvonne Gonzalez Rogers

1 I, BONNY E. SWEENEY, declare:

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, Class Counsel  
4 for the Class and 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 completely testify thereto.

7 2. I submit this declaration in support of Plaintiffs' Memorandum of Law in Opposition  
8 to Defendant's Motion for Summary Judgment and to Exclude Expert Testimony of Roger G. Noll.

9 3. Attached hereto are true and correct copies of the following documents:

10 Exhibit 01:	Declaration of Roger G. Noll on Liability and Damages, dated April 3, 2013 <b>[filed under seal];</b>
11 Exhibit 02:	Rebuttal Declaration of Roger G. Noll on Liability and Damages, dated November 25, 2013 <b>[filed under seal];</b>
12 Exhibit 03:	Supplemental Rebuttal Declaration of Roger G. Noll on Liability and Damages, dated January 13, 2014 <b>[filed under seal];</b>
13 Exhibit 04:	Expert Report of David M. Martin Jr., Ph.D., dated April 8, 2013 <b>[filed under 14 seal];</b>
15 Exhibit 05:	Declaration of Howie Singer, dated December 22, 2010;
16 Exhibit 06:	Declaration of Lawrence Kanusher, dated December 22, 2010;
17 Exhibit 07:	Declaration of Amanada Marks, dated December 28, 2010;
18 Exhibit 08:	Declaration of Mark Piibe, dated December 22, 2010;
19 Exhibit 09:	Deposition Transcript of Eddy Cue, taken December 17, 2010 <b>[filed under seal];</b>
20 Exhibit 10:	Deposition Transcript of Jeffrey L. Robbin, taken December 3, 2010 <b>[filed under 21 seal];</b>
22 Exhibit 11:	Deposition Transcript of Augustin J. Farrugia, taken December 8, 2010 <b>[filed 23 under seal];</b>
24 Exhibit 12:	Declaration of Augustin Farrugia in Support of Defendant's Renewed Motion for Summary Judgment, dated January 2011 <b>[filed under seal];</b>
25 Exhibit 13:	Apple_AIIA00098417 <b>[filed under seal];</b>
26 Exhibit 14:	Deposition Transcript of David K. Heller, taken December 15, 2010 <b>[filed under 27 seal];</b>
28 Exhibit 15:	Apple_AIIA01278671-74 <b>[filed under seal];</b>
	Apple_AIIA01202393-401 <b>[filed under seal];</b>
	Apple_AIIA00099408-09 <b>[filed under seal];</b>
	Bryan Chaffin, The Mac Observer, <i>iPod Claims 82% HD-Based Retail Market Share; 42% All Players (UPDATE)</i> (Oct. 11, 2004);
	Declaration of Lee Morse, dated January 19, 2007;
	Apple_AIIA01278810-11 <b>[filed under seal];</b>
	Apple_AIIA01385106 <b>[filed under seal];</b>
	Deposition Transcript of Steve Jobs, taken April 12, 2011 <b>[filed under seal];</b>
	Apple_AIIA00090441-43 (Cue Depo. Ex. 64) <b>[filed under seal];</b>
	Apple_AIIA_00979727 <b>[filed under seal];</b>
	Apple_AIIA00327951-52 (Cue Deposition Exhibit 71) <b>[filed under seal];</b>

1	Exhibit 26:	Apple_AIIA00091049-51 <b>[filed under seal]</b> ;
	Exhibit 27:	Apple_AIIA00090447-49 <b>[filed under seal]</b> ;
2	Exhibit 28:	Apple_AIIA00090471 <b>[filed under seal]</b> ;
	Exhibit 29:	Apple_AIIA00090467-68 <b>[filed under seal]</b> ;
3	Exhibit 30:	2005 Digital Music Interoperability and Availability Hearing Before the Subcommittee on the Judiciary, April 6, 2005, Statement of the Honorable Lamar Smith;
4	Exhibit 31:	Apple_AIIA00090405-07 <b>[filed under seal]</b> ;
5	Exhibit 32:	Apple_AIIA00090429-31 <b>[filed under seal]</b> ;
6	Exhibit 33:	Rebuttal Expert Report of David M. Martin Jr., Ph.D., dated October 30, 2013 <b>[filed under seal]</b> ;
7	Exhibit 34:	Apple_AIIA00090485-88 <b>[filed under seal]</b> ;
8	Exhibit 35:	Compendium of Customer Complaints Containing: Apple_AIIA0000674-77; Apple_AIIA0002406; Apple_AIIA00062113-15; Apple_AIIA00057320-38; Apple_AIIA00006477-82; Apple_AIIA00007040-45; Apple_AIIA00007064-69; Apple_AIIA00007549-56; Apple_AIIA00007575-86; Apple_AIIA00008481-86; Apple_AIIA00008499-504; Apple_AIIA00067464-68; Apple_AIIA00067479- 83; Apple_AIIA00067605-11; Apple_AIIA00067632-36; Apple_AIIA00067979- 83; Apple_AIIA00069598-604; Apple_AIIA00059009-14 and Apple_AIIA00059088-93 <b>[filed under seal]</b> ;
9	Exhibit 36:	Apple_AIIA00093875-76 <b>[filed under seal]</b> ;
10	Exhibit 37:	Apple_AIIA00090427 <b>[filed under seal]</b> ;
11	Exhibit 38:	Apple_AIIA00090428 <b>[filed under seal]</b> ;
12	Exhibit 39:	Apple_AIIA00329373 <b>[filed under seal]</b> ;
13	Exhibit 40:	Apple_AIIA00093265 <b>[filed under seal]</b> ;
14	Exhibit 41:	Apple_AIIA00090482-83 <b>[filed under seal]</b> ;
15	Exhibit 42:	Apple_AIIA00094563-69 <b>[filed under seal]</b> ;
16	Exhibit 43:	Apple_AIIA00802966-67 <b>[filed under seal]</b> ;
17	Exhibit 44:	Apple_AIIA00807080-81 <b>[filed under seal]</b> ;
18	Exhibit 45:	Apple_AIIA00320482-84 (Cue Depo. Ex. 58) <b>[filed under seal]</b> ;
19	Exhibit 46:	Apple_AIIA00093504 <b>[filed under seal]</b> ;
20	Exhibit 47:	BBC News, <i>Apple to end music restrictions</i> (Jan. 7, 2009);
21	Exhibit 48:	Deposition Transcript of Mark Donnelly, taken December 20, 2010 <b>[filed under seal]</b> ;
22	Exhibit 49:	Apple_AIIA00187793-823 <b>[filed under seal]</b> ;
23	Exhibit 50:	Deposition Transcript of Roger G. Noll, taken December 18, 2013 <b>[filed under seal]</b> ;
24	Exhibit 51:	Deposition Transcript of Roger G. Noll, taken May 16, 2013 <b>[filed under seal]</b> ;
25	Exhibit 52:	Deposition Transcript of Robert H. Topel, taken January 8, 2014 <b>[filed under seal]</b> ;
26	Exhibit 53:	Deposition Transcript of Kevin M. Murphy, taken January 8, 2014 <b>[filed under seal]</b> ;
27	Exhibit 54:	Declaration of Jeffrey M. Wooldridge in Support of Plaintiff's Daubert Motion to Exclude Certain Opinion Testimony of Robert H. Topel and Kevin M. Murphy, dated December 20, 2013 <b>[filed under seal]</b> ;
28	Exhibit 55:	U.S. Department of Justice and the Federal Trade Commission Horizontal Merger Guidelines (Aug. 19, 2010);
	Exhibit 56:	Apple_AIIA00093859 <b>[filed under seal]</b> ;
	Exhibit 57:	2006 Oppenheimer Quarterly Update on RealNetworks, Inc.;
	Exhibit 58:	Deposition Transcript of Melanie Tucker, taken October 26, 2007 <b>[filed under seal]</b> ;

1	Exhibit 59:	Supplemental Declaration of Augustin Farrugia, dated July 2, 2013 <b>[filed under seal]</b> ;
2	Exhibit 60:	Deposition Transcript of Somtai Charoensak, taken January 12, 2007 <b>[filed under seal]</b> ;
3	Exhibit 61:	Apple_AIIA00325894-97 <b>[filed under seal]</b> ; and
4	Exhibit 62:	Deposition Transcript of Roger G. Noll, taken April 7, 2011 <b>[filed under seal]</b> .

5 I declare under penalty of perjury under the laws of the United States of America that the  
6 foregoing is true and correct. Executed this 13th day of January, 2014, at San Diego, California.

7 s/ Bonny E. Sweeney  
8 BONNY E. SWEENEY

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CERTIFICATE OF SERVICE

I hereby certify that on January 13, 2014, 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 13, 2014.

s/ Bonny E. Sweeney  
BONNY E. SWEENEY

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# Mailing Information for a Case 4:05-cv-00037-YGR "The Apple iPod iTunes Anti-Trust Litigation"

## 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)