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9 Attorneys for Defendant
 10 APPLE INC.

11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA
 13 OAKLAND DIVISION

14
 15 **THE APPLE IPOD ITUNES ANTI-
 16 TRUST LITIGATION**

Lead Case No. C-05-0037-YGR
 [CLASS ACTION]

**DECLARATION OF DAVID C.
 KIERNAN IN SUPPORT OF
 APPLE'S ADMINISTRATIVE
 MOTION TO FILE UNDER SEAL**

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Kiernan Decl. in Support of Admin Mot. to Seal
 C-05-0037-YGR

1 I, David C. Kiernan, declare as follows:

2 1. I am a partner in the law firm of Jones Day, located at 555 California Street, 26th Floor,
3 San Francisco, CA 94104. I submit this declaration in support of Apple's Administrative Motion
4 to File Under Seal portions of its Opposition to Plaintiffs' *Daubert* Motion to Exclude Certain
5 Opinion Testimony of Kevin M. Murphy and Robert H. Topel and portions of Exhibits 1, 2, 6, 9
6 and 11 and Exhibit 10 to the Declaration of David Kiernan filed in support of Apple's opposition
7 brief. The facts stated in this declaration are true and based upon my own personal knowledge,
8 and if called to testify to them, I would competently do so.

9 2. The relief requested in Apple's Administrative Motion is necessary and narrowly tailored
10 to protect Apple's confidential business and pricing information. Apple's opposition brief and
11 the exhibits filed in support thereof, contain highly confidential information regarding iPod
12 pricing strategy and information regarding iPods sales transactions.

13 3. Specifically, Apple's opposition brief and the deposition testimony filed in support
14 thereof, (Dr. Kevin M. Murphy (Exhibit 1), Dr. Robert H. Topel (Exhibit 2), Dr. Roger G. Noll
15 (Exhibits 6 and 9) and Dr. Jeffrey M. Wooldridge (Exhibit 11)) quote, paraphrase, reference
16 and/or otherwise relate to confidential pricing and sales transaction data, including but not limited
17 to, the Price Committee document (Exhibits 10) that were designated by Apple as
18 "Confidential—Attorneys Eyes Only" pursuant to the Stipulation and Protective Order Regarding
19 Confidential Information ("Protective Order") entered June 13, 2007 (ECF No. 112). As
20 demonstrated in the attached declarations, each of which were previously submitted in connection
21 with various other motions to seal similar data and documents during the pendency of this
22 litigation, the disclosure of this information would harm Apple.

23 4. Attached as **Exhibit 1** is a true and correct copy of the Declaration of Mark Buckley in
24 Support of Apple's Response to Plaintiffs' Motion to File Under Seal Portions of Plaintiffs'
25 Renewed Motion for Class Certification filed January 25, 2011, ECF No. 492.

26 5. Attached as **Exhibit 2** is a true and correct copy of the Declaration of Mark Buckley in
27 Support of Apple's Response to Plaintiffs' Under Seal Portions of Plaintiffs' Motion Regarding
28 Schedule for Class Certification filed January 14, 2011, ECF No. 454.

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

/s/ David C. Kiernan
David C. Kiernan

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