

Exhibit 1

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8 Attorneys for Defendant
 APPLE INC.

10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA
 12 SAN JOSE DIVISION

14 THE APPLE IPOD iTUNES ANTI-TRUST
 LITIGATION.

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**

21 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.

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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SFI-628146v5

/s/ David Kiernan
David Kiernan

Exhibit 2

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 2 Craig E. Stewart #129530
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**Case No. C 05-00037 JW (HRL)
 C 06-04457 JW (HRL)**

**DECLARATION OF JEFFREY
 ROBBIN IN SUPPORT OF APPLE'S
 ADMINISTRATIVE MOTION TO
 SEAL**

20 I, Jeffrey Robbin, declare as follows:

21 1. I am the Vice President of iTunes and Apple TV Engineering at Apple. I make
 22 this declaration in support of Apple's Administrative Motion To File Under Seal. The facts stated
 23 in this declaration are true and based upon my own personal knowledge and, if called to testify to
 24 them, I would competently do so.

25 2. Apple's Motion to Dismiss or, Alternatively, Motion for Summary Judgment, and
 26 the Declaration of Jeffrey Robbin in support thereof, contain highly confidential and
 27 commercially sensitive business information, including confidential details of Apple's FairPlay
 28 digital rights management (DRM) technology and updates to that technology, confidential

1 contract terms, and confidential communications between Apple and record labels regarding the
2 distribution of music through the iTunes Store and Apple's FairPlay DRM technology. Apple
3 keeps this information highly confidential and does not publicly disclose it.

4 3. Apple's FairPlay technology is a highly protected trade secret, and Apple uses
5 physical and electronic controls to protect it. The efficacy of FairPlay is dependent on the
6 confidentiality of information regarding its operation and maintenance. Only a few Apple
7 employees have access to and work on FairPlay, and they work in restricted areas. Information
8 regarding FairPlay is non-public, proprietary information from a public company that should
9 remain confidential. Harm to Apple would result from the public disclosure of the information.

10 4. Apple's contracts with record labels, which include information regarding the
11 manner in which FairPlay protects music sold through the iTunes Store, are subject to
12 confidentiality provisions and have not been disclosed outside of Apple except to plaintiffs
13 pursuant to the Stipulation and Protective Order Regarding Confidential Information entered June
14 13, 2007 ("Protective Order," Doc. 112). Similarly, Apple's communications with the record
15 labels regarding FairPlay's operation and the distribution of music through Apple's iTunes Store
16 are kept highly confidential and have not been disclosed outside of Apple except to plaintiffs
17 pursuant to the Protective Order. This information is non-public information from a public
18 company that should remain confidential. Harm to Apple would result from the public disclosure
19 of this highly confidential information. For example, the disclosure of confidential contract terms
20 and communications regarding those terms would adversely impact Apple's bargaining position
21 in future dealings with current and potential business partners.

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

24 Executed this 11 day of February, 2010 in Cupertino, California.

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26 _____
Jeffrey Robbin

27 SFI-629192v4

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