

1 Robert A. Mittelstaedt (State Bar No. 60359)
 ramittelstaedt@jonesday.com
 2 Craig E. Stewart (State Bar No. 129530)
 cestewart@jonesday.com
 3 David C. Kiernan (State Bar No. 215335)
 dkiernan@jonesday.com
 4 Amir Q. Amiri (State Bar No. 271224)
 aamiri@jonesday.com
 5 JONES DAY
 555 California Street, 26th Floor
 6 San Francisco, CA 94104
 Telephone: (415) 626-3939
 7 Facsimile: (415) 875-5700

8 Attorneys for Defendant
 APPLE INC.

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

14 THE APPLE IPOD iTUNES ANTI-TRUST
 LITIGATION.

Case No. C 05-00037 YGR

[CLASS ACTION]

**DECLARATION OF DAVID C.
 KIERNAN IN SUPPORT OF APPLE
 INC.'S ADMINISTRATIVE MOTION TO
 SEAL REPLY BRIEF IN SUPPORT OF
 MOTION FOR SUMMARY JUDGMENT
 AND TO EXCLUDE EXPERT
 TESTIMONY OF ROGER G. NOLL**

22 1. I am a partner in the law firm of Jones Day, located at 555 California Street, 26th
 23 Floor, San Francisco, CA 94104. I submit this declaration in support of Apple's Administrative
 24 Motion to Seal Reply Brief in Support of Motion for Summary Judgment and to Exclude Expert
 25 Testimony of Roger G. Noll. The facts stated in this declaration are true and based upon my own
 26 personal knowledge, and if called to testify to them, I would competently do so.

27 2. The relief requested in Apple's Administrative Motion is necessary and narrowly
 28 tailored to protect Apple's confidential business information. Portions of Apple's reply brief

1 contain highly confidential and commercially sensitive business information, including
2 confidential details of Apple's FairPlay digital rights management (DRM) technology and
3 updates to that technology; inquiries Apple received from customers that reflect personal
4 information of the customers and confidential and proprietary information regarding how Apple
5 responds to such inquiries; iPod and iTunes Store sales and market research; decisions by Apple
6 employees regarding Apple's business strategy; and confidential pricing policies and transaction
7 data relating to the sale of Apple products. Apple disclosed this information pursuant to the
8 Protective Order in this case, keeps this information highly confidential, and does not disclose it
9 to the public. As demonstrated in the attached declarations, the disclosure of this information
10 would harm Apple.

11 3. Motions to seal similar information have been granted previously in this case. *See*,
12 *e.g.*, ECF Nos. 184, 247, 291, 336, 340, 353, 422, 527.

13 4. Further, the reply brief summarizes, paraphrases, or otherwise references, among
14 other things, the expert reports in this matter. Each of these reports, and the depositions of the
15 experts regarding the reports, is reference the highly confidential information identified above,
16 that was disclosed pursuant to the Protective Order in this case. The expert materials, and
17 discussions thereof contained in the parties' written memoranda of points and authorities are the
18 subject of currently pending administrative motions to seal. *See* ECF Nos. 737, 740, 751, 754,
19 758.

20 5. Attached as Exhibit 1 is a true and correct copy of the Declaration of Eddy Cue
21 filed January 22, 2010, ECF No. 318.

22 6. Attached as Exhibit 2 is a true and correct copy of the Declaration of Jeffrey
23 Robbin filed January 22, 2010, ECF No. 328.

24 7. Attached as Exhibit 3 is a true and correct copy of the Declaration of Eddy Cue
25 filed December 23, 2010, ECF No. 409.

26 8. Attached as Exhibit 4 is a true and correct copy of the Declaration of Mark
27 Buckley filed January 13, 2011, ECF No. 454.

28 9. Attached as Exhibit 5 is a true and correct copy of the Declaration of Mark

1 Buckley filed January 24, 2011, ECF No. 492.

2 Executed this 31st day of January, 2014 in San Francisco, California.

3 /s/David C. Kiernan
4 David C. Kiernan

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