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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 RESPONSE TO PLAINTIFFS'
 ADMINISTRATIVE MOTION TO SEAL
 (ECF NO. 763)**

21 1. I am a partner in the law firm of Jones Day, located at 555 California Street, 26th
 22 Floor, San Francisco, CA 94104. I submit this declaration in support of Apple's Response to
 23 Plaintiffs' Administrative Motion to Seal Plaintiffs' Reply Memorandum in Support of Plaintiffs'
 24 *Daubert* Motion to Exclude Certain Opinion Testimony of Kevin M. Murphy and Robert H.
 25 Topel (ECF No. 763). 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 Plaintiffs' Reply brief

1 contain confidential and commercially sensitive business information relating to Apple's pricing
2 decisions and alleged overcharges for Apple iPods. Apple disclosed information relating to its
3 pricing policies pursuant to the Protective Order in this case, keeps such information highly
4 confidential, and does not disclose it to the public. As demonstrated in the attached declarations,
5 the disclosure of this information would harm Apple.

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

8 4. Attached as Exhibit 1 is a true and correct copy of the Declaration of Mark
9 Buckley filed January 24, 2011, ECF No. 492.

10 5. Attached as Exhibit 2 is a true and correct copy of the Declaration of Mark
11 Buckley filed January 13, 2011, ECF No. 454.

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

14 Executed this 4th day of February, 2014 in San Francisco, California.

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16 /s/ David C. Kiernan

17 David C. Kiernan

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