

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 RESPONSE TO PLAINTIFFS'  
 ADMINISTRATIVE MOTION TO SEAL  
 (ECF NO. 767)**

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 Portions of Plaintiffs' Reply Memorandum in Support  
 24 of Plaintiffs' Motion to the Supplemental Report of Kevin M. Murphy and Robert H. Topel Dated  
 25 December 20, 2013 (ECF No. 767). The facts stated in this declaration are true and based upon  
 26 my own personal knowledge, and if called to testify to them, I would competently do so.

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

1 reply memorandum contain confidential and commercially sensitive business information relating  
2 to Apple's pricing decisions, alleged overcharges for Apple iPods and Apple's proprietary  
3 technology. Apple disclosed this information pursuant to the Protective Order in this case, keeps  
4 such information highly confidential, and does not disclose it to the public. As demonstrated in  
5 the attached declarations, 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 7. Attached as Exhibit 4 is a true and correct copy of the Declaration of Jeffrey  
15 Robbin filed January 22, 2010, ECF No. 328.

16 Executed this 6th day of February, 2014 in San Francisco, California.

17  
18 /s/ David C. Kiernan

19 David C. Kiernan

20 SFI-852362v1