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18 Co-Lead Counsel for Plaintiffs

19 UNITED STATES DISTRICT COURT
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21 NORTHERN DISTRICT OF CALIFORNIA
22
23 SAN JOSE DIVISION

24 THE APPLE IPOD ITUNES ANTI-TRUST) Lead Case No. C-05-00037-JW
25 LITIGATION)

26) CLASS ACTION

27 This Document Relates To:)

28 ALL ACTIONS.)

DECLARATION OF BONNY E. SWEENEY
IN SUPPORT OF PLAINTIFFS' MOTION
FOR ADMINISTRATIVE RELIEF
PURSUANT TO CIVIL L.R. 7-11

1 I, Bonny E. Sweeney, declare as follows:

2 1. I am an attorney admitted to practice before all of the state and federal courts of the
3 State of California. I am a partner at the law firm of Lerach Coughlin Stoia Geller Rudman &
4 Robbins LLP, co-lead counsel for Plaintiffs in this action. I have personal knowledge of the matters
5 set forth herein and, if called as a witness, I could and would testify competently thereto.

6 2. Plaintiffs met and conferred with Defendants in an effort to reach an agreement over
7 the scope of discovery in the present action. My firm on January 17, 2007, served requests for
8 production of documents, interrogatories, requests for admissions, and two 30(b)(6) deposition
9 notices. I subsequently met and conferred with Defendant's counsel and offered on February 23,
10 2007 to defer until after class certification most of Plaintiffs' requests for production, all of
11 Plaintiffs' requests for admission, all but one interrogatory, and to narrow the subject matter of both
12 30(b)(6) deposition notices. In subsequent negotiations and in a letter I sent on June 18, 2007,
13 Plaintiffs offered narrower versions of several of requests for production of documents, offered to
14 defer one 30(b)(6) deposition, offered to withdraw the second 30(b)(6) request if Defendant would
15 produce company organizational charts, and offered to defer the one remaining interrogatory that
16 Plaintiffs had not already offered to defer.

17 3. As of today, Defendant has not produced **any** documents in response to the
18 January 17, 2007 request for production of documents, have refused Plaintiffs' offer that
19 organizational charts be produced as a substitute for a 30(b)(6) deposition relating to Defendant's
20 organizational structure, and have only agreed to substantially comply with one of Plaintiffs'
21 requests for production.

22 4. In total, after over nearly two and a half years of litigation, Defendant has only
23 produced 66 pages of documents, 58 pages of which were simply print-outs of documents on
24 Defendant's public webpage.

25 5. Defendant's position is that the November 21, 2006 case management order entered
26 in the *Charoensak v. Apple Computer, Inc.* action ("*Slattery/Charoensak* action") applies to the
27 present action, and has proposed that Plaintiffs agree to a stipulation on the same terms as those of
28 the *Slattery/Charoensak* action case management order. Plaintiffs, based on their experience during

1 the time they informally offered to proceed as if discovery were bifurcated, are unwilling to so
2 stipulate. Defendants also rejected Plaintiffs' request that along with class certification issues,
3 discovery proceed on preliminary topics such as Defendant's organizational structure, and on
4 requests that impose at most a *de minimis* burden on the parties. For this reason, Plaintiffs submit a
5 Proposed Order Governing Discovery and an Alternative Proposed Order Governing Discovery
6 rather than a stipulation agreed upon by both parties.

7 6. In its discovery to Plaintiffs, Defendant has demanded information that goes beyond
8 the requirements of Fed. R. Civ. P. Rule 23. For example, Defendant served discovery on Plaintiff
9 Melanie Tucker demanding that she produce receipts for all CDs and DVDs that she has purchased
10 since January 1, 2001, "including credit card receipts and statements," (First Set of Requests for
11 Production of Documents ("Req.") No. 3), that Tucker provide to Defendant for inspection her own
12 iPod (Req. No. 22), her computer hard drive (Req. No. 24) and every CD and DVD she **or any**
13 **member of her family** owns (Req. No. 25). Further, Defendant requested the same of "all persons
14 acting or purporting on her behalf, including her attorneys" and her and her attorneys' "spouse,
15 partner, significant other, children, family members and anyone living in YOUR household."

16 I declare under penalty of perjury under the laws of the United States that the foregoing is
17 true and correct. Executed this 9th day of July, 2007, at San Diego, California.

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20 s/ BONNY E. SWEENEY
BONNY E. SWEENEY

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1 CERTIFICATE OF SERVICE

2 I hereby certify that on July 9, 2007, I electronically filed the foregoing with the Clerk of the
3 Court using the CM/ECF system which will send notification of such filing to the e-mail addresses
4 denoted on the attached Electronic Mail Notice List, and I hereby certify that I have mailed the
5 foregoing document or paper via the United States Postal Service to the non-CM/ECF participants
6 indicated on the attached Manual Notice List.

7 I certify under penalty of perjury under the laws of the United States of America that the
8 foregoing is true and correct. Executed on July 9, 2007.

9 s/ BONNY E. SWEENEY

10 BONNY E. SWEENEY

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Mailing Information for a Case 5:05-cv-00037-JW

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Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

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