MEMO ENDORSED

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January 25, 2013



**By Hand Delivery**
Honorable Denise Cote
U.S. District Court, Southern District of New York
500 Pearl Street, Room 1610
New York, NY 10007

Re: *J.T. Colby & Co., Inc., et al. v. Apple Inc.*, No. 11 CIV 4060 (DLC)

Dear Judge Cote:

We are counsel for Defendant Apple Inc. in the above-titled case. Enclosed for Your Honor's consideration are two hard copy sets of Defendant Apple Inc.'s papers in opposition to Plaintiffs' Motion for Partial Summary Judgment, with accompanying documents. One of the hard copy sets submitted herewith is labeled "Unredacted Courtesy Copy" and consists of a complete set of Defendant's opposition without redactions. The other copy set, which is labeled "Courtesy Copy with Proposed Redactions," consists of a complete set of Defendant's opposition papers with the information that Apple has designated confidential, and which Apple requests be filed under seal, highlighted and flagged in yellow. The proposed redactions consist of the same information as to which the Court previously granted Apple's request for permission to file under seal. We also have enclosed a binder labeled "Looseleaf Set of Redacted Pages." In accordance with Rule 4.A of Your Honor's Individual Practices, that binder contains a partial, looseleaf set consisting solely of those pages bearing material as to which Apple seeks permission to redact.

Redactions are approved. Denise Cote 2/5/13

In addition, Apple is filing today its opposition to Plaintiffs' *Daubert* motion with regard to Dr. Gregory S. Carpenter. Because Plaintiffs' motion was filed electronically via ECF and Apple's opposition papers do not contain any confidential information, Apple is filing its opposition via ECF as well. We understand that Plaintiffs will provide Your Honor with a fully-briefed set of the papers related to that motion on Tuesday, February 5, 2013, in accordance with Your Honor's individual practices.

Finally, Apple's opposition to Plaintiffs' combined *Daubert* Motion with regard to E. Deborah Jay and Stephen Nowlis contains confidential information of the Plaintiffs. Therefore, Apple has served those papers on Plaintiffs so that they may have an opportunity to determine what information, if any, they would like to request be filed under seal. Once Plaintiffs have made that determination, we will submit a hard copy set of the papers showing the proposed

redactions, in the same form as noted above regarding Apple's papers in opposition to Plaintiffs' Motion for Partial Summary Judgment.

Sincerely,

Dale M. Cendali

Enclosures

cc: All Counsel of Record (via e-mail)
(enclosing Looseleaf Set of Redacted Pages)