# EXHIBIT 13

DECLARATION OF MELODY DRUMMOND HANSEN IN SUPPORT OF DEFENDANT'S
RESPONSIVE CLAIM CONSTRUCTION BRIEF

Case No. 5:15-CV-02008-EJD

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     **APPLE INC.**
13

14                  **UNITED STATES DISTRICT COURT**

15                  **NORTHERN DISTRICT OF CALIFORNIA**

16                              **SAN JOSE**

17

18   OpenTV, Inc., Nagravision, SA, and Nagra          Case No. 5:15-CV-02008-EJD
     France S.A.S.,
19                                                      **DECLARATION OF STEPHEN**
                          Plaintiffs,                   **MELVIN, PH.D. IN SUPPORT OF**
20                                                      **APPLE INC.'S RESPONSIVE CLAIM**
     v.                                                 **CONSTRUCTION BRIEF**
21
     Apple Inc.,
22
                          Defendant.
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1    I, Stephen Melvin, hereby declare as follows:

2    **I.        INTRODUCTION**

3    1.        I have prepared this Declaration in connection with Apple Inc.'s Responsive Claim

4    Construction Brief, which is to be filed concurrently with this Declaration.

5    2.        In the course of preparing this Declaration, I reviewed the '169 Patent, its prosecution file

6    history, Plaintiffs' Opening Claim Construction Brief (ECF 81), the Declaration of Dr. Kevin

7    Almeroth (ECF 81-15), as well as other documents discussed in this Declaration.

8    3.        I have been retained by Apple Inc. ("Apple") as an expert in the fields of computer

9    science, computer communications, and related technologies.  I am being compensated at my

10   normal consulting rate of $445 per hour for my time.  My compensation is not dependent on and

11   in no way affects the substance of my statements in this Declaration.

12   **II.       QUALIFICATIONS**

13   4.        I received a Ph.D. in Computer Science from the University of California at Berkeley in

14   1991 and a B.S. in Electrical Engineering and Computer Science from the University of

15   California at Berkeley in 1982.  I have more than 30 years of experience in computer science and

16   computer engineering.  I am an inventor on over 45 patents, and I am a registered patent agent

17   before the USPTO.

18   5.        My Ph.D. research areas included high-performance computer architecture and

19   microarchitecture and microcode-based system performance analysis tools.  From September

20   2001 through April 2002, I was a Visiting Scholar at the University of Texas, Austin, where I

21   directed graduate students in research in the area of high-performance computer architecture.

22   6.        In May 2001, I co-founded and was the Chief Architect of Flowstorm, Inc., a start-up

23   company based in Silicon Valley, where I defined and guided the overall chip architecture for a

24   multithreaded packet processor.  From March 2000 through May 2001, I worked as the Senior

25   CPU Architect at Clearwater Networks, where I was involved in defining the architecture and

26   microarchitecture of Clearwater's CNP810S multithreaded network processor.

27   7.        From August 1983 to the present, I have been the President of Zytek Communications

28   Corporation ("Zytek").  Zytek is an engineering, consulting, and small-scale manufacturing

1  company that currently provides intellectual property consulting services as well as services

2  related to the design, implementation, and testing of embedded systems.  Zytek's general areas of

3  activity have included industrial control and measurement, Internet-related services, hard disk

4  analysis and file recovery, and computer engineering research services.  Through my work at

5  Zytek, I have designed numerous microprocessor-based embedded systems, including analog and

6  digital circuit design, firmware development for embedded microcontrollers, and software

7  development for host interfacing, product development, and debugging.

8  8.      I am a member of the following professional organizations:  The Institute of Electrical and

9  Electronics Engineers (IEEE); The Association for Computing Machinery (ACM); The American

10  Intellectual Property Law Association (AIPLA); The Intellectual Property Owners Association

11  (IPO); and The National Association of Patent Practitioners (NAPP).

12  9.      I served as General Chair of the 45th Annual International Symposium on

13  Microarchitecture (Micro-45), held in Vancouver in December of 2012.   I also served as co-chair

14  of the 29th Annual International Symposium on Microarchitecture (Micro-29), held in Paris in

15  December of 1996.

16  10.      For further details regarding my employment and academic history, please refer to my

17  curriculum vitae, attached to this Declaration.

18  **III.      RELEVANT LAW**

19  11.      I have been informed and understand that claim construction is a matter of law and that

20  the final claim constructions for this proceeding will be determined by the Court.

21  12.      I am not an attorney.  For the purposes of this Declaration, I have been informed about

22  certain aspects of the law that are relevant to my opinions.  Some of those understandings of the

23  law are summarized below.

24  13.      I understand that claim terms are generally given their plain and ordinary meaning to one

25  of skill in the art when read in the context of the specification and the prosecution history.

26  14.      I have been informed and understand that a claim is indefinite under 35 U.S.C. § 112, ¶ 2

27  if it fails to "inform those skilled in the art about the scope of the invention with reasonable

28  certainty." *Nautilus, Inc. v. Biosig Instruments, Inc.*, 134 S. Ct. 2120, 2129-30 (2014).

15.     I have been informed and understand that, for means-plus-function limitations, the court must determine the claimed function and then identify the structure in the written description that clearly links or associates that structure to the function recited in the claim.  *Noah Sys., Inc. v. Inuit Inc.*, 675 F.3d 1302, 1311-12 (Fed. Cir. 2012).  I have also been informed and understand that the disclosure of the corresponding structure must be adequate—the patent's specification must provide an adequate disclosure showing what is meant by the claim language—and thus a means-plus-function clause is indefinite if a person of ordinary skill in the art would be unable to recognize the structure in the specification and associate it with the corresponding function in the claim.  *Id.* at 1312.  Finally, I have been informed and understand that, where a general purpose computer or microprocessor is claimed for specialized functions that cannot be accomplished absent specialized programming, sufficient structure must be disclosed in the form of computer algorithms.  *Id.* at 1311-18.

16.     I have been informed and understand that a dependent claim must further limit the subject matter claimed.   35 U.S.C. § 112, ¶ 4.

## IV.     LEVEL OF ORDINARY SKILL IN THE ART

17.     Based on my review of the '169 Patent and my background and experience in the field of computer science, it is my opinion that one of ordinary skill in the art as of the priority date would be someone with a bachelor's degree in computer science, computer engineering, or the equivalent, plus approximately two years of experience in the field of computer engineering or software development, or an equivalent amount of relevant work and/or research experience.

18.     I have been informed and understand that claim construction is viewed from the perspective of a person of ordinary skill in the art in question at the time of the claimed invention. The '169 Patent was filed on April 21, 2003 and claims priority to a provisional application filed on April 19, 2002.  I have been informed that Plaintiffs may claim an invention date as early as June 2001.  I have been asked to assume for purposes of this Declaration that this is the time of the claimed invention the '169 Patent.  However, the opinions I expressed in this report would be the same if I applied a priority date of April 19, 2002 (the provisional filing date of the '169 Patent) or April 21, 2003 (the actual filing date of the '169 Patent).

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