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17 **UNITED STATES DISTRICT COURT**
18 **NORTHERN DISTRICT OF CALIFORNIA**
19 **SAN JOSE**

21 OpenTV, Inc., NagraVision, SA, and Nagra
22 France S.A.S.,

23 *Plaintiffs,*

24 v.

25 Apple Inc.,

26 *Defendant.*

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

**DECLARATION OF MELODY
DRUMMOND HANSEN IN SUPPORT
OF DEFENDANT'S MOTION TO
PRECLUDE RELIANCE ON CERTAIN
INVENTION DATES AND TO STRIKE
CERTAIN ALLEGATIONS**

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DECLARATION OF MELODY

1 I am an attorney admitted to practice in the Northern District of California. I represent
2 Defendant Apple, Inc. in the above captioned matter. This declaration is accurate to the best of
3 my knowledge. I have personal knowledge of the facts stated below. I am of sound mind and
4 capable of testifying to the facts below.

5 1. Attached hereto as **Exhibit 1** is a true and correct copy of Plaintiffs' October 15,
6 2015 "DISCLOSURE OF ASSERTED CLAIMS AND INFRINGEMENT CONTENTIONS
7 RELATING TO U.S. PATENT NOS. 6,148,081, 6,233,736, 7,055,169, 7,644,429, AND
8 7,725,740." For the convenience of the Court, I highlighted some of the relevant passages.

9 2. Attached hereto as **Exhibit 2** is a true and correct copy of "PLAINTIFFS'
10 RESPONSES AND OBJECTIONS TO DEFENDANT APPLE INC.'S FIRST SET OF
11 INTERROGATORIES (NOS. 1-16)" which Plaintiffs sent to Defendant on December 23, 2015,
12 in response to the interrogatories that Defendant sent to Plaintiffs on November 23, 2015. For the
13 convenience of the Court, I deleted irrelevant pages, whited out irrelevant portions on relevant
14 pages, and highlighted some of the relevant passages.

15 3. Attached hereto as **Exhibit 3** is a true and correct copy of "DEFENDANT APPLE
16 INC.'S PATENT L.R. 3-3 PRELIMINARY INVALIDITY CONTENTIONS" which were served
17 on Plaintiffs on December 7, 2015. For the convenience of the Court, I removed irrelevant pages,
18 whited out irrelevant passages on relevant pages, and highlighted prior art disclosures that would
19 be possibly be predated if Plaintiffs were allowed to change their invention dates.

20 4. Attached hereto as **Exhibit 4** is a true and correct copy of a letter sent by
21 Defendant to Plaintiffs on February 2, 2016.

22 5. Attached hereto as **Exhibit 5** is a true and correct copy of an email chain between
23 counsel for Plaintiffs and counsel for Defendant in this action, the most recent email being dated
24 February 26, 2016. I highlighted the relevant portion.

25 6. Attached hereto as **Exhibit 6** is a true and correct copy of a letter from Defendants
26 to Plaintiffs sent on March 4, 2016. I highlighted some of the relevant portions. The letter
27 memorializes a meet and confer held on February 11, 2016 regarding Plaintiffs' invention dates.
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DECLARATION OF MELODY

1 7. Attached hereto as **Exhibit 7** is a true and correct copy of an email chain between
2 counsel for Defendants and counsel for Plaintiffs, with the most recent email being dated March
3 14, 2016. I highlighted one of the relevant portions.

4 8. Attached hereto as **Exhibit 8** is a true and correct copy of “PLAINTIFFS’
5 SUPPLEMENTAL RESPONSES AND OBJECTIONS TO DEFENDANT APPLE INC.’S
6 FIRST SET OF INTERROGATORIES (NOS. 8 and 13)” which was served in this action on
7 March 22, 2016. For the convenience of the Court, I deleted irrelevant pages, whited out
8 irrelevant portions on relevant pages, and highlighted some of the relevant passages.

9 9. Attached hereto as **Exhibit 9** is a true and correct copy of an order issued in
10 *Harvatek Corp. v. Cree, Inc.*, Case No. 14-5353, Dkt. 50 (N.D. Cal. June 9, 2015).

11 10. Attached hereto as **Exhibit 10** is a true and correct copy of “PLAINTIFFS’
12 RESPONSES AND OBJECTIONS TO DEFENDANT APPLE INC.’S FIRST SET OF
13 REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS (NOS. 1-153)”
14 served in this action on December 23, 2015, in response to requests for production that Defendant
15 served on Plaintiffs on November 23, 2015. For the convenience of the Court, I deleted irrelevant
16 pages, whited out irrelevant portions on relevant pages, and highlighted some of the relevant
17 passages.

18 11. In this action, Plaintiffs produced the file history for the ’736 Patent on October
19 15, 2015.

20 12. In order to formulate its invalidity defenses, Apple has searched for and evaluated
21 a large body of prior art, including prior art dated after OpenTV’s new priority dates. The
22 majority of the work required to evaluate possible prior art stems from the fact that many of the
23 terms used in the asserted claims are ambiguous. Apple’s agreed and disputed constructions are,
24 in part, oriented toward clarifying whether the scope of the asserted claims extends to what is
25 disclosed by the prior art. If certain of Apple’s prior art are no longer relevant to this action
26 (because they are predated by the asserted patents), then Apple will have wasted considerable
27 time and effort. And if certain key prior art is no longer available, Apple may have to
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DECLARATION OF MELODY

1 significantly revise its invalidity defenses.

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3 Dated: April 13, 2016

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By: /s/ Melody Drummond Hansen

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Melody Drummond Hansen
State Bar No. 278786

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Attorney for Defendant Apple Inc.

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