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9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN FRANCISCO DIVISION

12 UNITED STATES OF AMERICA, )  
13 Plaintiff, )  
14 v. )  
15 GARY SWANSON, )  
16 Defendant. )  
17 )  
18 )  
19 \_\_\_\_\_ )

Case No: CR 06-0692 PJH

**DECLARATION OF  
NATHANAEL COUSINS**

**(EX. 1 IN SUPPORT OF  
GOVERNMENT’S RENEWED MOTION  
TO EXCLUDE DEFENDANT’S EXPERT  
TESTIMONY)**

20 I, Nathanael M. Cousins, hereby declare under penalty of perjury that the following is  
21 true and correct to the best of my knowledge:

22 1. I am a Trial Attorney for the United States Department of Justice, Antitrust Division. I  
23 make this declaration in support of the Government’s Renewed Motion to Exclude Testimony  
24 By Defendant’s Experts Hausman and Krone.

25 2. **EXHIBIT 2:** Attached as Exhibit 2 is a true and correct copy of a letter dated  
26 November 7, 2007, sent by Defendant’s counsel John Bartko. Attached to the letter is a one-  
27 page chart of exhibits “about which we [Defendant] asked Mr. Krone and his conclusions.”  
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3. **EXHIBIT 3:** Attached as Exhibit 3 is a true and correct copy of a letter dated November 21, 2007, sent by Defendant’s counsel William Edlund. Attached to the letter is a one-page “List of Documents,” identifying 16 documents or categories of documents. Defendant produced with the letter documents from 8 of the 16 categories (Nos. 3, 4, 6, 8, 9, 13, 14, and 15). Defendant’s counsel stated that these were the documents that Hausman “still had readily available.”

4. **EXHIBIT 4:** Attached as Exhibit 4 is a true and correct copy of a letter from me to Defendant’s counsel, dated November 26, 2007. That letter requested clarification of the “permissible grounds” upon which Hausman would testify, and confirmed that Defendant had not produced documents in eight categories of the list disclosed on November 21 (Nos. 1, 2, 5, 7, 10, 11, 12, and 16). The letter also requested Hausman’s work papers.

5. **EXHIBIT 5:** Attached as Exhibit 5 is a true and correct copy of a letter dated November 28, 2007, sent by Defendant’s counsel William Edlund. In that letter, Defendant identified seven areas of expected testimony by Hausman and declined to produce any additional documents that had been requested by the Government.

6. **EXHIBIT 6:** Attached as Exhibit 6 is a true and correct copy of a Report of Findings by Strategic Discovery, Inc., dated December 3, 2007, in rebuttal to the Defendant’s expert report by Winston Krone.

7. **EXHIBIT 7:** Attached as Exhibit 7 is a true and correct copy of Government’s trial exhibit 253, a document produced by Hynix Semiconductor dated May 16, 2002, with bates number 449925. This is one of the documents that Krone opined about in his November 7 supplemental disclosure and determined was “Unopened.” Gary Swanson’s name does not appear on the face of the document.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed on December 3, 2007, in San Francisco, California.

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/s/ Nathanael M. Cousins  
Trial Attorney, Antitrust Division  
U.S. Department of Justice