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11 Attorneys for Plaintiff and
 12 Counterclaim-Defendant APPLE INC.

13 UNITED STATES DISTRICT COURT
 14 NORTHERN DISTRICT OF CALIFORNIA
 15 SAN JOSE DIVISION

16 APPLE INC., a California corporation,
 17
 18 Plaintiff,
 19 v.
 20 SAMSUNG ELECTRONICS CO., LTD., a
 Korean corporation; SAMSUNG
 21 ELECTRONICS AMERICA, INC., a New
 York corporation; and SAMSUNG
 22 TELECOMMUNICATIONS AMERICA,
 LLC, a Delaware limited liability company,
 23 Defendants.

Case No. 11-cv-01846-LHK

**DECLARATION OF CYNDI WHEELER IN
 SUPPORT OF SAMSUNG'S
 ADMINISTRATIVE MOTION TO FILE
 DOCUMENTS UNDER SEAL RE
 SAMSUNG'S MOTION FOR LEAVE TO
 SEEK RECONSIDERATION**

1 I, Cyndi Wheeler, hereby declare as follows:

2 1. I am an attorney for Apple Inc. (“Apple”). I submit this declaration in support of
3 Samsung’s Administrative Motion to File Under Seal (Dkt. No. 978) pursuant to Local Rules 7-
4 11 and 79-5. I have personal knowledge of the matters set forth below. If called as a witness I
5 could and would competently testify as follows.

6 2. Samsung’s Motion for Leave to Seek Reconsideration of the Court’s May 21, 2012
7 Order (the “Motion”) and Exhibits 1, 3, 6-10, 12-14, and 16 to the Declaration of Thomas Watson
8 in Support of the Motion (“Watson Declaration”) contain Apple-confidential information.
9 Specifically:

10 3. Exhibit 1 to the Watson Declaration contains the confidential analysis of Apple’s
11 expert Terry Musika and includes information from other highly confidential documents,
12 including third party competitive market research studies. This exhibit should be sealed in its
13 entirety.

14 4. Exhibit 3 to the Watson Declaration is an excerpt from the November 4, 2011
15 deposition of Christopher Stringer. Mr. Stringer discusses specific details of an internal design
16 model that is highly confidential and not available to the public. A proposed redacted version is
17 attached as **Exhibit 1**.

18 5. Exhibits 6-9 to the Watson Declaration depict highly detailed photographs of
19 Apple’s internal design model with scale and comparison information, none of which is available
20 to the public. Proposed redacted versions of Exhibits 6, 7, and 8 to the Watson Declaration are
21 attached as **Exhibits 2, 3, and 4**, respectively. Exhibit 9 consists of an extreme closeup providing
22 considerably more detail than has been disclosed to the public, and should be sealed in its
23 entirety. The Court previously addressed this issue (*see, e.g.*, Order re Discovery Motions [Dkt.
24 No. 673] at 25) and confirmed that Apple may maintain the confidentiality of photographs
25 depicting details of mockups not disclosed in patent filings, including scale information, and the
26 attached proposed redacted versions are consistent with de-designated versions of these same
27 photographs that Apple has produced to Samsung under the Bates range APLNDC-X0000007496
28 to 7527.

1 6. Exhibit 10 to the Watson Declaration is an excerpt from the October 21, 2011
2 deposition of Daniele de Iuliis. Mr. de Iuliis discusses and describes an internal Apple design
3 model and specific details of that model that are not available to the public. A proposed redacted
4 version is attached as **Exhibit 5**.

5 7. Exhibits 12 to 14 to the Watson Declaration are portions of unpublished patent
6 applications. Unpublished patent applications are so highly confidential that courts recognize a
7 heightened relevancy standard for their production, as the Court has acknowledged. (*See, e.g.*,
8 Order Granting-in-Part Samsung's Motions to Compel and to Enforce [Dkt No. 867] at 4-5)
9 (discussing "clear congressional determination that a design patent application is entitled to a
10 period of confidentiality" and "significant risk of competitive harm that could result from
11 disclosure of [Apple's] pending design patents). These exhibits should be sealed in their entirety.

12 8. Exhibit 16 to the Watson Declaration consists of the report of Apple's expert Dr.
13 Kent Van Liere. This is a survey-related report. The parties have stipulated that survey-related
14 expert reports would be filed under seal in full and not on the public record. These documents
15 contain confidential, proprietary research and analysis. This business information was created at
16 a significant cost to Apple, and could be used by Apple's competitors to its disadvantage and
17 should be under seal in its entirety.

18 9. The Motion should be sealed to the extent it refers to the exhibits above for the
19 same reasons.

20 10. It is Apple's policy not to disclose or describe its confidential business practices,
21 design and development information, or confidential consumer research to third parties. The
22 above information is indicative of the way that Apple manages its business affairs and reveals
23 highly confidential information on its design process. If disclosed, the information in the
24 materials described above could be used by Apple's competitors to Apple's disadvantage. The
25 requested relief is necessary and narrowly tailored to protect the confidentiality of this
26 information.

27 11. Apple does not maintain a claim of confidentiality on Exhibits 4, 5, 11, or 15 to the
28 Watson Declaration.

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge. Executed this 4th day of June, 2012, in Cupertino, California.

/s/ Cyndi Wheeler
Cyndi Wheeler

