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

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

17 APPLE INC., a California corporation,  
 18 Plaintiff,  
 19 v.  
 20 SAMSUNG ELECTRONICS CO., LTD., a  
 Korean corporation; SAMSUNG ELECTRONICS  
 21 AMERICA, INC., a New York corporation; and  
 SAMSUNG TELECOMMUNICATIONS  
 22 AMERICA, LLC, a Delaware limited liability  
 company,  
 23 Defendants.  
 24

Case No. 11-cv-01846-LHK (PSG)

**DECLARATION OF GRANT L. KIM  
 IN SUPPORT OF APPLE INC.'S  
 OPPOSITION TO SAMSUNG'S  
 MOTION FOR LEAVE TO SEEK  
 RECONSIDERATION OF THE  
 COURT'S MAY 21, 2012 ORDER**

1 I, GRANT KIM, declare as follows:

2 1. I am an attorney at the law firm of Morrison & Foerster LLP, counsel of record in  
3 this action for Plaintiff Apple Inc. I also appeared as counsel in Apple's appeal of this Court's  
4 preliminary injunction ruling to the Federal Circuit. I submit this declaration to authenticate  
5 certain documents filed in support of Apple's Opposition to Samsung's Motion for  
6 Reconsideration of the Court's May 21, 2012 Order. I have personal knowledge of the matters  
7 set forth below. If called as a witness I could and would testify competently as follows.

8 2. Attached as Exhibit A is a true and correct copy of portions of the Brief of  
9 Appellees that Samsung filed in the Federal Circuit appeal that are relevant to Samsung's motion  
10 for reconsideration (omitting confidential portions that are not relevant to Samsung's motion). As  
11 indicated by these excerpts, Samsung argued that this Court's finding that the Galaxy Tab 10.1  
12 likely infringes Apple's D'889 patent was erroneous, and that the Federal Circuit should affirm  
13 the denial of a preliminary injunction as to the D'889 patent on the ground that there is no likely  
14 infringement. (Ex. A at 61-63.) In the alternative, Samsung argued that the Federal Circuit  
15 should remand for further consideration of both infringement and validity to allow Samsung to  
16 present new evidence (including "more clear photos" of an unreleased tablet model), which  
17 allegedly shows that Apple's design patents are not valid or infringed. (*Id.* at 73-74.) The  
18 Federal Circuit did not accept either argument.

19 3. Attached as Exhibit B is a true and correct copy of relevant excerpts of photos of  
20 the unreleased tablet model that Samsung submitted to the Federal Circuit as part of the appellate  
21 record (A8626-43), which Samsung relied on in its appellate brief (Ex. A at 63). Samsung  
22 submitted these same photos to this Court on October 18, 2011, as Exhibit R to the Tung  
23 Declaration In Support of Samsung's Notice of Lodging of Materials In Opposition to Apple's  
24 Motion for Preliminary Injunction. These photos are not confidential because they were  
25 submitted to the Patent Office. In contrast, Samsung redacted the photo that appears at page 74 of  
26 Samsung's appellate brief from the public version of its brief, because this photo was not  
27 submitted to the Patent Office.

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