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12	Counterclann-Defendant AFFLE 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,	Case No. 11-cv-01846-LHK (PSG)	
18	Plaintiff,	DECLARATION OF GRANT L. KIM IN SUPPORT OF APPLE INC.'S	
19	V.	OPPOSITION TO SAMSUNG'S MOTION FOR LEAVE TO SEEK	
20	SAMSUNG ELECTRONICS CO., LTD., a Korean corporation; SAMSUNG ELECTRONICS	RECONSIDERATION OF THE COURT'S MAY 21, 2012 ORDER	
21	AMERICA, INC., a New York corporation; and SAMSUNG TELECOMMUNICATIONS AMERICA, LLC, a Delaware limited liability company,	COURT 5 MAT 21, 2012 ORDER	
22			
23	Defendants.		
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I, GRANT KIM, declare as follows:

I am an attorney at the law firm of Morrison & Foerster LLP, counsel of record in
this action for Plaintiff Apple Inc. I also appeared as counsel in Apple's appeal of this Court's
preliminary injunction ruling to the Federal Circuit. I submit this declaration to authenticate
certain documents filed in support of Apple's Opposition to Samsung's Motion for
Reconsideration of the Court's May 21, 2012 Order. I have personal knowledge of the matters
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 the denial of a preliminary injunction as to the D'889 patent on the ground that there is no likely 13 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 present new evidence (including "more clear photos" of an unreleased tablet model), which 16 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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1	4. Attached as Exhibit C is a true and correct copy of relevant excerpts of the Reply		
2	Brief of Appellant that Apple filed in the Federal Circuit appeal. As indicated by these excerpts,		
3	Apple noted that the photos of the unreleased tablet model were not relevant to the scope of the		
4	D'889 patent because the Examiner excluded the photos by cancelling the statement in the patent		
5	application that referred to these photos.		
6	5. Attached as Exhibit D is a true and correct copy of relevant excerpts of the D'889		
7	prosecution history, which are included in the Federal Circuit appellate record. As indicated by		
8	these excerpts, Apple's application for the D'889 patent referred to "an appendix showing various		
9	photographs of an electronic device in accordance with one embodiment." (A9245.) The		
10	Examiner responded by cancelling this statement as improper. (A9280-81.) Accordingly, this		
11	statement does not appear in the D'889 patent, as finally issued.		
12	I declare under the penalty of perjury that the foregoing is true and correct and that		
13	this Declaration was executed this 4th day of June 2012, at San Francisco, California.		
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15	<u>/s/ Grant L. Kim</u> Grant L. Kim		
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	KIM DECL. ISO APPLE'S OPP. TO SAMSUNG'S MOT. FOR RECONSIDERATION OF MAY 21, 2012 ORDER CASE NO. 11-CV-01846-LHK (PSG) sf-3154147		

1	ATTESTATION OF E-FILED SIGNATURE		
2	I, Michael A. Jacobs, am the ECF User whose ID and password are being used to file this		
3	Declaration. In compliance with General Order 45, X.B., I hereby attest that Grant L. Kim has		
4	concurred in this filing.		
5	Dated: June 4, 2012	/s/ Michael A. Jacobs	
6		Michael A. Jacobs	
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	KIM DECL. ISO APPLE'S OPP. TO SAMSUNG'S MOT. FOR REC CASE NO. 11-CV-01846-LHK (PSG) sf-3154147	CONSIDERATION OF MAY 21, 2012 ORDER 3	