

**DECLARATION OF NATHAN SABRI IN
SUPPORT OF APPLE'S OPPOSITIONS TO
SAMSUNG'S MOTION FOR SANCTIONS AND
MOTION TO ENFORCE**

EXHIBIT 2

November 3, 2011

VIA ELECTRONIC MAIL

Jason Bartlett
Morrison and Foerster
425 Market Street
San Francisco, California 94105-2482

Re: *Apple v. Samsung Elecs. Co. et al.*, Case No. 11-cv-1846 LHK (N.D. Cal.)

Dear Jason:

Per our discussions during yesterday's meet and confer call, we have grouped Samsung's Requests for Production (Set One) into categories for ease of reference. Those categories, and our comments where appropriate, are set forth below. Please provide a written response by Monday, November 7 identifying which categories of documents Apple will agree to produce. The parties can discuss any areas of disagreement at our next meet and confer session on Wednesday, Nov. 9.

Product Examples, Technical, and Manufacturing Documents (1, 6, 7, 8, 16, 39, 69, 76, 77, 136)

On yesterday's call, you indicated that Apple would agree to a mutual exchange of product examples. We are considering your proposal and will get back to you. You also indicated that you would provide all requested manufacturing and sales information for all products manufactured and imported into the US. We are currently assessing whether this is adequate.

Furthermore, you indicated that Apple intends to produce the documents already produced in the 794 investigation in this case. You also indicated that you are undertaking an

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Documents pertaining to this lawsuit and pre-suit investigation (38, 46, 52, 63, 64, 65, 66, 68, 73, 126, 127, 153, 180, 185)

Documents related to other lawsuits and enforcement of the Apple patents and claims (75, 91, 94, 120, 142, 184, 95, 124, 125, 187)

Apple has produced a number of deposition and trial transcripts relating to inventors of patents previously asserted. Apple has also produced a small number of additional transcripts. The number of remaining transcripts from Apple’s witnesses is small, and highly relevant to this case.

First, Samsung is entitled to these additional transcripts to assess credibility of the witnesses. *See* 9th Circuit Model Civil Jury Instruction No. 2.8 (evidence that a witness lied under oath on a prior occasion may be considered, along with all other evidence, in deciding whether or not to believe the witness and how much weight to give to the testimony of the witness).

In addition, these transcripts should be produced because the witnesses’ testimony in all Apple-related litigations share a “technological nexus” to the technical issues in this litigation. *Inventio AG v. Thyssenkrupp Elevator Am. Corp.*, 662 F. Supp. 2d 375 (D. Del. 2009); *see also Bennett v. Segway, Inc.*, 2011 WL 4965179 (W.D.N.C. Oct. 19, 2011). Here, the witnesses have been employed by Apple and have testified about the same or similar products at issue in this litigation. Samsung is entitled to this former testimony.

Apple patent and trademark ownership (85, 84, 192)

Patentability of all intellectual property in the case (93, 97, 98, 104, 105, 107, 101, 102, 103, 106, 108, 109, 122, 123, 128, 129, 130, 131, 132, 188, 21, 22, 53, 61, 89, 92, 96, 99, 100)

Best regards,

/s/ Marissa R. Ducca

Marissa R. Ducca

MRD

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