

1 QUINN EMANUEL URQUHART & SULLIVAN, LLP  
 Charles K. Verhoeven (Cal. Bar No. 170151)  
 2 charlesverhoeven@quinnemanuel.com  
 50 California Street, 22nd Floor  
 3 San Francisco, California 94111  
 Telephone: (415) 875-6600  
 4 Facsimile: (415) 875-6700

5 Kevin P.B. Johnson (Cal. Bar No. 177129)  
 kevinjohnson@quinnemanuel.com  
 6 Victoria F. Maroulis (Cal. Bar No. 202603)  
 victoriamaroulis@quinnemanuel.com  
 7 555 Twin Dolphin Drive 5th Floor  
 Redwood Shores, California 94065  
 8 Telephone: (650) 801-5000  
 Facsimile: (650) 801-5100

9 Michael T. Zeller (Cal. Bar No. 196417)  
 10 michaelzeller@quinnemanuel.com  
 865 S. Figueroa St., 10th Floor  
 11 Los Angeles, California 90017  
 Telephone: (213) 443-3000  
 12 Facsimile: (213) 443-3100

13 Attorneys for SAMSUNG ELECTRONICS  
 CO., LTD., SAMSUNG ELECTRONICS  
 14 AMERICA, INC. and SAMSUNG  
 TELECOMMUNICATIONS AMERICA, LLC  
 15

16 UNITED STATES DISTRICT COURT

17 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

18 APPLE INC., a California corporation,

19 Plaintiff,

20 vs.

21 SAMSUNG ELECTRONICS CO., LTD., a  
 Korean business entity; SAMSUNG  
 22 ELECTRONICS AMERICA, INC., a New  
 York corporation; SAMSUNG  
 23 TELECOMMUNICATIONS AMERICA,  
 LLC, a Delaware limited liability company,

24 Defendants.  
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CASE NO. 11-cv-01846-LHK

**REPLY DECLARATION OF DIANE C.  
 HUTNYAN IN SUPPORT OF  
 SAMSUNG'S MOTION FOR RULE 37  
 SANCTIONS FOR APPLE'S VIOLATION  
 OF DECEMBER 22, 2011 COURT ORDER**

**Date:** June 21, 2012

**Time:** 10:00 a.m.

**Place:** Courtroom 5, 4th Floor

**Judge:** Hon. Paul S. Grewal

1 I, Diane C. Hutnyan, declare:

2 1. I am a partner with the law firm Quinn Emanuel Urquhart & Sullivan, LLP,  
3 counsel for Samsung Electronics Co., Ltd., Samsung Electronics America, Inc. and Samsung  
4 Telecommunications America, LLC (collectively, "Samsung"). I am licensed to practice law in  
5 the State of California. I submit this reply declaration in support of Samsung's Motion for Rule  
6 37 Sanctions for Apple's Violation of December 22, 2011 Court Order. I have personal  
7 knowledge of the facts set forth in this declaration and, if called upon as a witness, I could and  
8 would testify to the following facts.

10 2. From our review of Apple's production, it appears that Apple produced or deemed  
11 produced over 280 employee transcripts from twelve cases with a technological nexus to this case,  
12 including 34 inventor transcripts, in response to the April 12 Order.

13 3. Attached hereto as Exhibit 1 are true and correct excerpts of the Transcript of the  
14 April 9, 2012 hearing on Samsung's Motion to Compel and Motion to Enforce Dec. 22, 2011  
15 Court Order.

17 4. Apple did not produce a single responsive deposition transcript between December  
18 22, 2011, and January 15, 2012.

19 5. As early as February 8, 2012, Samsung's counsel asked Apple's counsel to provide  
20 a complete list of cases bearing a technological nexus to this one so that it could determine  
21 whether Apple had complied with the December 22 Order. Attached hereto as Exhibit 2 is a  
22 true and correct copy of a February 8, 2012 letter from me to Apple's counsel asking for such a  
23 list. Apple's counsel failed to provide any such list in response to this letter, although we  
24 followed up several times asking for a complete list.

26 6. Attached hereto as Exhibit 3 is a true and correct copy of a February 29, 2012  
27 letter from Apple's counsel to me in which Apple's counsel refused to provide a list while  
28

1 criticizing Samsung's proposed list. To date, Apple's counsel has never provided a list of the  
2 cases it believes fall within the technological nexus standard, nor has Apple ever confirmed that  
3 Samsung's list is complete.

4 7. At the parties' lead counsel meet and confer session on February 14 and 15, 2012,  
5 Apple's counsel refused to produce deposition transcripts from the 796 Investigation, in which  
6 similar patents are being litigated. On March 26, 2012, Apple's counsel stated that it would be  
7 willing to stipulate that ITC 796 bears a technological nexus to this case. A true and correct copy  
8 of that email is attached hereto as Exhibit 4. To my knowledge, Apple has never denied that  
9 there was a technological nexus between the two cases.  
10

11 8. Attached hereto as Exhibit 5 is a true and correct copy of an email from Apple's  
12 counsel to Samsung's counsel, dated Sunday, April 15, 2012 and time stamped 5:55 PM, in which  
13 Apple agreed for the first time to allow Samsung to use the deposition transcripts from ITC 796 in  
14 this case.  
15

16 9. Although Apple contends that it produced **49** transcripts before the Court's April 12  
17 Order, in actuality, it produced only **29** in the Northern District case, where it was ordered to  
18 produce them. It appears that Apple arrived at its figure by adding the 5 deposition transcripts it  
19 produced *only* in the ITC 794 Investigation and the 15 deposition transcripts it produced *only* in  
20 the ITC 796 Investigation, which it had previously not included when it described its production in  
21 compliance with the December 22 order.  
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23 10. Apple produced the July 13, 2011 Deposition Transcript of Leonard Cimini on  
24 April 24, 2012; the September 27, 2010 Deposition Transcript of Steve Bisset on April 26, 2012;  
25 the April 5, 2012 Deposition Transcript of Gregory Novick, the March 30, 2012 Deposition  
26 Transcript of Nima Parivar, and the April 10, 2012 Deposition Transcript of William Stewart for  
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1 the first time on May 31, 2012; and the July 9, 2010 Deposition Transcript of Greg Bomberger and  
2 the August 3, 2011 Deposition Transcript of Marc Foodman for the first time on June 7, 2012.

3 11. Attached hereto as Exhibit 6 is a true and correct copy of a document produced in  
4 this action by Apple with the bates numbers APL-ITC796-0000003879-3885.

5 12. Attached hereto as Exhibit 7 is a true and correct copy of excerpts from the  
6 deposition of Christopher Stringer, taken in U.S. I.T.C. Investigation No. 337-TA-796 on February  
7 15, 2012.

8 13. Attached hereto as Exhibit 8 is a true and correct copy of excerpts from the  
9 deposition of Daniel Coster, taken in U.S. I.T.C. Investigation No. 337-TA-796 on February 7,  
10 2012.

11 14. Attached hereto as Exhibit 9 is a true and correct copy of excerpts from the  
12 deposition of Evans Hankey, taken in U.S. I.T.C. Investigation No. 337-TA-796 on March 15,  
13 2012.

14 15. Attached hereto as Exhibit 10 is a true and correct copy of excerpts from the  
15 deposition of Daniele De Iuliis, taken in U.S. I.T.C. Investigation No. 337-TA-796 on February  
16 22, 2012.

17 16. Attached hereto as Exhibit 11 is a true and correct copy of excerpts from the  
18 deposition of Matthew Rohrbach, taken in U.S. I.T.C. Investigation No. 337-TA-796 on February  
19 23, 2012.

20 17. Attached hereto as Exhibit 12 is a true and correct copy of excerpts from the  
21 deposition of Bartley Andre, taken in U.S. I.T.C. Investigation No. 337-TA-796 on February 29,  
22 2012.

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18. Attached hereto as Exhibit 13 is a true and correct copy of excerpts from the deposition of Rico Zorkendorfer, taken in U.S. I.T.C. Investigation No. 337-TA-796 on February 10, 2012.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed in Los Angeles, California on June 12, 2012.

/s/ Diane C. Hutnyan

Diane C. Hutnyan

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**GENERAL ORDER ATTESTATION**

I, Victoria Maroulis, am the ECF user whose ID and password are being used to file the foregoing document. I hereby attest pursuant to General Order 45.X.B. that concurrence in the electronic filing of this document has been obtained from Diane Hutnyan.

/s/ Victoria Maroulis