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 11 Attorneys for Plaintiff and
 Counterclaim-Defendant APPLE INC.

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

16
 17 APPLE INC., a California corporation,
 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.
 24

Case No. 11-cv-01846-LHK (PSG)
**DECLARATION OF CYNDI WHEELER
 IN SUPPORT OF SAMSUNG'S
 ADMINISTRATIVE MOTIONS TO FILE
 DOCUMENTS UNDER SEAL**

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 Motions to File Under Seal (Dkt. Nos. 1060, 1061, 1063, 1067, 1069,
4 and 1074) pursuant to Local Rules 7-11 and 79-5. I have personal knowledge of the matters set
5 forth below. If called as a witness I could and would competently testify as follows.

6 **Declaration of Michael J. Wagner in Support of Samsung’s Reply In Support of**
7 **Samsung’s Motion to Strike Expert Testimony Based on Undisclosed Facts and Theories**
8 **(“Wagner Declaration”) (Dkt. No. 1060-35)**

9 2. Exhibit B to the Wagner Declaration is a true and correct copy of Volume I of the
10 April 20, 2012 Corrected Expert Report of Michael J. Wagner. I am informed and believe that
11 this report contains information confidential to Samsung, as set forth in the Declaration of Bill
12 Trac in Support of Samsung’s Administrative Motions to File Documents Under Seal (Dkt.
13 No. 1071), and therefore I have reviewed only a redacted version of the report. The portion of the
14 report I have reviewed contains non-public Apple confidential information relating to Apple’s
15 products, and could be used to Apple’s disadvantage by competitors if it were not filed under
16 seal. Because this expert report contains the confidential information of both parties, they have
17 stipulated that it should be submitted under seal in full and not on the public record. Exhibit B
18 should be sealed in its entirety.

19 3. Exhibit C to the Wagner Declaration is a true and correct copy of a summary of
20 Apple’s Licenses and Agreements. It contains highly confidential and commercially sensitive
21 business information, including confidential information regarding licensing agreements and
22 potential licensing agreements with business partners. The documents discussed contain Apple
23 and third party proprietary information that is highly sensitive and highly confidential to the
24 company and to those third parties. Exhibit C should be sealed in its entirety.

25 4. To the extent the Wagner Declaration itself refers to or discusses the exhibits
26 above, it should be sealed for the same reasons.

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1 **Declaration of Christopher Price In Support of Samsung’s Reply In Support of**
2 **Samsung’s Motion to Strike Expert Testimony Based on Undisclosed Facts and Theories**
3 **(“Price Declaration”) (Dkt. 1060-3)**

4 5. Exhibits 1-6 and 13 to the Price Declaration are true and correct copies of license
5 agreements and licensing-related documents between Apple and third parties, which are subject to
6 non-disclosure agreements. They contain highly confidential and commercially sensitive
7 business information, including confidential information regarding licensing agreements and
8 potential licensing agreements with business partners. These exhibits should be sealed in its
9 entirety.

10 6. Exhibit 20 to the Price Declaration is a true and correct copy of a document
11 produced by Apple in this case as Bates number APLNDC-Y0000055416 and marked “Highly
12 Confidential—Attorneys’ Eyes Only.” This document contains specific non-public financial data
13 that is highly confidential to Apple. The exhibit should be sealed in its entirety.

14 7. Exhibit 21 to the Price Declaration is a true and correct copy of a document
15 produced by Apple in this case as Bates number APLNDC-Y0000055417 and marked “Highly
16 Confidential—Attorneys’ Eyes Only.” This document contains specific non-public financial data
17 that is highly confidential to Apple. It should be sealed in its entirety.

18 8. Exhibit 29 to the Price declaration is a true and correct copy of an excerpt of the
19 transcript of the April 20, 2012 deposition of Sanjay Sood, Ph.D. It discusses the focus of a
20 confidential consumer research study. This business information was created at a significant cost
21 to Apple, and could be used by Apple’s competitors to its disadvantage, particularly because it
22 discusses Apple's direct competitors. The exhibit should be sealed in its entirety.

23 9. To the extent the Price Declaration itself refers to or discusses the exhibits above,
24 it should be sealed for the same reasons.

25 10. Apple does not maintain a claim of confidentiality over Exhibit 30 to the Price
26 Declaration.

1 **Declaration of Joby Martin In Support of Samsung’s Reply In Support of Samsung’s**
2 **Motion to Exclude Opinions of Certain of Apple’s Experts (“Martin Declaration”)**
3 **(Dkt. 1061-2)**

4 11. Apple does not maintain a claim of confidentiality over Exhibits 1 or 4-7 to the
5 Martin Declaration.

6 **Declaration of Brian Von Herzen, Ph.D., In Support of Samsung’s Reply In Support**
7 **of Samsung’s Motion to Strike Expert Testimony Based on Undisclosed Facts and Theories**
8 **(“Von Herzen Declaration”) (Dkt. No. 1067-2)**

9 12. Apple does not maintain a claim of confidentiality over Exhibits 4-6 to the Von
10 Herzen Declaration.

11 **Declaration of Bill Trac In Support of Samsung’s Reply In Support of Samsung’s**
12 **Motion for Summary Judgment (“Trac Declaration”) (Dkt. No. 1068)**

13 13. Exhibit 14 to the Trac Declaration is a true and correct copy of a letter from
14 counsel for Samsung to counsel for Apple. It contains highly confidential and commercially
15 sensitive business information, including confidential discussions between the parties relating to
16 legal disputes and discovery procedures. The letter also contains internal Apple code names for
17 its products and trade secret information reflecting Apple’s product design process, and should be
18 partially sealed. A proposed redacted version is attached as **Exhibit A**.

19 14. Exhibit 15 to the Trac Declaration is a true and correct copy of a letter from
20 counsel for Samsung to counsel for Apple. It contains highly confidential and commercially
21 sensitive business information, including confidential discussions between the parties relating to
22 legal disputes and discovery procedures, and should be partially sealed. A proposed redacted
23 version is attached as **Exhibit B**.

24 15. Exhibit 16 to the Trac Declaration is a true and correct copy of a letter from
25 counsel for Samsung to counsel for Apple. It contains highly confidential and commercially
26 sensitive business information, including confidential discussions between the parties relating to
27 legal disputes and discovery procedures, and should be partially sealed. A proposed redacted
28 version is attached as **Exhibit C**.

1 16. Exhibit 17 to the Trac Declaration is a true and correct copy of a letter from
2 counsel for Samsung to counsel for Apple. It contains highly confidential and commercially
3 sensitive business information, including confidential discussions between the parties relating to
4 legal disputes and discovery procedures, and should be partially sealed. A proposed redacted
5 version is attached as **Exhibit D**.

6 17. Exhibits 19-21 to the Trac Declaration are portions of unpublished patent
7 applications. Unpublished patent applications are so highly confidential that courts recognize a
8 heightened relevancy standard for their production, as the Court has acknowledged. (*See, e.g.*,
9 Order Granting-in-Part Samsung's Motions to Compel and to Enforce [Dkt No. 867] at 4-5)
10 (discussing "clear congressional determination that a design patent application is entitled to a
11 period of confidentiality" and "significant risk of competitive harm that could result from
12 disclosure of [Apple's] pending design patents"). These exhibits should be sealed in their entirety.

13 18. To the extent the Trac Declaration itself refers to or discusses the exhibits above, it
14 should be sealed for the same reasons.

15 19. Apple does not maintain a claim of confidentiality over Exhibits 1-2, 8-10, 18, 22-
16 24, or 26-28 to the Trac Declaration.

17 **Declaration of Trevor Darrell in Support of Samsung's Motion to Strike Expert**
18 **Testimony Based on Undisclosed Facts and Theories ("Darrell Declaration") (Dkt. No.**
19 **1074-2)**

20 20. Apple does not maintain a claim of confidentiality on Exhibits D and E to the
21 Darrell Declaration.

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23 21. Samsung's Reply In Support of Samsung's Motion to Strike Expert Testimony
24 Based on Undisclosed Facts and Theories and Samsung's Reply In Support of Samsung's Motion
25 for Summary Judgment should be sealed to the extent they refer to or discuss the exhibits above
26 for the same reasons.

27 22. It is Apple's policy not to disclose or describe its non-public business strategy
28 information, licensing agreements, financial data, consumer research data, information relating to

1 legal disputes and discovery procedures, and unpublished patent application information to third
2 parties. The above-described documents reveal highly confidential information that, if disclosed,
3 could be used by Apple's competitors to Apple's disadvantage. The requested relief is necessary
4 and narrowly tailored to protect the confidentiality of this information.

5 I declare under penalty of perjury that the foregoing is true and correct. Executed this
6 14th day of June, 2012 at Cupertino, California.

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8 /s/ Cyndi Wheeler
9 Cyndi Wheeler
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ATTESTATION OF E-FILED SIGNATURE

I, Michael A. Jacobs, am the ECF User whose ID and password are being used to file this Declaration. In compliance with General Order 45, X.B., I hereby attest that Cyndi Wheeler has concurred in this filing.

Dated: June 14, 2012

/s/ Michael A. Jacobs
Michael A. Jacobs