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LTD., SAMSUNG ELECTRONICS AMERICA,

15 INC. and SAMSUNG

TELECOMMUNICATIONS AMERICA, LLC

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17 UNITED STATES DISTRICT COURT

18 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

19

20 APPLE INC., a California corporation,

21 Plaintiff,

22 vs.

23 SAMSUNG ELECTRONICS CO., LTD., a

Korean business entity; SAMSUNG

24 ELECTRONICS AMERICA, INC., a New

York corporation; SAMSUNG

25 TELECOMMUNICATIONS AMERICA,

LLC, a Delaware limited liability company,

26

27 Defendant.

28

CASE NO. 11-cv-01846-LHK

**SAMSUNG'S RESPONSE TO APPLE'S
"MOTION FOR LEAVE" TO FILE
SUPPLEMENTAL RESPONSE RE
ARGUMENTS MADE AT JUNE 21
HEARING**

1 Apple's "motion for leave"¹ to file a supplemental brief relating to Samsung's Motion for
2 Rule 37 Sanctions — which seeks sanctions based on Apple's violation of the Court's *December*
3 *22 Order* — is focused on whether Apple violated the Court's later, *April 12 Order*. Accordingly,
4 Apple's submission does not bear directly on the basis for Samsung's Motion. It does, however,
5 confirm that Apple violated the April 12 order.

6 Apple admits in its new submission that "three transcripts...were produced by Apple after
7 April 27," the compliance deadline under the April 12 Order. (Dkt. No. 1119 at 1:19-20.) Apple's
8 submission further states that each of these three employee transcripts were (1) taken in the related
9 Motorola proceeding, which shares a patent in suit with this case, and (2) taken prior to the
10 issuance of the Court's April 12 Order. (*Id.* at 1:20-22.) Though Apple therefore could have
11 produced all three by the compliance deadline, they were not produced until May 31, 2012, over a
12 month after the deadline. And, as Apple notes, they were *only* produced after Samsung's counsel
13 inquired about the absence of transcripts post-dating March 27, 2012 in Apple's production.
14 (Declaration of Nathan B. Sabri at ¶ 4.)

15 While confirming its violation of the Court's Order, Apple suggests that Samsung's
16 statements to the same effect at the June 21 hearing were false, and that a correction is warranted.
17 Samsung sought at the hearing to refer the Court to three transcripts responsive to the April 12
18 Order that were produced after the April 27 deadline – the same three transcripts that Apple now
19 admits were produced after April 27. Samsung referred to one of these three and, for the other
20 two, mistakenly recited the names and dates of two transcripts which Apple belatedly produced in
21 violation of Section II.B.2 of the April 12 Order (compelling production of materials from related
22 proceedings) instead of Section II.B.1 (enforcing the December 22 Order). Thus, all five of these
23 transcripts were produced in violation of the April 12 Order's April 27th deadline. Further, the list
24 Apple has attached as Exhibit A to the Sabri Declaration shows Apple has also violated Section
25 II.B.2 of the Order by producing at least 12 other non-employee transcripts from technologically
26

27 ¹ While captioned as a "motion for leave," nothing in Apple's submission supports a request for
28 leave. Instead the submission is a vehicle to submit content to the Court without leave.

1 related proceedings in May and June 2012. For all these reasons, Apple's claim that it was a
2 "misstatement" for Samsung to say that Apple violated the April 12th Order is unavailing.

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Respectfully submitted,
QUINN EMANUEL URQUHART & SULLIVAN, LLP

By /s/ Victoria F. Maroulis
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