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Attorneys for Plaintiff and
 Counterclaim-Defendant APPLE INC.

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

16 APPLE INC., a California corporation,
 17 Plaintiff,
 18 v.
 19 SAMSUNG ELECTRONICS CO., LTD., a
 Korean corporation; SAMSUNG ELECTRONICS
 20 AMERICA, INC., a New York corporation; and
 SAMSUNG TELECOMMUNICATIONS
 21 AMERICA, LLC, a Delaware limited liability
 company,
 22 Defendants.

Case No. 11-cv-01846-LHK
**NOTICE OF WITHDRAWAL OF
 APPLE'S MOTION TO EXCLUDE
 OPINIONS OF SAMSUNG
 EXPERT ITAY SHERMAN
 BASED ON HIS
 QUALIFICATIONS**
Date: June 29, 2012
Time: 1:30 PM
Place: Courtroom 8, 4th Floor
Judge: Hon. Lucy H. Koh

1 As part of its Motion to Exclude Testimony of Samsung's Experts (Dkt. No. 940), Apple
2 moved to exclude the testimony of Samsung's design expert Itay Sherman for two reasons:

- 3 (1) Mr. Sherman is not qualified to offer expert opinions on obviousness or anticipation; and
4 (2) Mr. Sherman applied incorrect legal tests for design patent obviousness and functionality and
5 trade dress functionality.

6 To streamline the issues for the Court's consideration at the June 29, 2012 hearing on both
7 parties' motions, Apple withdraws its motion to exclude as to Mr. Sherman on the first ground
8 above. Apple instead will proceed with its challenges to Mr. Sherman's qualifications via cross-
9 examination rather than pre-trial motion. Apple maintains its motion to exclude Mr. Sherman's
10 testimony on the second ground above, *i.e.*, that he applied incorrect legal tests.

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12 Dated: June 27, 2012

MORRISON & FOERSTER LLP

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14 By: /s/ Harold McElhinny

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