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CO., LTD., SAMSUNG ELECTRONICS
14 AMERICA, INC. and SAMSUNG
TELECOMMUNICATIONS AMERICA, LLC

15 UNITED STATES DISTRICT COURT

16 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

17
18 APPLE INC., a California corporation,

19 Plaintiff,

20 vs.

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

25 Defendants.

CASE NO. 11-cv-01846-LHK (PSG)

**SAMSUNG'S MISCELLANEOUS
ADMINISTRATIVE REQUEST
PURSUANT TO CIVIL L.R. 7-11 FOR
EXTENSION OF TIME TO FILE CIVIL
L.R. 79-5(d) DECLARATION AND TO
SEAL DOCUMENTS**

[Linked to Dkt. Nos. 925, 1013, 1020, 1022,
1023, and 1024]

Judge: Hon. Lucy H. Koh
Place: Courtroom 8, 4th Floor

1 Pursuant to Civil L.R. 7-11 and 79-5, Defendants Samsung Electronics Co., Ltd., Samsung
2 Electronics America, Inc., and Samsung Telecommunications America, LLC (collectively,
3 “Samsung”) respectfully request an order granting an extension of time to file the declaration
4 contemplated by Civil L.R. 79-5(d), and to seal the documents, or limited portions thereof,
5 identified in the concurrently filed Declaration of Hankil Kang (“Kang Dec.”).

6 1. On May 17, 2012, and June 1, 2012, Apple, Inc. (“Apple”) filed six administrative
7 motions to file documents under seal (collectively, “motions to file under seal”) corresponding to
8 the following docket numbers: 925, 1013, 1020, 1022, 1023, and 1024.

9 2. As a result of an inadvertent calendaring error, Samsung did not file a declaration
10 supporting Apple’s motions to seal within the time prescribed by Civil L.R. 79-5(d). (Declaration
11 of Anthony P. Alden (“Alden Dec.”), ¶ 2.) Additionally, Apple’s motions to file under seal were
12 extremely broad. To ensure that Samsung narrowly tailored its request for sealing, as required by
13 Civil L.R. 79-5(b), it was necessary to undertake a careful, page-by-page review of each document
14 encompassed by Apple’s motions to decide which specific portions of those documents, if any,
15 meet the standard for sealing. Given the number of documents subject to Apple’s motions to file
16 under seal and the thoroughness of Samsung’s review and redactions, it has taken considerable
17 time to complete this effort.

18 3. Samsung has made every effort to exclude from its request all non-confidential
19 information and even confidential information that is not so commercially sensitive as to likely
20 cause commercial harm by its disclosure. Indeed, following Samsung’s review, it has confirmed
21 that only 41 of the 103 documents encompassed by Apple’s motions to file under seal contain
22 information that satisfy the standard for sealing. Of these, Samsung has had to prepare redactions
23 for 29 documents.

24 4. Exhibit 1 attached hereto contains two tables. Table A identifies those 62
25 documents submitted by Apple in connection with its motions to file under seal which Samsung
26 does *not* request be sealed. Table B identifies those 41 documents that Samsung requests be
27 sealed in whole or in part, along with each page on which sealable material can be found and the
28 specific reasons for Samsung’s request to seal each specific portion.

1 5. Samsung has submitted an employee declaration establishing that the documents,
2 or portions thereof, that it asks the Court to seal are trade secrets or otherwise entitled to protection
3 under the law. (*See Kang Dec.*) The documents that are the subject of the Kang Declaration
4 contain Samsung’s highly confidential and trade secret and proprietary business information,
5 including but not limited to information regarding the design and development of Samsung’s
6 products, highly confidential financial data, internal business structure, product development and
7 engineering, product evaluation and competitive analysis, marketing research and strategies, and
8 the nature of Samsung’s relationships with its business partners.

9 6. Granting Samsung’s motion will not prejudice any party because the material at
10 issue has remained outside the public record from the time Apple filed its motions to file under
11 seal and the Court has not yet ruled on the motions to file under seal. The short extension
12 Samsung requests will not prejudice Apple, any third party, the Court, or the public interest in
13 access to court records.

14 7. In contrast, if Samsung’s motion is denied and the documents are made public,
15 Samsung will suffer grave competitive and commercial harm by the disclosure of its trade secret
16 information. (*Kang Dec.*, ¶¶ 2-33.) Disclosure of this information, for example, would interfere
17 with Samsung’s business relationships with suppliers and distributors, and allow Samsung’s
18 competitors to undercut Samsung’s pricing strategies, and to interfere with Samsung’s marketing
19 and advertising plans. This is just the kind of information courts have long recognized should be
20 filed under seal. *See, e.g., Bauer Bros. LLC v. Nike, Inc.*, 2012 WL 1899838, at *2-3 (S.D. Cal.
21 May 24, 2012) (finding compelling reasons to seal marketing strategies, sales and retailer data,
22 product development plans, and financial data because such material “could be used for improper
23 purposes” against the movant); *Powertech Techn., Inc. v. Tessera, Inc.*, 2012 WL 1969039, at *1-
24 2 (N.D. Cal. May 31, 2012) (finding that “compelling reasons” existed to grant plaintiff’s motion
25 to seal to prevent harm caused by “by giving its competitors [] proprietary information”).

26 8. Samsung submits that it should not be injured by an inadvertent calendaring error
27 and the public interest favors granting Samsung’s motion. “[T]here can be no doubt that society in
28 general is interested in the protection of trade secrets and other valuable commercial information.”

1 *Zenith Radio Corp. v. Matsushita Elec. Indus. Co.*, 529 F. Supp. 866, 905 (E.D. Pa. 1981); *see*
2 *also Nixon v. Warner Comm'ns, Inc.*, 435 U.S. 589, 598 (1978) (“courts have refused to permit
3 their files to serve . . . as sources of business information that might harm a litigant’s competitive
4 standing”).

5 9. As explained in the accompanying Declaration of Anthony P. Alden, Samsung
6 sought to obtain consent from Apple before filing the present request pursuant to Civil L.R. 7–11.
7 However, Apple’s counsel failed to respond. (Alden Dec., ¶ 3.)

8 10. For all these reasons, there is good cause to grant Samsung’s request for an
9 extension of time to file the Kang Declaration, and compelling reasons to allow the exhibits, or the
10 narrowly tailored designated portions thereof, identified in Exhibit 1, Tab B, to be filed under seal.

11 11. A proposed order is submitted herewith.

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13 DATED: June 27, 2012

QUINN EMANUEL URQUHART &
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By /s/ Victoria F. Maroulis

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