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 AMERICA, INC. and SAMSUNG  
 TELECOMMUNICATIONS AMERICA, LLC

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN JOSE DIVISION

17 APPLE INC., a California corporation,  
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 Plaintiff,  
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 v.  
 20 SAMSUNG ELECTRONICS CO., LTD., a  
 21 Korean corporation; SAMSUNG ELECTRONICS  
 22 AMERICA, INC., a New York corporation; and  
 23 SAMSUNG TELECOMMUNICATIONS  
 company,  
 24  
 Defendants.

Case No. 11-cv-01846-LHK (PSG)

**JOINT STIPULATION AND  
 REQUEST FOR  
 CLARIFICATION AND  
 [PROPOSED] ORDER  
 REGARDING PRE-TRIAL  
 DISCLOSURES**

1           WHEREAS, the Court's May 2, 2012 Case Management Order provides that the parties  
2 shall file their Rule 26(a)(3) pretrial disclosures on June 29, 2012. (Dkt. No. 901.) Rule  
3 26(a)(3)(A)(ii) provides that the parties shall disclose "the designation of those witnesses whose  
4 testimony the party expects to present by deposition...."

5           WHEREAS, the May 2, 2012 Case Management Order further provides that July 13, 2012  
6 is the "[l]ast day to file objections to the use of a deposition," and July 16, 2012 is the "[l]ast day  
7 to file excerpts of deposition testimony or other discovery to be offered at trial other than solely  
8 for impeachment or rebuttal." (Dkt. No. 901.)

9           WHEREAS, the Court also has a Standing Jury Pretrial Order that provides for the timing  
10 of deposition designations and objections/counterdesignations as follows: "***Unless otherwise***  
11 ***ordered***, at least 14 days before the commencement of trial [here, July 16, 2012], the parties shall  
12 file and serve any excerpts of deposition testimony or other discovery to be offered at trial, other  
13 than solely for impeachment or rebuttal. (A hard copy of the designated deposition testimony with  
14 page and line references, or the interrogatory response or admission shall be provided.) Any  
15 objections to the use of designated excerpts and any counterdesignations of deposition testimony  
16 shall be filed and served at least 10 days prior to the commencement of trial." (emphasis added);

17           WHEREAS, the Parties desire to resolve questions arising from these and other portions  
18 of the May 2, 2012 Case Management Order and Standing Jury Pretrial Order;

19           NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by the Parties, for  
20 the purpose of clarifying the timing of pre-trial disclosures and filings, as follows:

21           1.       The Parties shall file and serve any excerpts of deposition testimony, other than  
22 solely for impeachment or rebuttal, on July 16, 2012.

23           2.       The Parties shall file and serve objections to the use of designated excerpts and  
24 any counterdesignations of deposition testimony on July 20, 2012. The parties shall file and serve  
25 objections to counterdesignations on July 25, 2012.

26           3.       Rule 26(a)(3) pretrial disclosures shall be exchanged by the parties on June 29,  
27 2012 and filed in connection with the joint pretrial statement on July 3, 2012.

28           4.       The parties disagree about the meaning of the Court's instruction to include in the

1 July 3, 2012 exhibit list 125 exhibits to be used other than solely for “impeachment or rebuttal.”

2 a. Apple’s understanding is that the Parties are required to include on the list  
3 any evidence that they reasonably anticipate introducing at trial. The lists would  
4 include, for example, any evidence on which the Parties reasonably anticipate  
5 relying in opposing claims of infringement or in opposing claims of invalidity such  
6 as, for example, secondary indicia of non-obviousness.

7 b. Samsung’s understanding is that the Parties should include only exhibits  
8 that they intend to introduce in connection with their case-in-chief. Non-  
9 infringement or secondary indicia documents, for example, would be excluded  
10 from the list.

11 For the avoidance of doubt, the Parties request that the Court clarify its instruction.

12 5. The Parties request that they be allowed to mark a reasonable number of  
13 undisputed “Joint” exhibits, including the patents and trade dress registrations in suit, prosecution  
14 histories, and other documents and things central to the dispute. The Parties request that such  
15 joint exhibits not count against the numerical limit that applies to Party-designated exhibits.

16 6. The Parties understand that the May 2, 2012 Minute Order and Case Management  
17 Order, page 2 lines 6-7 requiring disclosure of “exhibits, summaries, charts, and diagrams” does  
18 not apply to demonstrative exhibits not to be entered into evidence. The Parties agree that certain  
19 demonstrative exhibits not to be entered into evidence must be exchanged before they are used in  
20 Court. The Parties shall establish a deadline for exchange of such demonstrative exhibits in a  
21 subsequent stipulation or, if necessary, request that the Court set a deadline.

22 7. No other dates or deadlines shall be modified by this stipulation and order.  
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1 Dated: June 28, 2012

Dated: June 28, 2012

2  
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*Counsel for Samsung Electronics Co., Ltd.,  
Samsung Electronics America, Inc., and  
Samsung Telecommunications America, LLC*

28  
**PURSUANT TO STIPULATION, IT IS SO ORDERED.**

Dated: \_\_\_\_\_, 2012

\_\_\_\_\_  
Honorable Lucy H. Koh  
United States District Judge

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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 Kevin P. Johnson has concurred in this filing.

Dated: June 28, 2012

/s/ Michael A. Jacobs  
Michael A. Jacobs