

1 HAROLD J. MCELHINNY (CA SBN 66781)
 hmcclhinny@mofo.com
 2 MICHAEL A. JACOBS (CA SBN 111664)
 mjacobs@mofo.com
 3 JENNIFER LEE TAYLOR (CA SBN 161368)
 jtaylor@mofo.com
 4 ALISON M. TUCHER (CA SBN 171363)
 atucher@mofo.com
 5 RICHARD S.J. HUNG (CA SBN 197425)
 rhung@mofo.com
 6 JASON R. BARTLETT (CA SBN 214530)
 jasonbartlett@mofo.com
 7 MORRISON & FOERSTER LLP
 425 Market Street
 8 San Francisco, California 94105-2482
 Telephone: (415) 268-7000
 9 Facsimile: (415) 268-7522

WILLIAM F. LEE
 william.lee@wilmerhale.com
 WILMER CUTLER PICKERING
 HALE AND DORR LLP
 60 State Street
 Boston, MA 02109
 Telephone: (617) 526-6000
 Facsimile: (617) 526-5000

MARK D. SELWYN (SBN 244180)
 mark.selwyn@wilmerhale.com
 WILMER CUTLER PICKERING
 HALE AND DORR LLP
 950 Page Mill Road
 Palo Alto, California 94304
 Telephone: (650) 858-6000
 Facsimile: (650) 858-6100

10 Attorneys for Plaintiff and
 11 Counterclaim-Defendant APPLE INC.

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
 20 Korean corporation; SAMSUNG ELECTRONICS
 21 AMERICA, INC., a New York corporation; and
 22 SAMSUNG TELECOMMUNICATIONS
 AMERICA, LLC, a Delaware limited liability
 company,
 23 Defendants.

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

**DECLARATION OF JASON R.
 BARTLETT IN SUPPORT OF APPLE
 INC.'S OPPOSITION TO
 SAMSUNG'S MOTION TO STAY
 AND SUSPEND THE JUNE 26, 2012
 PRELIMINARY INJUNCTION
 PENDING APPEAL OR,
 ALTERNATIVELY, PENDING
 DECISION BY FEDERAL CIRCUIT
 ON STAY PENDING APPEAL**

24
 25 **EXHIBIT A IS SUBMITTED UNDER SEAL**
 26
 27
 28

1 I, JASON R. BARTLETT, declare as follows:

2 1. I am a partner in the law firm of Morrison & Foerster LLP, counsel for Apple Inc.
3 (“Apple”). I am licensed to practice law in the State of California and admitted to practice before
4 this Court. I have personal knowledge of the matters stated herein or understand them to be true
5 from members of my litigation team. I make this declaration in support of Apple’s Opposition to
6 Samsung’s Motion to Stay and Suspend the June 26, 2012 Preliminary Injunction.

7 2. On June 27, 2012, Apple posted the bond required by the Court’s June 26, 2012
8 Order.

9 3. Attached as **Exhibit A** is a true and correct copy of excerpts of the Confidential
10 Brief of Defendants-Appellees that Samsung filed in the Federal Circuit in connection with
11 Apple’s appeal from this Court’s December 2, 2011 Order.

12 4. Attached as **Exhibit B** is a true and correct copy of photos of the unreleased tablet
13 model from the Federal Circuit appellate record (A8626-43), which Samsung relied on in its
14 appellate brief (Ex. A at 63). Samsung submitted these same photos to this Court on October 18,
15 2011, as Exhibit R to the Tung Declaration In Support of Samsung’s Notice of Lodging of
16 Materials In Opposition to Apple’s Motion for Preliminary Injunction.

17 5. Attached as **Exhibit C** is a true and correct copy of excerpts of the Reply Brief of
18 Appellant that Apple filed in the Federal Circuit.

19 6. Attached as **Exhibit D** is a true and correct copy of excerpts of the D’889
20 prosecution history, from the Federal Circuit appellate record. As indicated by these excerpts,
21 Apple’s application for the D’889 patent referred to “an appendix showing various photographs
22 of an electronic device in accordance with one embodiment.” (A9245.) The Examiner responded
23 by cancelling this statement as improper. (A9280-81.) Accordingly, this statement does not
24 appear in the D’889 patent, as finally issued.

25 7. Attached as **Exhibit E** is a true and correct copy of excerpts of Defendants-
26 Appellees’ Petition for Panel Rehearing and Rehearing En Banc that Samsung filed in the Federal
27 Circuit.

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ATTESTATION

I, Harold J. McElhinny, 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 Jason R. Bartlett has concurred in this filing.

Dated: June 29, 2012

/s/ Harold J. McElhinny
Harold J. McElhinny