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13 Attorneys for SAMSUNG ELECTRONICS CO.,  
 LTD., SAMSUNG ELECTRONICS AMERICA,  
 14 INC. and SAMSUNG  
 TELECOMMUNICATIONS AMERICA, LLC  
 15

16 UNITED STATES DISTRICT COURT

17 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

18 APPLE INC., a California corporation,

19 Plaintiff,

20 vs.

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

24 Defendant.  
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CASE NO. 11-cv-01846-LHK

**DECLARATION OF JOBY MARTIN IN  
 SUPPORT OF SAMSUNG'S MOTION  
 FOR RELIEF FROM NONDISPOSITIVE  
 PRETRIAL ORDER OF MAGISTRATE  
 JUDGE**

1 I, Joby Martin, declare as follows:

2 1. I am an associate in the law firm of Quinn Emanuel Urquhart & Sullivan, LLP,  
3 counsel for Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung  
4 Telecommunications America, LLC (collectively, "Samsung"). I submit this declaration in  
5 support of Samsung's Motion For Relief From Magistrate Judge Grewal's Nondispositive Pretrial  
6 Order, entered June 27, 2012. I have personal knowledge of the facts set forth in this declaration  
7 and, if called upon as a witness, I could and would testify to such facts under oath.

8 2. On July 1, 2012, counsel for Samsung contacted counsel for Apple to propose that  
9 the parties withdraw their objections to certain expert evidence that was excluded by Magistrate  
10 Judge Grewal's June 27 Order Granting-In-Part and Denying-In-Part Motions to Strike Expert  
11 Reports ("June 27 Order") (Dkt. 1144). Counsel for Apple responded on July 2, 2012, refusing  
12 Samsung's proposed compromise without making any counterproposal.

13 3. On July 3, 2012, counsel for Samsung contacted counsel for Apple in order to  
14 clarify that Apple, as it had represented to Magistrate Judge Grewal, had not moved to strike prior  
15 art references and non-infringement opinions that Samsung disclosed in its Opposition to Apple's  
16 Motion For Preliminary Injunction, and declarations in support thereof.

17 4. On July 5, 2012, counsel for Apple responded by agreeing that Samsung's  
18 preliminary injunction briefing adequately disclosed one prior art reference (KR30-0452985) that  
19 Apple had included in the proposed order filed in connection with Apple's motion to strike.  
20 Apple's counsel denied that Samsung's preliminary injunction briefing adequately disclosed any  
21 of the remaining prior art references or non-infringement arguments included in Apple's proposed  
22 order.

23 5. On July 6, 2012, counsel for Samsung again contacted Apple's counsel in order to  
24 clarify its position regarding certain prior art references and non-infringement theories. As of the  
25 date of this filing, the parties have not reached an agreement with respect to a stipulation regarding  
26 the KR30-0452985 prior art reference.

27 6. A true and correct copy of the email chain described in paragraphs 3 – 5 above is  
28 attached hereto as Exhibit 18.

1           7.       Attached hereto as Exhibit 1 is a chart I prepared with assistance of my colleagues  
2 setting forth the chronology of Samsung's disclosures of the prior art references that the June 27  
3 Order struck from the expert reports of Itay Sherman, Robert Anders, and Samuel Lucente.

4           8.       Attached hereto as Exhibit 2 is a chart I prepared with assistance of my colleagues.  
5 The chart lists each of the prior art references that the June 27 Order struck from the expert reports  
6 of Mr. Sherman and Mr. Anders, as well as instances where each reference was disclosed during  
7 the period for discovery in this litigation.

8           9.       On December 19, 2011, Samsung served its Objections and Responses to Apple  
9 Inc.'s Fifth Set of Interrogatories, including Samsung's response to Interrogatory No. 12  
10 ("December 19 Response to Interrogatory No. 12"). In addition to the references disclosed by  
11 Samsung during the preliminary injunction phase of this litigation, many of the references stricken  
12 from the expert reports of Mr. Sherman, Mr. Anders and Mr. Lucente were disclosed in  
13 Samsung's December 19 Response to Interrogatory No. 12, specifically identifying the references  
14 as invalidating prior art and listing them by Bates number.

15           10.       Samsung's December 19 Response to Interrogatory No. 12 disclosed KR 30-  
16 0304213 as invalidating prior art to Apple's D'889, D'087 and D'677 patents. A true and correct  
17 copy of KR 30-0304213, bearing Bates label SAMNDCA00021593, is attached hereto as Exhibit  
18 3.

19           11.       Samsung's December 19 Response to Interrogatory No. 12 disclosed U.S.  
20 D500,037 as invalidating prior art to Apple's D'889, D'087 and D'677 patents. A true and correct  
21 copy of U.S. D500,037, bearing Bates label SAMNDCA00027716-22, is attached hereto as  
22 Exhibit 4.

23           12.       Samsung's December 19 Response to Interrogatory No. 12 disclosed E.U. Design  
24 Reg. 000048061-0001 as invalidating prior art to Apple's D'889, D'087 and D'677 patents. A  
25 true and correct copy of E.U. Design Reg. 000048061-0001, bearing Bates label  
26 SAMNDCA00019932-33, is attached hereto as Exhibit 5.

27           13.       Samsung's December 19 Response to Interrogatory No. 12 disclosed U.S.  
28 D514,590 as invalidating prior art to Apple's D'889, D'087 and D'677 patents. A true and correct

1 copy of E.U. registered design U.S. D514,590, bearing Bates label SAMNDCA00023918-21, is  
2 attached hereto as Exhibit 6.

3 14. Samsung's December 19 Response to Interrogatory No. 12 disclosed E.U. Design  
4 Reg. 000569157-0005 as invalidating prior art to Apple's D'889, D'087 and D'677 patents. A  
5 true and correct copy of E.U. Design Reg. 000569157-0005, bearing Bates label  
6 SAMNDCA00021315-19, is attached hereto as Exhibit 7.

7 15. Samsung's December 19 Response to Interrogatory No. 12 disclosed U.S.  
8 D504,889 as invalidating prior art to Apple's D'087 and D'677 patents. A true and correct copy  
9 of U.S. D504,889, bearing Bates label SAMNDCA00200769-73, is attached hereto as Exhibit 8.

10 16. Samsung's December 19 Response to Interrogatory No. 12 disclosed E.U. Design  
11 Reg. 000584529-0001 as invalidating prior art to Apple's D'305 patent. A true and correct copy  
12 of E.U. Design Reg. 000584529-0001, bearing Bates label SAMNDCA00199220-22, is attached  
13 hereto as Exhibit 9.

14 17. Samsung's December 19 Response to Interrogatory No. 12 disclosed E.U. Design  
15 Reg. 000505532-0001 as invalidating prior art to Apple's D'305 patent. A true and correct copy  
16 of E.U. Design Reg. 000505532-0001, bearing Bates label SAMNDCA00199223-26, is attached  
17 hereto as Exhibit 10.

18 18. Samsung's December 19 Response to Interrogatory No. 12 disclosed E.U Design  
19 Reg. 000778741-0001 as invalidating prior art to Apple's D'305 patent. A true and correct copy  
20 of E.U Design Reg. 000778741-0001, bearing Bates label SAMNDCA00199230-32, is attached  
21 hereto as Exhibit 11.

22 19. Samsung's December 19 Response to Interrogatory No. 12 disclosed KR 30-  
23 0403504 as invalidating prior art to Apple's D'305 patent. A true and correct copy of KR 30-  
24 0403504, bearing Bates label SAMNDCA00199270-75, is attached hereto as Exhibit 12.

25 20. Samsung's December 19 Response to Interrogatory No. 12 disclosed KR 30-  
26 0441582 as invalidating prior art to Apple's D'305 patent. A true and correct copy of KR 30-  
27 0441582, bearing Bates label SAMNDCA00199288-92, is attached hereto as Exhibit 13.

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**General Order 45 Attestation**

I, Victoria F. Maroulis, 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 Joby Martin has concurred in this filing.

/s/ Victoria Maroulis