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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE

11 APPLE INC., a California corporation,

12 Plaintiff,

13 v.

14 SAMSUNG ELECTRONICS CO., LTD., a  
Korean Business entity; SAMSUNG  
ELECTRONICS AMERICA, INC., a New  
15 York corporation; SAMSUNG  
TELECOMMUNICATIONS AMERICA,  
16 LLC, a Delaware limited liability company,

17 Defendants.

CASE NO. 11-cv-01846-LHK

**[PROPOSED] ORDER DENYING  
ADMINISTRATIVE MOTIONS TO SEAL**

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Date: July 18, 2012  
Time: 2:00 p.m.  
Place: Courtroom 8, 4th Floor  
Judge: **Hon. Lucy H. Koh**

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19 On July 18, 2012, the court considered various administrative motions to seal records  
20 filed by the parties in connection with the Pretrial Conference in this matter and the filing of  
21 Motions in Limine by the parties. Karl Olson appeared for intervenor Reuters America LLC  
22 (“Reuters”); Morrison & Foerster and Michael Jacobs appeared for plaintiff Apple; Quinn  
23 Emanuel and Charles Verhoeven appeared for defendant Samsung. Having read and considered  
24 the administrative motions to seal and Reuters’ opposition thereto, and other papers filed in this  
25 matter, and heard argument by counsel, the Court HEREBY ORDERS:

26 The parties’ administrative motions to seal are DENIED. There is a “strong presumption  
27 of access to judicial records” which exists because “the resolution of a dispute on the merits,  
28 whether by trial or summary judgment, is at the heart of the interest in ensuring the public’s

1 understanding of the judicial process and of significant public events.” *Kamakana v. City and*  
2 *County of Honolulu*, 447 F.3d 1172, 1179 (9<sup>th</sup> Cir. 2006). The right of access applies to  
3 suppression hearings in criminal cases. *Waller v. Georgia*, 467 U. S. 39 (1984). Proceedings  
4 addressing the admissibility of evidence in civil cases are also “historically important, open and  
5 public parts of civil trials.” *NBC Subsidiary v. Superior Court*, 20 Cal. 4<sup>th</sup> 1178, 1219. Because  
6 of this, compelling reasons must be shown to seal documents. *Oracle America v. Google, Inc.*,  
7 2011 U. S. Dist. LEXIS 119066 at \*4, citing *Kamakana*, 447 F.3d at 1179.

8 The parties have not shown compelling reasons to seal. The mere fact that documents  
9 were previously designated confidential is not enough to seal; there must be specific factual  
10 findings in order to seal, and the Court cannot rely on “hypothesis or conjecture.” *See, e.g.*,  
11 *Hagestad v. Tragesser*, 49 F. 3d 1430, 1434 (9<sup>th</sup> Cir. 1995); *see Allegro Corp. v. Only New Age*  
12 *Music*, 2004 U. S. Dist. LEXIS 9061 at \*3-4 (D. Ore. 2004) [rejecting affidavit as “insufficiently  
13 specific to overcome the presumption of public access to exhibits”]; *In re Providian Credit Card*  
14 *Cases*, 96 Cal. App. 4<sup>th</sup> 292, 305 (2002) [rejecting declarations as “conclusory and lacking in  
15 helpful specifics”]; scripts which have been disclosed are not trade secrets trial court not obliged  
16 to credit statements claiming trade secrets just because there were no counter-declarations].

17 For the foregoing reasons, the motions to seal are DENIED and the court rejects the  
18 redactions in various pleadings including but not limited to the motions in limine, documents  
19 1184 and 1185; Apple’s Opposition to Samsung’s Motions in Limine (Document 1206); and the  
20 court denies the Administrative Motion to File Under Seal Documents Regarding Apple’s  
21 Opening Supplemental Claim Construction Brief (Document 1186); and Document Nos. 1179,  
22 1183, 1201, 1208, 1233 and 1236. Unless the Court specifically grants a Motion to Seal, all  
23 administrative motions to seal shall be deemed denied. *See, e.g., Hagestad, supra*, 49 F. 3d at  
24 1434 [court must make specific factual findings in order to seal]; *Kamakana, supra*, 447 F.3d at  
25 1182 [“judge need not document compelling reasons to unseal; rather the proponent of sealing  
26 bears the burden with respect to sealing. A failure to meet that burden means that the default  
27 posture of public access prevails”]; *Oracle America, Inc. v. Google Inc.*, 2011 U. S. Dist. LEXIS  
28 119066 at \*4 (N. D. Cal. 2011) [unless counsel identifies a limited amount of “exceptionally

1 sensitive information that truly deserves protection,” motions to seal pretrial submissions will be  
2 denied outright].

3 IT IS SO ORDERED.

4 Dated:

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The Honorable Lucy H. Koh  
7 Judge, United States District Court  
8 Northern District of California  
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