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11 Attorneys for Plaintiff and
 12 Counterclaim-Defendant APPLE INC

13 UNITED STATES DISTRICT COURT
 14 NORTHERN DISTRICT OF CALIFORNIA
 15 SAN JOSE DIVISION

17 APPLE INC., a California corporation,
 18 Plaintiff,
 19 v.
 20 SAMSUNG ELECTRONICS CO., LTD., a
 Korean business entity; SAMSUNG
 21 ELECTRONICS AMERICA, INC., a New York
 corporation; SAMSUNG
 22 TELECOMMUNICATIONS AMERICA, LLC, a
 Delaware limited liability company,
 23 Defendants.
 24

Case No. 11-cv-01846-LHK

**APPLE INC.'S SUBMISSION
 REGARDING PROPOSED DESIGN
 PATENT SUPPLEMENT TO THE
 FEDERAL JUDICIAL CENTER'S
 PATENT VIDEO**

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1 Pursuant to the Minute Order and Case Management Order of July 19, 2012 (Dkt. No.
2 1267) (“Order”), Plaintiff Apple Inc. submits the following Proposed Design Patent Supplement
3 to the Federal Judicial Center’s Patent Video. This submission is subject to and without waiver of
4 Apple’s objection to playing the FJC Patent Video to the jury.

5 Attached hereto as Exhibit 1 is Apple’s compromise Proposed Design Patent Supplement
6 to the FJC’s Patent Video. In view of the Court’s ruling that the FJC Patent Video will be shown,
7 Apple proposes that the Court read Exhibit 1 to the jury following the Video.

8 Attached hereto as Exhibit 2 is a comparison of Apple’s compromise Proposed Design
9 Patent Supplement (Exh. 1) and Samsung’s Proposed Design Patent Supplement (Exh. 4),
10 indicating where there is disagreement.

11 Also attached hereto as Exhibit 3 is Apple’s original proposal, as sent to Samsung’s
12 attorneys on July 21, 2012 at 1:26 p.m. Attached hereto as Exhibit 4 is Samsung’s Proposed
13 Design Patent Supplement, which was sent to Apple’s attorneys on July 22, 2012 at 6:45 p.m.

14 Attached hereto for the convenience of the Court as Exhibit 5 is an unofficial transcript of
15 the FJC’s video. Attached hereto as Exhibit 6 is U.S. Patent No. D517,789, which is the sample
16 design patent that Apple proposes for use with the design patent supplement.

17 Apple objects to Samsung’s proposal (Exh. 4). Samsung objects both to Apple’s original
18 proposal (Exh. 1) and to Apple’s compromise proposal (Exh. 5).

19 Apple’s statement in support of its proposal: The parties have met and conferred pursuant
20 to the Order. While the parties were able to agree on much of the text, there are two primary
21 points where they have been unable to agree: One, on the inclusion of the third paragraph on the
22 first page of Apple’s two proposals; and two, on language with respect to the presumption of
23 validity for design patents and the application of the same higher standard of proof that is used
24 with utility patents. As to the first issue, the paragraph is based on the Definition of a Design set
25 forth in Section 1502 of the MPEP. As to the second issue, Apple submits that the reference to
26 the presumption and burden of proof is consistent with the language used in the FJC Video (at pp.
27 6-7 of the unofficial transcript (Ex. 2)), and complies with the Court’s Order that the supplement
28 explain to the jury “that design patents are entitled to the same presumptions and protections as

1 utility patents.” Order at 2.

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3 Dated: July 23, 2012

MORRISON & FOERSTER LLP

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By: /s/ Richard Hung
Richard Hung

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Attorneys for Plaintiff
APPLE INC.

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