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 APPLE INC.

10
 11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA
 13 SAN FRANCISCO DIVISION

14 APPLE INC., a California corporation,

15 Plaintiff,

16 v.

17 SAMSUNG ELECTRONICS CO., LTD., A
 18 Korean business entity; SAMSUNG
 ELECTRONICS AMERICA, INC., a New York
 19 corporation; SAMSUNG
 TELECOMMUNICATIONS AMERICA, LLC, a
 20 Delaware limited liability company,

21 Defendants.

Case No. 4:11-cv-01846-LB

**DECLARATION OF JASON R.
 BARTLETT IN SUPPORT OF
 PLAINTIFF'S MOTION TO
 SHORTEN TIME FOR BRIEFING
 AND HEARING ON PLAINTIFF'S
 MOTION TO EXPEDITE
 DISCOVERY**

Date: April 26, 2011

Time: 9:00 a.m.

Place:

Judge:

22
 23 I, Jason R. Bartlett, do hereby declare as follows:

24 1. I am a partner at the law firm of Morrison & Foerster LLP, attorneys of record in
 25 this action for plaintiff Apple Inc. ("Apple"). I submit this declaration in support of Apple's
 26 Motion to Shorten Time For Briefing and Hearing On Plaintiff's Motion To Expedite Discovery.
 27 Unless otherwise indicated, I have personal knowledge of the matters set forth below. If called as
 28 a witness I could and would testify competently as follows:

1 2. Today, Apple is initiating service of a copy of its complaint to Defendants
2 Samsung Electronics America, Inc. and Samsung Telecommunication America, LLC
3 (collectively, “Samsung”), together with a copy of its Motion to Expedite Discovery. Hand
4 service of those documents is expected to be completed tomorrow, April 20, 2011. To my
5 knowledge, Samsung is not yet represented by counsel in connection with this matter. Given the
6 urgent nature of Apple’s Motion to Expedite Discovery, I have not yet contacted Samsung about
7 obtaining a stipulation to Apple’s Motion to Shorten Time.

8 3. As this case was recently filed, there have been no previous time modifications in
9 this proceeding.

10 4. Apple’s Motion to Shorten Time will affect the briefing and hearing schedule for
11 its Motion to Expedite Discovery by setting the deadline for the filing of Samsung’s opposition to
12 the Motion to Expedite Discovery at April 29, 2011, any reply brief at May 2, 2011, and the
13 hearing date at May 3, 2011.

14 5. On Monday, April 19, 2011, Apple filed its Motion to Expedite Discovery to take
15 limited expedited discovery of Samsung regarding products that Apple believes Samsung will
16 soon release. In that motion, Apple contends that “Samsung’s new products are sure to infringe
17 Apple’s registered trademarks, trade dress, design patent, and utility patents.” (Apple’s Motion to
18 Expedite Discovery at 7.) Press accounts reveal that Samsung plans to release new tablet
19 computers, the Galaxy Tablet 10.1 and the Galaxy Tablet 8.9, as well as a new mobile phone, the
20 Galaxy S2 phone. (*Id.* at 6; *see also* Declaration of Jason R. Bartlett in Support of Plaintiff’s
21 Motion to Expedite Discovery (“Bartlett Expedite Decl.”) Exs. 1-2 and 4-8). Apple will not be
22 able to verify the extent of the similarities between these soon-to-be-released products and its
23 own products until it can examine samples of these Samsung products. (*Id.* at 12.) Samsung’s
24 own website notes that the release of these new products is imminent. (*Id.* at 6; Bartlett Expedite
25 Decl. Ex. 7).

26 6. Apple is requesting that the Court shorten the briefing and hearing schedule on its
27 Motion to Expedite Discovery because, if granted, the Motion to Expedite Discovery will allow
28 Apple to assess promptly the extent to which the soon-to-be-released products infringe its

1 intellectual property before those products become entrenched in the marketplace. If Apple does
2 not commence discovery until after the scheduling conference, it will suffer substantial harm.
3 The more entrenched the infringing Samsung products become in the market, the more likely
4 Apple is to suffer damage to the distinctiveness of its products. If Apple's Motion to Shorten
5 Time is not granted, a hearing on Apple's Motion to Expedite Discovery will not take place until
6 May 24, 2011 at the earliest, and Samsung's infringing products may have entered the market by
7 then.

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9 I declare under the penalty of perjury under the laws of the United States of America that
10 the forgoing is true and correct and that this Declaration was executed this 19th day of April,
11 2011, at San Francisco, California.

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13 _____ /s/ Jason R. Bartlett
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