

1 QUINN EMANUEL URQUHART & SULLIVAN, LLP
 Charles K. Verhoeven (Cal. Bar No. 170151)
 2 charlesverhoeven@quinnemanuel.com
 50 California Street, 22nd Floor
 3 San Francisco, California 94111
 Telephone: (415) 875-6600
 4 Facsimile: (415) 875-6700

5 Kevin P.B. Johnson (Cal. Bar No. 177129)
 kevinjohnson@quinnemanuel.com
 6 Victoria F. Maroulis (Cal. Bar No. 202603)
 victoriamaroulis@quinnemanuel.com
 7 555 Twin Dolphin Drive 5th Floor
 Redwood Shores, California 94065
 8 Telephone: (650) 801-5000
 Facsimile: (650) 801-5100

9 Michael T. Zeller (Cal. Bar No. 196417)
 10 michaelzeller@quinnemanuel.com
 865 S. Figueroa St., 10th Floor
 11 Los Angeles, California 90017
 Telephone: (213) 443-3000
 12 Facsimile: (213) 443-3100

13 Attorneys for SAMSUNG ELECTRONICS
 CO., LTD., SAMSUNG ELECTRONICS
 14 AMERICA, 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 Defendants.
 25

CASE NO. 11-cv-01846-LHK

**SAMSUNG’S OBJECTIONS TO APPLE’S
 PROPOSED DESIGN PATENT
 ADDENDUM TO “AN INTRODUCTION
 TO THE PATENT SYSTEM”**

26
 27
 28

1 Samsung Electronics Co, Ltd., Samsung Electronics America, Inc. and Samsung
2 Telecommunication America, LLC (collectively, “Samsung”) hereby object to Apple, Inc.’s
3 (“Apple”) proposed Design Patent “Addendum” to the Federal Judicial Center’s “An Introduction
4 to the Patent System” video.

5 Apple’s proposed Addendum is incorrect and will mislead and confuse the jury. In
6 particular, Apple’s proposed Addendum would instruct the jury that design patents purportedly
7 “may relate to the configuration or shape of an article” alone, absent the surface ornamentation.
8 That is contrary to law and indeed the Patent Act was amended to exclude any such protection, as
9 Samsung has already shown in prior filings. (*See* Dkt No. 1232 at 11-12 (showing that the Patent
10 Act and Federal Circuit law require that a design patent covers the surface ornamentation in
11 addition to the shape or configuration of the article); Dkt No. 1300, at 14 (same).) Samsung asked
12 that this contested and unnecessary provision be deleted from any joint instruction, but Apple
13 insisted on putting it in. This erroneous instruction would leave the jury with the false impression
14 that design patents protect shapes like rectangles with rounded corners absent the specific surface
15 details claimed in the asserted patents or visible on the accused products. *See, e.g., OddzOn*
16 *Products, Inc. v. Just Toys, Inc.*, 122 F.3d 1396, 1405 (Fed. Cir. 1997); *Lee v. Dayton-Hudson*, 838
17 F.2d 1186, 1188 (Fed. Cir. 1988) (rejecting argument that design patent protects “its basic
18 configuration, not the surface details”).

19 Samsung further objects to Apple’s Addendum in that it purports to refer to a sample design
20 patent. The use of a “sample” design patent is neither useful nor warranted in this case, and
21 providing the jury with one would be confusing and distracting, including because it could lead the
22 jury into unnecessarily comparing and contrasting the “sample” design patent with the patents in
23 suit. Apple’s proposed “sample” design patent is particularly inapposite since it is for footwear,
24 which has no relevance to the issues the jury will decide in this case and will only invite error,
25 speculation and the undue consumption of time. Furthermore, this Court has stated its intention to
26 show the jury one of the Apple design patents at issue to explain the parts of a design patent (Dkt.
27
28

1 1295 at 21), which only serves to underscore the lack of any legitimate need to use a wholly
2 inapposite “sample” patent for this same purpose as Apple advocates.

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

DATED: July 24, 2012

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

By /s/ Victoria Maroulis
Charles K. Verhoeven
Kevin P.B. Johnson
Victoria F. Maroulis
Michael T. Zeller

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