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| 7  | INTERDIGITAL TECHNOLOGY  CORPORATION and   |   |
| 8  | INTERDIGITAL COMMUNICATIONS LLC  |   |
| 9  | UNITED STATES DISTRICT COURT   |   |
| 10 | NORTHERN DISTRICT OF CALIFORNIA  |   |
| 11 | SAN JOSE DIVISION  |   |
| 12 |  |   |
| 13 | APPLE, INC., a California Corporation,   | CASE NO.: 11-CV-01846-LHK                           |
| 14 | Plaintiff,   | DECLARATION OF LAWRENCE F.                          |
| 15 | v. )   | SHAY IN SUPPORT OF<br>EMERGENCY MOTION BY NON-      |
| 16 | SAMSUNG ELECTRONICS CO., LTD., a   | PARTIES INTERDIGITAL COMMUNICATIONS, LLC AND        |
| 17 | Korean corporation; SAMSUNG  ELECTRONICS AMERICA, INC., a New York  )                                | INTERDIGITAL TECHNOLOGY<br>CORPORATION FOR AN ORDER |
| 18 | corporation; SAMSUNG TELECOMMUNICATIONS AMERICA, LLC, a  | CLOSING THE COURTROOM AND SEALING THE TRANSCRIPT    |
| 19 | Delaware limited liability company,  | DURING DISCUSSION OF INTERDIGITAL'S CONFIDENTIAL    |
| 20 | Defendants. )  | INFORMATION   |
| 21 |  | Date: Expedited Request                             |
| 22 | )  | Courtroom: 8, 4th Floor Judge: Lucy H. Koh          |
| 23 | )  |   |
| 24 |  |   |
| 25 | I, Lawrence F. Shay, declare as follows:   |   |
| 26 | 1. I am the Executive Vice-President, Intellectual Property, and Chief Intellectual                  |   |
| 27 | Property Counsel for InterDigital Communications, LLC (successor to InterDigital                     |   |
| 28 |  |   |
|    | -1- SHAY DECL. ISO INTERDIGITAL'S EMERGENCY MOT'N FOR AN ORDER CLOSING THE COURTROOM AND SEALING THE |   |
|    | TRANSCRIPT   |   |

TRANSCRIPT
Case No. 11-CV-01846-LHK

Communications Corporation) and the President of InterDigital Technology Corporation (collectively, "InterDigital"), which are non-parties to the above-captioned actions. I have personal knowledge of the facts stated herein.

- 2. I understand that, in connection with above captioned case, Samsung has indicated that it intends to use at trial documents that contain InterDigital confidential business information —namely, (a) a Patent License and Settlement Agreement entered into as of November 24, 2008, between Samsung and InterDigital (the "Samsung–InterDigital PLA") included in Trial Exhibit 77; (b) a table summarizing key terms of the Samsung–InterDigital PLA, attached as Exhibit 3A to Samsung's Expert Report of David Teece, dated March 22, 2012 included in Trial Exhibit 630; and (c) a table summarizing key terms of the Wireless Patent License Agreement between Apple Inc. and InterDigital (the "Apple–InterDigital PLA"), attached as Exhibit 3B to Samsung's Expert Report of David Teece, dated March 22, 2012 included in Trial Exhibit 630. I will refer to these documents collectively as "InterDigital Confidential Documents."
- 3. The InterDigital Confidential Documents contain sensitive, confidential InterDigital business information, including (i) specific, non-public terms of the Samsung InterDigital PLA (including terms pertaining to schedule of payments, licensed wireless standards, and excluded licensed wireless standards); (ii) specific, non-public terms of the Apple InterDigital PLA (including terms related to the monetary consideration and licensed wireless standards); and (iii) information concerning InterDigital's licensing strategies and negotiations with Samsung, Apple, and other third parties.
- 4. InterDigital has publicly filed a *redacted* version of the Samsung InterDigital PLA with the United States Securities and Exchange Commission ("SEC"). However, the version of the PLA that Samsung has included in Trial Exhibit 77 is unredacted and contains sensitive, confidential information that is not contained in, and was properly redacted from, the publicly available version filed with the SEC.

5. Public disclosure of the InterDigital Confidential Documents would cause substantial harm to InterDigital's bargaining and competitive position. The competition for revenues within the highly competitive wireless communications industry creates a business environment in which confidential information, including pricing information and legal strategies, must be diligently protected to enable InterDigital to maintain competitive viability. InterDigital derives a large portion of its profits from its licensing activities. The terms and conditions to which InterDigital subjects its licensees are business decisions that affect InterDigital's profitability. InterDigital has taken precautionary steps to maintain the confidentiality of information in the InterDigital Confidential Documents.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed in King of Prussia, Pennsylvania on the 25th day of July, 2012.

Lawrence F. Shav