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13 Attorneys for Samsung Electronics Co., Ltd.,
 Samsung Electronics America, Inc., and Samsung
 14 Telecommunications America, LLC

15 UNITED STATES DISTRICT COURT

16 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

17 APPLE INC., a California corporation,

CASE NO. 11-cv-01846-LHK

18 Plaintiff,

**DECLARATION OF BILL TRAC IN
 SUPPORT OF SAMSUNG'S REPLY IN
 SUPPORT OF MOTION FOR SUMMARY
 JUDGMENT**

19 vs.

**Date: June 21, 2011
 Time: 1:30 pm
 Place: Courtroom 8, 4th Floor
 Judge: Hon. Lucy H. Koh**

20 SAMSUNG ELECTRONICS CO., LTD., a
 21 Korean business entity; SAMSUNG
 ELECTRONICS AMERICA, INC., a
 22 New York corporation; SAMSUNG
 TELECOMMUNICATIONS
 23 AMERICA, LLC, a Delaware limited liability
 company,

24 Defendants.

**SUBMITTED UNDER SEAL
 CONTAINS CONFIDENTIAL
 INFORMATION**

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1 I, Bill Trac, declare:

2 1. I am an attorney in the law firm of Quinn Emanuel Urquhart & Sullivan, LLP,
3 counsel for Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung
4 Telecommunications America, LLC (collectively “Samsung”). I make this declaration in
5 connection with Samsung’s Notice of Lodging, filed herewith. I have personal knowledge of the
6 facts set forth in this declaration except where noted and, if called upon as a witness, I could and
7 would testify to such facts under oath.

8 2. Attached as Exhibit 1 is a true and correct copy of excerpts from Samsung
9 Electronic Co.'s Eighth Set of Supplemental Responses to Apple Inc.'s First Set of Interrogatories
10 (Nos. 33-38), ITC Investigation No. 337-TA-796, as served to Apple on February 15, 2012.

11 3. Attached as Exhibit 2 is a true and correct copy of excerpts from Samsung's
12 Supplemental Objections and Responses to Apple Inc.'s Fifth Set of Interrogatories (11-12), as
13 served to Apple on March 19, 2012.

14 4. Attached as Exhibit 3 is a true and correct copy of design patent D504,889, a prior
15 art reference that was produced to Apple in advance of the discovery deadline on September 11,
16 2011, bearing the bates numbers SAMNDCA00023867-871.

17 5. Attached as Exhibit 4 is a true and correct copy of design patent JPD1204221, a
18 prior art reference that was produced to Apple in advance of the discovery deadline on January 12,
19 2012, bearing the bates numbers SAMNDCA00255084-097.

20 6. Attached as Exhibit 5 is a true and correct copy of the iRiver U10, a prior art
21 reference that was produced to Apple in advance of the discovery deadline on February 13, 2012,
22 bearing the bates numbers SAMNDCA00326325-328.

23 7. Attached as Exhibit 6 is a true and correct copy of the Bluebird Pidion, a prior art
24 reference that was produced to Apple in advance of the discovery deadline on February 13, 2012,
25 bearing the bates numbers SAMNDCA00326344-346.

26 8. Attached as Exhibit 7 is a true and correct copy of the Nokia fingerprint, a prior art
27 reference that was produced to Apple in advance of the discovery deadline on February 13, 2012,
28 bearing the bates numbers SAMNDCA00326336-337.

1 9. Jonathan Ive was deposed on December 1, 2011. Attached as Exhibit 8 is a true
2 and correct copy of excerpts from Mr. Ive's December 1, 2011 deposition transcript.

3 10. Alan Hedge was deposed on April 30, 2012. Attached as Exhibit 9 is a true and
4 correct copy of excerpts from Mr. Hedge's April 30, 2012 deposition testimony on that date.

5 11. Russell Winer was deposed on April 27, 2012. Attached as Exhibit 10 is a true and
6 correct copy of excerpts from Mr. Winer's April 27, 2012 deposition testimony on that date.

7 12. Attached as Exhibit 11 is a true and correct copy of D500,037, as produced to
8 Apple on September 11, 2011 and bearing the bates number SAMNDCA00027716-722.

9 13. Attached as Exhibit 12 is a true and correct copy of excerpts from *Apple Inc. v.*
10 *Samsung Electronics Co. Ltd.*, 2012-1105 (Fed. Cir.) Brief of Defendants-Appellees.

11 14. Attached as Exhibit 13 is a true and correct copy of a document produced by
12 Samsung bearing the bates number SAMNDCA00404147.

13 15. Samsung requested discovery on prior art such as the "Brain Box" for months.
14 Samsung's Request for Production No. 98, propounded on August 3, 2011, requests the production
15 of "[a]ll documents and things relating to any information, including patents, publications, prior
16 knowledge, public uses, sales, or offers for sale, that might constitute, contain, disclose, refer to,
17 relate to, or embody any prior art to any alleged invention claimed by the APPLE IP." The
18 product or prototype referred to as the "Brain Box" – a flat panel display and keyboard designed in
19 1989 by Apple design employees including Gavin Ivester, Tony Guido and Sigmar Wilnauer – is
20 potential prior art to the D '889 Patent and other asserted patents and therefore is responsive to this
21 request, yet Apple never produced any documents or things related to the Brain Box.

22 16. By November 1, 2011, Samsung had learned of the Brain Box and requested that
23 Apple produce or make available for inspection all documents and things, including all models
24 and prototypes related to it. As Samsung informed Apple at the time of its request, these
25 materials were responsive to (at least) Samsung's Request for Production No. 98. Attached as
26 Exhibit 14 is a true and correct copy of the November 1, 2011 Letter from Michael T. Zeller,
27 Quinn Emanuel, to Jason Bartlett, Morrison & Foerster.

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1 17. After repeated follow-up requests, Apple still did not make available the requested
2 materials. Apple refused to provide an estimate of when these materials might be produced, and
3 explained that it was not expediting production because Apple regarded these items as
4 "peripheral." Attached as Exhibit 15 is a true and correct copy of the December 3, 2011 Letter
5 from Rachel Herrick Kassabian, Quinn Emanuel, to Mia Mazza, Morrison & Foerster.

6 18. Attached as Exhibit 16 is a true and correct copy of the December 10, 2011 Letter
7 from Diane C. Hutnyan, Quinn Emanuel, to Mia Mazza, Morrison & Foerster. (Dkt. No. 483 at 2,
8 Hutnyan Decl. ¶ 21.).

9 19. On December 16, 2011, Samsung filed a Motion to Compel in which Samsung
10 explained that materials related to the Brain Box were important prior art that Samsung needed in
11 order to be able to adequately question witnesses in upcoming depositions. (Dkt. No. 483 at 18-
12 19.) On December 22, 2011 the Court ordered Apple to produce all documents and things related
13 to the Brain Box by no later than January 15, 2012. (Dkt. No. 536.) Yet Apple never produced
14 any such materials.

15 20. Following the Court's December 22, 2011 Order, Apple claimed that it could not
16 locate any responsive documents based on the search terms "Brain Box", the inventors' names and
17 the year 1989. Samsung provided Apple with additional search terms, and Apple still failed to
18 produce a single responsive document or thing. Attached as Exhibit 17 is a true and correct copy
19 of the December 30, 2011 Letter from Diane C. Hutnyan, Quinn Emanuel to Mia Mazza, Morrison
20 & Foerster.

21 21. Robert Brunner was deposed on March 5, 2012. Attached as Exhibit 18 is a true
22 and correct copy of excerpts from Mr. Brunner's March 5, 2012 deposition testimony on that date.

23 22. Attached as Exhibit 19 is a true and correct copy of a document produced to
24 Samsung bearing the bates number APLNDC-Y0000309166 – Y0000309175.

25 23. Attached as Exhibit 20 is a true and correct copy of a document produced to
26 Samsung bearing the bates number APLNDC-Y0000310131 – Y0000310140.

27 24. Attached as Exhibit 21 is a true and correct copy of a document produced to
28 Samsung bearing the bates number APLNDC-Y0000311030.

1 25. Attached as Exhibit 22 is a true and correct copy of excerpts from Samsung's
2 Second Supplemental Objections and Responses to Apple Inc.'s Fifth Set of Interrogatories (No.
3 12), as served to Apple on March 29, 2012.

4 26. Attached as Exhibit 23 is a true and correct copy of excerpts from the Rebuttal
5 Expert Report of Susan Kare, as served by Apple on April 16, 2012, excluding exhibits.

6 27. Stephen Gray was deposed on May 4, 2012. Attached as Exhibit 24 is a true and
7 correct copy of excerpts from Mr. Gray's deposition testimony on that date.

8 28. Attached as Exhibit 25 is a true and correct copy of a screenshot showing a folder
9 titled "DTFlash-2005-06-07" containing various demos including Tablecloth application,
10 produced to the parties by Mitsubishi Electric Research Laboratory on October 20, 2011 and
11 bearing the bates number MERL00000001. The "date modified" field of Tablecloth application
12 states it was last modified on 1/12/2005.

13 29. Ravin Balakrishnan was deposed on August 16, 2011. Attached as Exhibit 26 is a
14 true and correct copy of deposition excerpts from Dr. Balakrishnan's August 16, 2011 deposition
15 and a document marked as Exhibit 104 in that deposition. Dr. Balakrishnan testified that an
16 electronic document is defined by or created with any visual boundaries. (Balakrishnan 8/16/11
17 Dep. Tr. at 154:24-155:7. Dr. Balakrishnan drew a black line around squares 15, 16, 17, 18, 21,
18 22, 23, and 24 on a document marked as Exhibit 104 and testified that it could be considered as an
19 electronic document. (152:6 – 154:19).

20 30. Attached as Exhibit 27 is a true and correct copy of excerpts from the transcript
21 from the Prehearing and Tutorial before the International Trade Commission in In the Matter of
22 Certain Mobile Devices and Related Software, 337-TA-750, on September 23, 2011.

23 31. Janusz Ordover was deposed on April 27, 2012. Attached as Exhibit 28 is a true
24 and correct copy of excerpts from Mr. Ordover's deposition testimony on that date.

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I declare under penalty of perjury that the foregoing is true and correct. Executed in Redwood Shores, California on June 7, 2012.

By /s/ Bill Trac

