

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 (PSG)

**MOTION TO SHORTEN TIME  
 FOR BRIEFING AND HEARING RE  
 SAMSUNG'S MOTION FOR DE NOVO  
 DETERMINATION OF DISPOSITIVE  
 MATTER REFERRED TO MAGISTRATE  
 JUDGE;**

**DECLARATION OF VICTORIA F.  
 MAROULIS**

26  
 27  
 28

1  
2  
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

**NOTICE OF MOTION**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that Defendants Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung Telecommunications America, LLC (collectively “Samsung”) shall and hereby do move the Court, pursuant to Civil Local Rules 6-1(b) and 6-3, to shorten time for briefing and hearing on Samsung’s Motion for De Novo Determination of Dispositive Matter Referred to Magistrate Judge. This motion is based on this notice of motion and supporting memorandum; the supporting Declaration of Victoria F. Maroulis, and such other written or oral argument as may be presented at or before the time this motion is taken under submission by the Court.

**RELIEF REQUESTED**

Samsung seeks an Order shortening time for briefing and hearing on its Motion for De Novo Determination of Dispositive Matter Referred to Magistrate Judge.

July 26, 2012

QUINN EMANUEL URQUHART &  
SULLIVAN, LLP

By /s/ Victoria F. 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

1  
2  
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

**MEMORANDUM**

On July 24, 2012, Magistrate Judge Grewal issued an order granting-in-part Apple’s motion for spoliation adverse inference instruction against Samsung. In an order that directly conflicts with the ITC decision rejecting the same arguments, Magistrate Judge Grewal applied the wrong standard to conclude that Samsung’s preservation obligation attached in August 2010; failed to apply the same rules to Apple as he did to Samsung; erroneously ignored Samsung’s arguments that Apple was required to establish prejudice and failed to do so; and adopted a proposed instruction that wrongly imposes mandatory findings on the jury. If the Magistrate Judge’s Order is followed it will constitute reversible error invalidating any victory which Apple might achieve. With trial beginning in a matter of days this matter requires expedited consideration. Accordingly, Samsung moves the Court to shorten time for the briefing and hearing schedule for its concurrently-filed Motion for a De Novo Determination of Dispositive Matter Referred to Magistrate Judge (“Motion for De Novo Determination”). Specifically, Samsung requests that:

1. Apple’s Opposition to Samsung’s Motion for De Novo be filed on or before July 31;
2. Samsung’s reply in support of its Motion for De Novo Determination be filed on or before August 3; and
3. Samsung’s Motion for De Novo Determination be heard on August 6, 2012, at the Court’s convenience.

A shortened briefing schedule on Samsung’s Motion for De Novo Determination is necessary because, if adjudicated pursuant to the briefing and hearing schedule prescribed by the Local Rules, Samsung’s Motion for De Novo Determination would not be heard until after the trial, mooting the very relief Samsung is seeking. The adverse inference that is the subject of Samsung’s motion is central to Samsung’s ability to present its defenses to the jury, and delaying resolution of the motion until after the trial would result in substantial prejudice to Samsung.

1 The relief sought by Samsung's Motion for De Novo Determination is narrow, and tied  
2 directly to the Magistrate Judge's Order imposing an adverse inference against Samsung. A  
3 shortened briefing and hearing schedule will therefore not result in any prejudice to Apple.

4 Counsel for Samsung contacted counsel for Apple in an effort to reach agreement with  
5 respect to the briefing and hearing schedule outlined above. See Declaration of Victoria F.  
6 Maroulis in Support of Samsung's Motion to Shorten Time. Apple did not agree to Samsung's  
7 proposed schedule, and indicated that it would oppose Samsung's Motion for De Novo  
8 Determination.

9 **CONCLUSION**

10 For the foregoing reasons, Samsung respectfully requests that the Court grant Samsung's  
11 Motion to Shorten Time for Briefing and Hearing on Samsung's Motion for De Novo  
12 Determination.

13  
14 DATED: July 26, 2012

Respectfully submitted,

15 QUINN EMANUEL URQUHART &  
16 SULLIVAN, LLP

17  
18 By /s/ Victoria F. Maroulis

19 Charles K. Verhoeven

20 Kevin P.B. Johnson

21 Victoria F. Maroulis

22 Michael T. Zeller

23 Attorneys for SAMSUNG ELECTRONICS CO.,

24 LTD., SAMSUNG ELECTRONICS AMERICA,

25 INC. and SAMSUNG

26 TELECOMMUNICATIONS AMERICA, LLC  
27  
28