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 MICROSOFT CORPORATION
 7

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 SAN JOSE DIVISION
 11

12 APPLE, INC., a California corporation,
 13 Plaintiff,
 14 v.
 15 SAMSUNG ELECTRONICS CO., LTD., a
 Korean corporation; SAMSUNG
 16 ELECTRONICS AMERICA, INC., a New
 York corporation; SAMSUNG
 17 TELECOMMUNICATIONS AMERICA,
 LLC, a Delaware limited company,
 18 Defendant.
 19

Case No. 11-CV-01846-LHK
 DECLARATION OF TANYA MOORE IN
 SUPPORT OF NON-PARTY MICROSOFT
 CORPORATION'S MOTION TO SEAL
 CONFIDENTIAL LICENSE AND TERMS

20 I Tanya Moore do hereby declare:

21 1. I am the General Manager of Outbound Licensing at Microsoft Corporation and
 22 am familiar with Microsoft's efforts to keep the terms of its license agreements confidential and
 23 the potential ramifications of the public disclosure of such terms. I make this declaration based
 24 on my personal knowledge unless otherwise indicated.
 25

26 2. On July 21, 2012, I received a fax communication from an attorney at Quinn
 27 Emanuel Urquhart & Sullivan, LLP regarding the case captioned Apple Inc. v. Samsung
 28

1 Electronics Co., Ltd, et al., Case No. 5:11-cv-01846-LHK (N.D. Cal) (the "Samsung case"). The
2 fax informed me that Samsung has identified a trial exhibit that contains the financial terms of
3 Microsoft's license with Samsung. The fax further stated that the Court has indicated that
4 Samsung may not seal the trial exhibit unless "compelling reasons" were shown justifying the
5 sealing.

6
7 3. The trial exhibit at issue is Trial Exhibit 630 to the Expert Report of David Teece,
8 dated March 22, 2012 (the "Teece Report"). The Teece Report contains Exhibits 3A and 3B
9 summarizing key financial terms of various contracts between Samsung and third parties. One
10 such contract is a recent Confidential Patent License Agreement between Samsung and Microsoft
11 (the "Confidential Agreement").

12
13 4. The terms of the Confidential Agreement revealed in the Teece Report are highly
14 sensitive confidential information of Microsoft that, if revealed to the public and Microsoft's
15 competitors during the Samsung case, would substantially harm Microsoft. The terms from the
16 Confidential Agreement contained in the Teece Report include the amount of license payments
17 and royalties that are to be paid by Samsung to Microsoft as well as other detailed licensing and
18 payment information such as the licensed products/technology and length of the license.

19
20 5. The terms of the Confidential Agreement contained in the Teece Report are not
21 known to the public. Prior to entering into the Confidential Agreement, Microsoft required that
22 Samsung agree, as part of the Confidential Agreement, to keep the terms strictly confidential. I
23 also understand that the parties in the Samsung case, including Apple and the retained expert of
24 Samsung, David Teece, are all bound by a protective order in the Samsung case that prohibits the
25 release or disclosure of the Confidential Agreement.

26
27 6. Microsoft has never breached the confidentiality and non-disclosure provisions of
28 the Confidential Agreement and has never publicly disclosed its terms and provisions. Microsoft

1 treats the Confidential Agreement and its terms as highly confidential and proprietary business
2 information given their sensitivity.

3 7. Even within Microsoft, the distribution of the Confidential Agreement and its
4 terms is on a need to know basis. The employees that I supervise within Microsoft's licensing
5 department understand the extremely sensitive nature of the Confidential Agreement, as well as
6 all license agreements entered into by Microsoft, and understand their duty to not disclose the
7 terms of these agreements.
8

9 8. If the key terms of the Confidential Agreement were publicly disclosed in the
10 Samsung case, it would significantly harm Microsoft and benefit Microsoft's competitors and
11 potential licensees. Such a disclosure would, for example, put Microsoft in a severe negotiating
12 disadvantage with respect to potential licensees, including in the context of licensing and cross-
13 licensing negotiations as part of litigation settlement discussions. Our license agreements are
14 specific to the licensee and tailored to the particular set of terms and conditions governing the
15 relationships between Microsoft and the licensee. Public disclosure of the key terms of the
16 Confidential Agreement, including the licensing and payment information in the Teece Report,
17 would reveal Microsoft's sensitive, non-public financial data. Such a public disclosure would
18 also put Microsoft in a substantially weakened position with respect to negotiating with entities
19 that have not yet entered into license agreements, thus decreasing the probability of reaching out-
20 of-court licensing agreements and increasing the probability of litigation to resolve intellectual
21 property disputes.
22

23 9. When Samsung and Microsoft entered into the Confidential Agreement in late
24 September 2011, Microsoft released a very general public statement that the parties had entered
25 an agreement to cross-license their patent portfolios and that "Microsoft will receive royalties for
26 Samsung's mobile phones and tablets running the Android mobile platform." Attached as Exhibit
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A is a true and correct copy of the September 28, 2011 press release. The exact terms of the Confidential Agreement were not and have not been publicly revealed, however, and have been guarded as highly confidential and proprietary business information.

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

Executed on July 26, 2012


Tanya Moore