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 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 BRIEF REGARDING  
 REFERENCES AT TRIAL TO  
 "PLAINTIFF" AND "DEFENDANT"**

1 Both parties in this action have claims against the other that will be tried to the jury in the  
2 upcoming trial. Accordingly, both parties will at times be acting as plaintiffs and both as  
3 defendants, and it is therefore important that both parties are treated the same. It is important that  
4 the terminology that is used to refer to the parties reflects this fact. In order to avoid any unfair  
5 prejudice to Samsung that may result from references to Apple as "plaintiff" in front of the jury,  
6 Samsung requests that both parties be referred to as "claimants."

7 Additionally, Samsung requests that its counsel be permitted to sit at plaintiff's table while  
8 Samsung presents its affirmative case. The general rule in courts nationwide, both civil and  
9 criminal, is that the party with the burden of proof sits nearest the jury. In keeping with this  
10 practice, it makes sense that Samsung would sit at plaintiff's table while presenting its affirmative  
11 case. Furthermore, equal treatment of the parties with respect to where they sit while presenting  
12 their affirmative case will mitigate any prejudice to Samsung that may result from Apple being in  
13 closer proximity to the jury throughout the trial. It will also ensure that the jury does not draw  
14 any improper inference based on disparate treatment of the parties with respect to their positions in  
15 the courtroom. Other courts have adopted this approach in complex, high-stakes trials involving  
16 claims asserted by both parties. See *Mattel v. MGA*, Case No. 04-09049 (DOC) (C.D. Cal.),  
17 March 10, 2011 Trial Tr., Vol. 3, at 26:25-27:6, attached hereto as Exhibit A.

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DATED: July 26, 2012

QUINN EMANUEL URQUHART &  
SULLIVAN, LLP

By /s/ Victoria F. Maroulis  
Charles K. Verhoeven  
Victoria F. Maroulis  
Kevin P.B. Johnson  
Michael T. Zeller  
Attorneys for SAMSUNG ELECTRONICS  
CO., LTD., SAMSUNG ELECTRONICS  
AMERICA, INC., and SAMSUNG  
TELECOMMUNICATIONS AMERICA, LLC

# **EXHIBIT A**

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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION

- - -

THE HONORABLE DAVID O. CARTER, JUDGE PRESIDING

MATTEL, INC., et al.,  
Plaintiffs,  
vs.

MGA ENTERTAINMENT, INC.,  
et al.,  
Defendants.

CV-04-9049-DOC  
DAY 31  
Volume 3 of 3

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REPORTER'S TRANSCRIPT OF PROCEEDINGS  
Santa Ana, California  
Thursday, March 10, 2011

SHARON A. SEFFENS, RPR  
United States Courthouse  
411 West 4th Street, Suite 1-1053  
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(714) 543-0870

## 1 APPEARANCES OF COUNSEL:

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1 ALSO PRESENT:

2 MGA ENTERTAINMENT, INC.  
3 JEANINE PISONI  
4 16360 Roscoe Boulevard, Suite 105  
5 Van Nuys, CA 91406

6 ALSO PRESENT:

7 ISAAC LARIAN, MGA CEO  
8 KEN KOTARSKI, Mattel Technical Operator  
9 MIKE STOVALL, MGA Technical Operator

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1 going.

2 MR. COTE: Yes.

3 THE COURT: If that's acceptable to you, that  
4 let's the parties start tomorrow.

5 MR. COTE: Of course.

6 THE COURT: Counsel, I am going to pay all of you  
7 a compliment in front of the jury about how hard you are  
8 working.

9 Nancy, would you get the jury.

10 (Jury present.)

11 THE COURT: The jurors are present. Counsel are  
12 present.

13 Mr. Quinn, on behalf of Mattel.

14 MR. QUINN: Your Honor, subject to the issues that  
15 we discussed the jury's presence, Mattel rests.

16 THE COURT: Mattel is resting at this time. There  
17 are a few matters that we can accomplish this weekend and  
18 outside your presence, but both parties have agreed to go  
19 forward tomorrow.

20 We anticipated that Mattel would be resting  
21 sometime this week. We didn't know quite know if it was  
22 Wednesday, Thursday, or early Friday, but we anticipated  
23 this, and MGA will be ready to start their presentation  
24 tomorrow morning at 8:30.

25 Now, we are going to be switching tables. MGA

1 will be sitting at the table that times has been referred to  
2 as the plaintiff's table, and Mr. Overland and Mr. Cote will  
3 be joining them. I am going to have a small table set up so  
4 we keep visually who is with whom, and Mattel will be over  
5 sitting over what we previously referred to as the  
6 defendant's table.

7 We have about 152 hours that we have been in  
8 session so far, maybe a little bit more by the end of today.  
9 I'm not quite certain. I haven't been keeping that close  
10 account, but you can see a running total over on this board.  
11 As of yesterday, it was 87 hours and 41 minutes for Mattel  
12 and MGA 64 hours and 8 minutes. That's about right. The  
13 plaintiff is usually using a few more hours in the  
14 presentation of their case, and now MGA will probably start  
15 using a few more hours.

16 All counsel are on notice when that hits 120 hours  
17 that's the end of the lawsuit for that party. Actually  
18 because of the preparation of counsel and the extraordinary  
19 efforts on both Mattel and MGA's part and Mr. Machado's  
20 counsel, the -- because we are not having sidebars, because  
21 they are going all over the evidence on nights and during  
22 the weekends, means that that 120 hours for each side is  
23 probably the equivalent of about 200 hours. It's really  
24 about a four-month trial that's being brought down into  
25 about three months, so it's coming to you pretty quick.



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CERTIFICATE

I hereby certify that pursuant to Section 753, Title 28, United States Code, the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Date: March 11, 2011

Sharon A. Seffens 3/11/11

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SHARON A. SEFFENS, U.S. COURT REPORTER