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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.
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CASE NO. 11-cv-01846-LHK

**SAMSUNG'S MOTION FOR LEAVE TO
 FILE SUR-REPLY TO APPLE'S NEW
 ARGUMENTS ON REPLY RE: APPLE'S
 MOTION TO ENFORCE COURT
 ORDERS REGARDING SONY DESIGNS**

1 Samsung respectfully requests leave to file a sur-reply to address new evidence and
2 arguments raised for the first time in Apple’s Reply In Support of its Motion to Enforce Court
3 Orders Regarding Sony Designs (Dkt. 1437). Apple’s moving papers sought to preclude use of
4 “Sony-style” CAD drawings and e-mails on the basis that this evidence was purportedly stricken
5 by Judge Grewal, and further sought to preclude use of related testimony on these issues on the
6 grounds that the testimony was untimely, and that Apple never agreed to allow its use in this
7 action. Apple did not articulate any other bases for its motion. Dkt. 1420.

8 After Samsung demonstrated in its Opposition to Apple’s Motion that (1) the documentary
9 evidence was not excluded by Judge Grewal, and (2) the evidence is probative of a number of
10 disputed issues wholly separate from the invalidity theories set forth in Mr. Sherman’s report,
11 Apple submitted a reply brief that introduces an entirely new theory, *i.e.*, that a project code-
12 named “purple” purportedly rebuts one of the asserted bases for admission of the evidence.

13 Similarly, with respect to the challenged deposition testimony, after Samsung presented
14 clear evidence in its opposition brief that, contrary to its counsel’s sworn declaration, Apple *had*
15 agreed to use the testimony in this case, Apple now argues that, notwithstanding its prior
16 misrepresentation, the testimony should nonetheless be excluded under Rule 403. That argument
17 was nowhere mentioned in Apple’s moving papers.

18 In light of Apple’s new arguments made for the first time in its Reply brief, Samsung
19 respectfully requests leave to file a short sur-reply brief to address these new arguments, a copy of
20 which is attached as Exhibit A to the concurrently-filed declaration of Adam Cashman.

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1 DATED: July 29, 2012

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

3 By /s/ Victoria F. Maroulis

4 Charles K. Verhoeven

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