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11 Attorneys for Plaintiff and
 12 Counterclaim-Defendant APPLE INC

13 UNITED STATES DISTRICT COURT
 14 NORTHERN DISTRICT OF CALIFORNIA
 15 SAN JOSE DIVISION

17 APPLE INC., a California corporation,
 18 Plaintiff,
 19 v.
 20 SAMSUNG ELECTRONICS CO., LTD., a
 Korean business entity; SAMSUNG
 21 ELECTRONICS AMERICA, INC., a New York
 corporation; SAMSUNG
 22 TELECOMMUNICATIONS AMERICA, LLC, a
 Delaware limited liability company,
 23 Defendants.
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Case No. 11-cv-01846-LHK

**APPLE’S OBJECTIONS TO THE
 EXHIBITS TO BE USED DURING THE
 DIRECT EXAMINATION OF
 JUSTIN DENISON**

Trial: July 30, 2012
Time: 9:00 a.m.
Place: Courtroom 1, 5th Floor
JUDGE: HON. LUCY H. KOH

1 Apple does not object to the majority of Samsung's proposed exhibits for the direct
2 examination of Justin Denison. Apple limits its objections to just two exhibits, and reserves its
3 objections as to a third.

4 DX627 is inadmissible for several reasons. First, there is no proof that this exhibit (a
5 lengthy list of Best Buy circulars) is authentic under Rule 901. Best Buy, not Samsung, produced
6 these documents, and no Best Buy employee was deposed or testified as to their authenticity.
7 Mr. Denison cannot authenticate these circulars (some of which are in Spanish). Second, to the
8 extent to that Samsung seeks to use these exhibits to rely upon art or devices that Judge Grewal
9 has struck as not timely disclosed, Samsung's attempted use of this exhibit to discuss such art or
10 devices is improper. (Dkt. No. 1144.) For example, Judge Grewal struck Samsung's attempted
11 reliance on the iRiver U and YP-K3 mp3 player – but these devices appear at pages 362, 407, 598
12 and 123 of this exhibit. To the extent the exhibit includes other prior art on which Samsung may
13 attempt to rely, such as the Sirius S50 mp3 player at page 123, that art was never disclosed.
14 Third, the exhibit is not relevant under Rules 402 and 403. At most, the exhibit shows that
15 Samsung products were marketed by Best Buy, a fact which is not in dispute. Fourth, the exhibit
16 (literally hundreds of pages of advertisements) attempts to skirt the Court's limit of 200 exhibits
17 per side and is not a Rule 1006 summary

18 DX629 is also inadmissible. First, Samsung's television ads are not relevant for the
19 proffered purpose of showing "lack of confusion or dilution." (Dkt. No. 1285-1 at 11.) Whether
20 or not Samsung's products infringe or dilute Apple's trade dress does not turn on the content of
21 Samsung's own ads. Second, Mr. Denison is an improper witness to sponsor these ads, as he
22 testified during his deposition that he has no role in advertising. *See, e.g.*, Jan. 25, 2012 Dep.
23 Tr. at 26-27 ("Q. Is it part of your responsibility to determine the advertising that is done for
24 STA's productions in the United States? A. I'm not in charge of any advertising decisions. . . .
25 Q. Is there any aspect of the advertising campaign for STA products that's done in the United
26 States that -- that you participate in? A. No."). Third, these television ads are inadmissible
27 hearsay under Rule 802. Should the exhibit come into evidence, Apple seeks a limiting
28 instruction under Rule 105 stating these ads are only relevant to show Samsung's marketing

1 channels, Samsung's target consumer, and the competitive nature of the parties' respective
2 products.

3 Apple does not object to DX684 (a depiction of various Samsung phones) because the
4 Court overruled Apple's objection to the demonstrative version in its July 29, 2012 ruling on
5 Apple's objections to Samsung's opening slides. (Dkt. No. 1456 at 2 (discussing slide 10).)
6 Apple assumes that the Court has determined that this exhibit is admissible as a summary under
7 Rule 1006, and it notes that it has offered similar compilations. If Apple's understanding of the
8 Court's ruling is incorrect, Apple objects to this exhibit under Rule 1006 as an inaccurate and
9 incomplete representation of Samsung's smartphone products.

10 Dated: July 30, 2012

MORRISON & FOERSTER LLP

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12 By: /s/ Michael A. Jacobs
Michael A. Jacobs

13 Attorneys for Plaintiff
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