## UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA

## SAN JOSE DIVISION

| APPLE, INC.,                                    | ) Case No.: C 11-1846-LHK (PSG)  |
|---|--|
| Plaintiff, v.  SAMSUNG ELECTRONICS CO. LTD., ET | ORDER DENYING THIRD-PARTY INTERNATIONAL BUSINESS MACHINES CORPORATION'S MOTION FOR TEMPORARY RESTRAINING ORDER |
| Defendants.                                     | (Re: Docket No. 1472)  |

Earlier today, third-party International Business Machines Corporation ("IBM") appeared before the court requesting an order barring third-party Reuters America LLC ("Reuters") from publishing certain terms of a license agreement between IBM and Defendant Samsung Electronics Co. Ltd. ("Samsung"). Reuters opposes the request.

At the hearing, when given the opportunity by the court to justify its request, IBM explicitly conceded the following:

- 1. IBM's request is for a prior restraint subject to the standards set forth by the United States Supreme Court in *New York Times Co. v. United States.* <sup>1</sup>
- 2. IBM's request does not meet these standards.

Case No.: C 11-01846 PSG

**ORDER** 

<sup>&</sup>lt;sup>1</sup> 403 U.S. 713, 714 (1971).

## United States District Court For the Northern District of California

The court is sympathetic to the commercial interest, especially those of a third-party, in protecting its licensing terms. It truly is. But "[a]ny system of prior restraints of expression comes to this court bearing a heavy presumption against its constitutional validity." On a record before the court that includes the IBM concessions noted above, IBM plainly has not rebutted the heavy presumption that its request would have this court violate Reuters' First Amendment rights. This the court will not do. IBM's motion is DENIED.

## IT IS SO ORDERED.

Dated: 7/30/2012

Pore S. Aure Paul S. Grewal

United States Magistrate Judge

<sup>2</sup> *Id*.

Case No.: C 11-01846 PSG

**ORDER**