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 LTD., SAMSUNG ELECTRONICS AMERICA,  
 14 INC. and SAMSUNG  
 TELECOMMUNICATIONS AMERICA, LLC  
 15

16 UNITED STATES DISTRICT COURT  
 17 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION  
 18

19 APPLE INC., a California corporation,

20 Plaintiff,

21 vs.

22 SAMSUNG ELECTRONICS CO., LTD., a  
 Korean business entity; SAMSUNG  
 23 ELECTRONICS AMERICA, INC., a New  
 York corporation; SAMSUNG  
 24 TELECOMMUNICATIONS AMERICA,  
 LLC, a Delaware limited liability company,

25 Defendants.  
 26

CASE NO. 11-cv-01846-LHK (PSG)

**DECLARATION OF GIHO RO IN  
 SUPPORT OF SAMSUNG'S RENEWED  
 ADMINISTRATIVE MOTION TO FILE  
 DOCUMENTS UNDER SEAL**

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02198.51855/4880480.1

1 **DECLARATION OF GIHO RO**

2 I, GiHo Ro do hereby declare as follows:

3 1. I am a Senior Manager, Administration Team in the Mobile Communications  
4 Division at Samsung Electronics Co., Ltd. (“SEC”). I submit this Declaration in support of  
5 Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung  
6 Telecommunications America, LLC (“Samsung’s”) Renewed Administrative Motion to File  
7 Documents Under Seal (“Renewed Motion”). I have personal knowledge of the facts set forth in  
8 this Declaration and, if called as a witness, could and would competently testify to them.

9 2. In my position, I assist and report directly to the Chief Financial Officer of SEC’s  
10 Mobile Communications Division and receive all financial reporting within the Mobile  
11 Communications division that is sent to the Chief Financial Officer. I am thus intimately familiar  
12 with the types and nature of financial data and reports generated by Samsung, how those data and  
13 reports are used within Samsung, and how they could be used by Samsung’s competitors if  
14 publically disclosed.

15 3. I have reviewed the documents that are the subject of Samsung’s Renewed Motion,  
16 and agree with the proposed highlighted redactions attached to the declaration of Prashanth  
17 Chennakesavan. The documents at issue are not “financial statements”; nor do they merely  
18 contain “financial information.” They identify the cost of the components Samsung uses to  
19 manufacture its products, and contain detailed information about the cost to manufacture at least  
20 32 product lines and Samsung’s profit margins on those products, calculated using highly sensitive  
21 cost and overhead information. In addition, they contain the profits earned for each product line.

22 4. This is not the type of information that Samsung reports to investors, the SEC, the  
23 press, or business analysts. The information has never been made available outside of the  
24 company and is also not available to the vast majority of people who work for Samsung. This  
25 information is highly confidential to Samsung and Samsung takes extraordinary steps to maintain  
26 the secrecy of the information. Even within Samsung’s finance and accounting groups, this  
27 information can only be accessed by certain financial personnel on a very restricted need-to-know  
28 basis.

1           5.       The information contained in these documents was produced in this case to Apple's  
2 outside counsel and experts for the sole purpose of calculating supposed damages. It was produced  
3 under a Protective Order and was marked "Highly Confidential – Attorneys' Eyes Only."

4 Samsung took special precautions when producing this data to Apple, including restricting the  
5 distribution of soft copies of the data, copying of data, or inspecting the data in an unsecured  
6 environment. Samsung distributed a limited number of numbered compact discs that contained  
7 soft copies of the data, retrieved the discs after a certain amount of time, and only permitted the  
8 inspection of certain data in a secure location to prevent unauthorized copying or dissemination.

9           6.       Disclosure of per product revenues, pricing, and costs will permit competitors to  
10 undercut Samsung's pricing, and allow business partners to gain leverage against Samsung in  
11 business and supply agreement negotiations.

12           7.       Disclosure of specific cost information and bills of materials will allow competitors  
13 and business partners to use this information to gain leverage against Samsung in business and  
14 supply agreement negotiations. It will also assist competitors in product and financial planning.

15           8.       The need for confidentiality extends to portions of summaries created by the  
16 damages experts in this case. While some of the information contained in these summaries is not  
17 highly sensitive, other information, like specific profit margins, and per-unit costs, would have the  
18 same detrimental effect on Samsung as the distribution of the underlying data would have. For  
19 example, competitors could interfere with pricing strategy if they knew Samsung's per-unit costs.  
20 The highlighted versions of these documents attached to Mr. Chennakesavan's declaration identify  
21 which of the financial figures stated would subject Samsung to improper and unfair competition if  
22 disclosed.

23           9.       The requested relief in the Motion to Seal is necessary to protect the confidentiality  
24 of extremely sensitive financial information contained in the documents included in Dkt. Nos.  
25 927, 1013, 1022, 1060, 1064, 1185, 1206, 1208, and 1209.

26           **Dkt. No. 927**

27           10.       Samsung's Motion to Exclude Opinions of Certain of Apple's Experts (Dkt. No.  
28 927-01) contains references to very specific cost numbers that are HIGHLY CONFIDENTIAL –

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1 ATTORNEYS' EYES ONLY. It is my understanding that this document also contains  
2 information designated by Apple as confidential. I have reviewed a version of the document that  
3 was partially redacted and only included Samsung's financial data. I did not review any of the  
4 documents underlying Samsung's Motion.

5 11. Page 18 of this document references the specific amount of Samsung's costs  
6 considered by the experts in this case. This information is confidential and proprietary to  
7 Samsung, and the adverse competitive effects on Samsung could be devastating if Samsung's  
8 competitors were able to obtain this information because this document was not filed under seal.  
9 For example, competitors and business partners could use this information against Samsung to  
10 undercut Samsung's pricing, or gain leverage against Samsung in business and supply agreement  
11 negotiations. However, only the highlighted portions of this document need to be sealed in order  
12 to protect the critical information and Samsung's interests.

13 12. Exhibits 1, 3, and 5 to the Declaration of Joby Martin in support of Samsung's  
14 Motion to Exclude Opinions of Certain of Apple's Experts (Dkt. Nos. 927-03, 927-05 , and 927-  
15 07) are documents prepared by Samsung's damages expert in this litigation that contain HIGHLY  
16 CONFIDENTIAL – ATTORNEYS' EYES ONLY information regarding Samsung's revenues,  
17 pricing, gross profit, and other financial data from which Samsung's revenues, pricing and profit  
18 data can be calculated. It is my understanding that these documents also contain information  
19 designated by Apple as confidential. I have reviewed versions of the documents that were  
20 partially redacted and only included Samsung's financial data.

21 13. The portions of the documents that I reviewed contain highly sensitive and  
22 confidential information related to Samsung's financial results and pricing with carrier customers  
23 which are not publicly reported and are protected from disclosure due to their significant  
24 competitive value. Even within Samsung, the information is only available to be accessed by a  
25 very limited number of finance personnel. This information is confidential and proprietary to  
26 Samsung, and the adverse competitive effects on Samsung could be devastating if Samsung's  
27 competitors were able to obtain this information because this document was not filed under seal.

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1 However, only the highlighted portions of this document need to be sealed in order to protect the  
2 critical information and Samsung's interests.

3 14. Exhibit 10 to the Declaration of Joby Martin in support of Samsung's Motion to  
4 Exclude Opinions of Certain of Apple's Experts (Dkt. No. 927-12) includes spreadsheets prepared  
5 by Apple's expert showing detailed analysis of Samsung's profits, revenues and cost of goods for  
6 2010-2012 that are HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY. It is my  
7 understanding that these documents also contain information designated by Apple as confidential.  
8 I have reviewed versions of the documents that were partially redacted and only included  
9 Samsung's financial data.

10 15. The portions of the documents that I reviewed contain highly sensitive and  
11 confidential information that is not reported outside of Samsung. Even within Samsung, this  
12 information is heavily secured and very few Samsung employees have access to this information.  
13 This information could be used by Samsung's competitors in order to attempt to undercut  
14 Samsung's prices and would disadvantage Samsung's competitive position if it were not to be  
15 filed under seal.

16 16. Exhibit 2 to the Declaration of Joby Martin in support of Samsung's Motion to  
17 Exclude Opinions of Certain of Apple's Experts (Dkt. No. 927-04) is an excerpt from the  
18 HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY deposition of Apple's damages  
19 expert, Terry Musika. This transcript contains very specific information regarding Samsung's  
20 revenues, pricing, gross profit, and other financial data from which Samsung's revenues, pricing  
21 and profit data can be calculated. It is my understanding that this transcript also contains  
22 information designated by Apple as confidential. I have reviewed a version of the document that  
23 was partially redacted and only included Samsung's confidential information.

24 17. The portions of the transcript that I reviewed contain highly sensitive and  
25 exceptionally confidential information related to Samsung's financial results and pricing with  
26 carrier customers which are not publicly reported and are protected from disclosure due to their  
27 significant competitive value. Even within Samsung, the information is only available to be  
28 accessed by a very limited number of finance personnel. This information is confidential and

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1 proprietary to Samsung, and the adverse competitive effects on Samsung could be devastating if  
2 Samsung's competitors were able to obtain this information because this document was not filed  
3 under seal. However, only the highlighted portions of this document need to be sealed in order to  
4 protect the critical information and Samsung's interests.

5 **Dkt. No. 991**

6 18. Exhibits F and G to the Declaration of Terry L. Musika in Support of Apple's  
7 Opposition to Samsung's Motion for Summary Judgment are spreadsheets prepared by Apple's  
8 expert showing detailed analysis of Samsung's profits, revenues and cost of goods for 2010-2012  
9 that are HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY. This information is highly  
10 sensitive and confidential and is not reported outside of Samsung. Even within Samsung, this  
11 information is heavily secured and very few Samsung employees have access to this information.  
12 This information could be used by Samsung's competitors in order to attempt to undercut  
13 Samsung's prices and would disadvantage Samsung's competitive position if it were not to be  
14 filed under seal.

15 **Dkt. No. 1013**

16 19. Exhibit O to the Declaration of Michel Maharbiz in Support of Apple's Opposition  
17 to Samsung's Motion for Summary Judgment contains HIGHLY CONFIDENTIAL –  
18 ATTORNEYS' EYES ONLY cost information. Specifically, page 15 of this document contains  
19 Samsung's total cost for one of its Galaxy Tab products. This information is confidential and  
20 proprietary to Samsung, and the adverse competitive effects on Samsung could be devastating if  
21 Samsung's competitors were able to obtain this information because this document was not filed  
22 under seal. For example, competitors and business partners could use this information against  
23 Samsung to undercut Samsung's pricing, or gain leverage against Samsung in business and supply  
24 agreement negotiations. However, only the highlighted number in this document needs to be  
25 sealed in order to protect the critical information and Samsung's interests.

26 **Dkt. No. 1022**

27 20. Exhibit 37 to the Declaration of Peter Bressler in Support of Apple's Opposition to  
28 Samsung's Motion for Summary Judgment (Dkt. No. 1022) is a document produced by Samsung

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1 in this litigation that bears the designation HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
2 ONLY. The document contains confidential information regarding Samsung’s product costs.  
3 This document contains highly sensitive and exceptionally confidential information related to  
4 Samsung’s financial information and costs which is proprietary to Samsung. The adverse  
5 competitive effects on Samsung could be devastating if Samsung's competitors were able to obtain  
6 this information because this document was not filed under seal. However, only the highlighted  
7 portions of this document need to be sealed in order to protect the critical information and  
8 Samsung's interests.

9 **Dkt. No. 1060**

10 21. Exhibit B to the Declaration of Michael J. Wagner in Support of Samsung's Reply  
11 in Support of Motion to Exclude Testimony of Apple's Experts (Dkt. No. 1060-37) is a document  
12 prepared by Samsung’s damages expert in this litigation that contains HIGHLY CONFIDENTIAL  
13 – ATTORNEYS’ EYES ONLY information regarding Samsung’s revenues, pricing, gross profit,  
14 and other financial data from which Samsung’s revenues, pricing and profit data can be calculated.  
15 It is my understanding that this document also contains information designated by Apple as  
16 confidential. I have reviewed a version of the document that was partially redacted and only  
17 included Samsung’s financial data.

18 22. The portions of the document that I reviewed contain highly sensitive and  
19 exceptionally confidential information related to Samsung’s financial results and pricing with  
20 carrier customers which are not publicly reported and are protected from disclosure due to their  
21 enormous competitive value. Even within Samsung, the information is only available to be  
22 accessed by a very limited number of finance personnel. This information is confidential and  
23 proprietary to Samsung, and the adverse competitive effects on Samsung could be devastating if  
24 Samsung’s competitors were able to obtain this information because this document was not filed  
25 under seal. However, only the highlighted portions of this document need to be sealed in order to  
26 protect the critical information and Samsung's interests.

1                    **Dkt. No. 1206**

2                    23.        Apple's Opposition to Samsung's Motions in Limine (Dkt. No. 1206) includes  
3 discussion of Samsung's confidential product strategy documents, market and consumer research  
4 documents, and Samsung's profits. This information is not a matter of public record and reflects  
5 Samsung's confidential information. This information is confidential and proprietary to Samsung,  
6 and the adverse competitive effects on Samsung could be devastating if Samsung's competitors  
7 were able to obtain this information because this document was not filed under seal. For example,  
8 competitors could use Samsung's profit data to better plan their own product releases and pricing.  
9 However, only the highlighted portions of this document need to be sealed in order to protect the  
10 critical information and Samsung's interests.

11                  24.        Exhibit 42 to the Kanada Declaration is a document prepared by Samsung's  
12 damages expert in this litigation that contains HIGHLY CONFIDENTIAL – ATTORNEYS'  
13 EYES ONLY information regarding Samsung's recent profits calculated on a product-by-product  
14 basis. This document contains highly sensitive and exceptionally confidential information related  
15 to Samsung's recent financial results which are not publicly reported and are protected from  
16 disclosure due to their significant competitive value. Such information is kept highly confidential  
17 even within Samsung and can only be accessed by certain financial personnel, on a very restricted  
18 need-to-know basis. This information is confidential and proprietary to Samsung, and the adverse  
19 competitive effects on Samsung could be devastating if Samsung's competitors were able to  
20 obtain this information because this document was not filed under seal. For example, competitors  
21 and business partners could use this information against Samsung to improve or plan their own  
22 profit strategies in order to better compete. Because the confidential information can be seen  
23 throughout this document, the document should be sealed in its entirety.

24                  25.        Exhibit 43 to the Kanada Declaration consists of an excerpt from the transcript of  
25 Michael Wagner which was designated HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
26 ONLY. The excerpt discusses confidential information regarding Samsung's profit margins for  
27 particular products which are not publicly reported and are protected from disclosure due to their  
28 enormous competitive value. This information is confidential and proprietary to Samsung, and the

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1 adverse competitive effects on Samsung could be devastating if Samsung's competitors were able  
2 to obtain this information because this document was not filed under seal. If a competitor knew  
3 what Samsung's profit margins were on particular products, it could use that information to  
4 undercut Samsung's pricing and obtain an unfair competitive advantage. However, in an effort to  
5 balance the public's need to know with Samsung's interest in protecting its confidential  
6 information, Samsung is seeking to seal only one sentence, which is highlighted, and which  
7 contains the most sensitive information.

8           26. Exhibit 44 to the Kanada Declaration consists of an excerpt from the transcript of  
9 Timothy Sheppard which was designated HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
10 ONLY. The excerpt discusses confidential information regarding Samsung's profit margins  
11 which are not publicly reported and are protected from disclosure due to their enormous  
12 competitive value. Such information is kept highly confidential even within Samsung and can  
13 only be accessed by certain financial personnel, on a very restricted need-to-know basis. This  
14 information is confidential and proprietary to Samsung, and the adverse competitive effects on  
15 Samsung could be devastating if Samsung's competitors were able to obtain this information  
16 because this document was not filed under seal. For example, competitors and business partners  
17 could use this information against Samsung to improve or plan their own profit strategies in order  
18 to better compete. Competitors could also use this information against Samsung in business  
19 negotiations. Because the confidential information can be seen throughout this document, the  
20 document should be sealed in its entirety.

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22           I declare under penalty of perjury that the forgoing is true and correct to the best of my  
23 knowledge. Executed this 31st day of July, 2012, in Suwon, South Korea.

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Giho Ro

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