

1 HAROLD J. MCELHINNY (CA SBN 66781)
 hmcclhinny@mofo.com
 2 MICHAEL A. JACOBS (CA SBN 111664)
 mjacobs@mofo.com
 3 RACHEL KREVANS (CA SBN 116421)
 rkrevans@mofo.com
 4 JENNIFER LEE TAYLOR (CA SBN 161368)
 jtaylor@mofo.com
 5 ALISON M. TUCHER (CA SBN 171363)
 atucher@mofo.com
 6 RICHARD S.J. HUNG (CA SBN 197425)
 rhung@mofo.com
 7 JASON R. BARTLETT (CA SBN 214530)
 jasonbartlett@mofo.com
 8 MORRISON & FOERSTER LLP
 425 Market Street
 9 San Francisco, California 94105-2482
 Telephone: (415) 268-7000
 10 Facsimile: (415) 268-7522

WILLIAM F. LEE
 william.lee@wilmerhale.com
 WILMER CUTLER PICKERING
 HALE AND DORR LLP
 60 State Street
 Boston, MA 02109
 Telephone: (617) 526-6000
 Facsimile: (617) 526-5000

MARK D. SELWYN (SBN 244180)
 mark.selwyn@wilmerhale.com
 WILMER CUTLER PICKERING
 HALE AND DORR LLP
 950 Page Mill Road
 Palo Alto, California 94304
 Telephone: (650) 858-6000
 Facsimile: (650) 858-6100

11
 12 Attorneys for Plaintiff and
 13 Counterclaim-Defendant APPLE INC.

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

17
 18 APPLE INC., a California corporation,
 Plaintiff,
 19
 20 v.
 21 SAMSUNG ELECTRONICS CO., LTD., a
 Korean corporation; SAMSUNG
 22 ELECTRONICS AMERICA, INC., a New
 York corporation; and SAMSUNG
 23 TELECOMMUNICATIONS AMERICA,
 LLC, a Delaware limited liability company,
 24 Defendants.

Case No. 11-cv-01846-LHK
**DECLARATION OF GREGORY JOSWIAK
 IN SUPPORT OF APPLE'S MOTION TO
 SEAL PREVIOUSLY FILED MOTIONS
 AND EXHIBITS THERETO**

25
 26
 27
 28
 DECLARATION OF GREGORY JOSWIAK ISO MOT. TO SEAL PREV. FILED MOTIONS & EXS. THERETO
 CASE NO. 11-CV-01846-LHK

1 I, Gregory Joswiak, hereby declare as follows:

2 1. I am a Vice President in Apple's Product Marketing department. I submit this
3 declaration in support of Apple's motions regarding sealing, filed contemporaneously herewith. I
4 have personal knowledge of the matters set forth below. If called as a witness I could and would
5 competently testify as follows.

6 2. I understand Apple seeks to seal two highly sensitive documents that disclose
7 Apple's market research and strategy. If disclosed to the public, this information would expose
8 Apple to serious competitive harm.

9 3. The first exhibit, APLNDC-Y0000027256-27303, contains a lengthy excerpt from
10 a quarterly iPhone buyer survey report for the fourth quarter of Apple's 2010 fiscal year. iPhone
11 buyer survey reports compile and analyze results obtained from the monthly surveys of iPhone
12 buyers that Apple conducts. The excerpt included from this survey reveals, country-by-country,
13 what is driving our customers to buy Apple's iPhone products versus other products such as the
14 Android products that Samsung sells. This report covers iPhone 4, a phone which Apple still
15 actively markets and sells today. We consider the report to be current and it contains information
16 of which we make active use.

17 4. The second exhibit, APLNDC-Y0000023361-23393 is a lengthy excerpt from an
18 August 2010 iPad buyer survey. The iPad buyer survey is very similar in nature to the iPhone
19 buyer surveys described above. It reports on and analyzes results obtained from surveys of iPad
20 buyers that Apple conducted in 2010. The filed excerpt discusses what is driving our customers'
21 decisions to purchase iPad, and provides detailed information on the features and attributes they
22 use. We still consider this information to be current and make use of it in our marketing and
23 product decisions. When iPad was first released in April 2010, there was no other product of its
24 kind. Obtaining information from August 2010 would be very valuable to companies who are
25 trying to put forward competing products

26 5. No competitor has access to our customer base to conduct the type of in-depth
27 analysis contained in our quarterly iPhone buyer surveys and the iPad buyer survey. Getting
28 access to this analysis would be of enormous benefit to our competitors. Today, a competitor

1 who is trying to take away Apple market share can only speculate as to the importance that
2 Apple's customers place, for instance, on FaceTime video calling, battery life, or Siri voice
3 capability. They have to guess as to what demographics – age, gender, occupation – are most
4 satisfied with Apple's products. Certainly, they do not know how the preferences of customers
5 in, for example, Japan differ from those in Australia, Korea, France or the United States. All of
6 that information is set out in exacting detail in the proposed exhibits. No other entity could
7 replicate this research because no other entity has access to the customer base that Apple has. .

8 6. Also important are the *conclusions* Apple has drawn from the data. Knowing
9 about Apple's customer base preferences is extremely useful to a competitor, but knowing about
10 what Apple thinks about its customer base preferences is even more valuable. If Apple had
11 access to this kind of in-depth analysis of our competitors, we could infer what product features
12 our competitors are likely to offer next, when, and in what markets. Our probability of success in
13 predicting our competitors' next move next would improve dramatically. Having that level of
14 insight and confidence in our competitors' next moves would allow us to target our efforts to
15 prepare products and marketing counterstrategies in the short term, and target our long-term
16 product plans to stay far ahead of the competition. Given unfettered access to Apple's recent
17 internal market research, I have no doubt that Apple's competitors would use it as described
18 above, resulting in serious competitive harm to Apple.

19 7. Because of the extreme sensitivity of this product research information,
20 distribution of the iPhone buyer surveys and iPad buyer surveys and tracking studies is very
21 tightly controlled within Apple. The documents are stamped as confidential on a "need to know"
22 basis. Consistent with this designation, *no* internally conducted surveys of Apple customers are
23 allowed to circulate outside a small, select group of Apple executives. No iPhone-related surveys
24 or iPad-related surveys are allowed to be distributed to *anyone* outside this group without my
25 personal express permission, which I regularly refuse. When I do approve further distribution, it
26 is almost always on a survey question-by-survey question basis, and even then distribution is
27 limited to individuals who have a demonstrated need to know.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ATTESTATION OF E-FILED SIGNATURE

I, Michael A. Jacobs, am the ECF User whose ID and password are being used to file this Declaration. In compliance with General Order 45, X.B., I hereby attest that Gregory Joswiak has concurred in this filing.

Dated: July 30, 2012

/s/ Michael A. Jacobs
Michael A. Jacobs