

WILMERHALE

August 1, 2012

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Honorable Lucy H. Koh
United States District Judge
Northern District of California
Courtroom 8, 4th Floor
280 S. First Street
San Jose, CA 95113

Re: *Apple Inc. v. Samsung Electronics Co. Ltd., et al.*,
Case No. 11-cv-01846 LHK (PSG)

Dear Judge Koh:

At the conclusion of yesterday's proceedings, the Court ordered Mr. Quinn to file a declaration by 9:00 a.m. this morning identifying who drafted the statement that Samsung released yesterday, who from Samsung's legal team authorized the release, who issued the release, and what Mr. Quinn's role was in the release.

Mr. Quinn's declaration acknowledges that he "approved and authorized the release of a brief statement" and the release of the exhibits (contained in demonstratives to be used in Samsung's opening) that had been excluded from evidence by the Court. Mr. Quinn, however, does not provide or address the text of the statement issued by Samsung. According to multiple press reports, the full text of the statement issued by Samsung yesterday is as follows:

The Judge's exclusion of evidence on independent creation meant that even though Apple was allowed to inaccurately argue to the jury that the F700 was an iPhone copy, Samsung was not allowed to tell the jury the full story and show the pre-iPhone design for that and other phones that were in development at Samsung in 2006, before the iPhone. The excluded evidence would have established beyond doubt that Samsung did not copy the iPhone design. Fundamental fairness requires that the jury decide the case based on all the evidence.

See, e.g., "Samsung, After 'Begging' to Get Sony Into Apple Patent Trial, Flouts Judge And Releases 'Excluded Evidence' Anyway" (www.forbes.com/sites/connieguglielmo/2012/07/31/samsung-after-begging-to-get-sony-into-apple-patent-trial-flouts-judge-and-releases-excluded-evidence-anyway/); "Samsung Goes Public With Excluded Evidence to Undercut Apple's Design Claims" (www.allthingsd.com/20120731/samsung-goes-public-with-excluded-evidence-to-undercut-apples-design-claims/). Mr. Quinn's declaration does not address two of the Court's questions: who drafted the statement and who released it.

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Samsung's multiple references to the jury in its statement make plain its intent that the jurors in our case learn of arguments the Court has excluded through the press. The press reports cited above have characterized Samsung's actions as "flouting" this Court's orders, and Apple agrees.

This deliberate attempt to influence the trial with inadmissible evidence is both improper and unethical. Accordingly, we write to inform the Court that Apple will be filing today an emergency motion for sanctions and other relief that may be appropriate. We will, of course, be available for a hearing at the Court's earliest convenience, and will be prepared to address this issue with the Court tomorrow.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "WFL", with a long horizontal flourish extending to the right.

William F. Lee

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cc: Counsel of Record for Samsung