1	HAROLD J. MCELHINNY (CA SBN 66781)	WILLIAM F. LEE
2	hmcelhinny@mofo.com MICHAEL A. JACOBS (CA SBN 111664)	william.lee@wilmerhale.com WILMER CUTLER PICKERING
3	mjacobs@mofo.com RACHEL KREVANS (CA SBN 116421)	HALE AND DORR LLP 60 State Street
4	rkrevans@mofo.com JENNIFER LEE TAYLOR (CA SBN 161368)	Boston, MA 02109 Telephone: (617) 526-6000
5	jtaylor@mofo.com ALISON M. TUCHER (CA SBN 171363)	Facsimile: (617) 526-5000
6	atucher@mofo.com RICHARD S.J. HUNG (CA SBN 197425)	MARK D. SELWYN (SBN 244180) mark.selwyn@wilmerhale.com WILMER CUTLER PICKERING
7	rhung@mofo.com JASON R. BARTLETT (CA SBN 214530)	HALE AND DORR LLP
8	jasonbartlett@mofo.com MORRISON & FOERSTER LLP 425 Market Street	950 Page Mill Road Palo Alto, California 94304 Telephone: (650) 858-6000
9	San Francisco, California 94105-2482 Telephone: (415) 268-7000	Facsimile: (650) 858-6100
10	Facsimile: (415) 268-7522	
11	Attorneys for Plaintiff and Counterclaim-Defendant APPLE INC	
12	Counterclaim-Defendant ATT LL INC	
13	UNITED STATES DI	STRICT COURT
14	NORTHERN DISTRICT	Γ OF CALIFORNIA
15	SAN JOSE D	IVISION
16		
16 17	APPLE INC., a California corporation,	Case No. 11-cv-01846-LHK
	APPLE INC., a California corporation, Plaintiff,	Case No. 11-cv-01846-LHK APPLE'S MOTION FOR RECONSIDERATION REGARDING
17	•	APPLE'S MOTION FOR RECONSIDERATION REGARDING RULINGS ON OBJECTIONS TO BRESSLER, KARE, SCHILLER,
17 18 19 20	Plaintiff, v. SAMSUNG ELECTRONICS CO., LTD., a Korean business entity; SAMSUNG	APPLE'S MOTION FOR RECONSIDERATION REGARDING RULINGS ON OBJECTIONS TO
17 18 19 20 21	Plaintiff, v. SAMSUNG ELECTRONICS CO., LTD., a Korean business entity; SAMSUNG ELECTRONICS AMERICA, INC., a New York corporation; SAMSUNG	APPLE'S MOTION FOR RECONSIDERATION REGARDING RULINGS ON OBJECTIONS TO BRESSLER, KARE, SCHILLER, DENISON & FORSTALL EXHIBITS
17 18 19 20 21 22	Plaintiff, v. SAMSUNG ELECTRONICS CO., LTD., a Korean business entity; SAMSUNG ELECTRONICS AMERICA, INC., a New York	APPLE'S MOTION FOR RECONSIDERATION REGARDING RULINGS ON OBJECTIONS TO BRESSLER, KARE, SCHILLER, DENISON & FORSTALL EXHIBITS
17 18 19 20 21 22 23	Plaintiff, v. SAMSUNG ELECTRONICS CO., LTD., a Korean business entity; SAMSUNG ELECTRONICS AMERICA, INC., a New York corporation; SAMSUNG TELECOMMUNICATIONS AMERICA, LLC, a	APPLE'S MOTION FOR RECONSIDERATION REGARDING RULINGS ON OBJECTIONS TO BRESSLER, KARE, SCHILLER, DENISON & FORSTALL EXHIBITS
17 18 19 20 21 22 23 24	Plaintiff, v. SAMSUNG ELECTRONICS CO., LTD., a Korean business entity; SAMSUNG ELECTRONICS AMERICA, INC., a New York corporation; SAMSUNG TELECOMMUNICATIONS AMERICA, LLC, a Delaware limited liability company,	APPLE'S MOTION FOR RECONSIDERATION REGARDING RULINGS ON OBJECTIONS TO BRESSLER, KARE, SCHILLER, DENISON & FORSTALL EXHIBITS
17 18 19 20 21 22 23 24 25	Plaintiff, v. SAMSUNG ELECTRONICS CO., LTD., a Korean business entity; SAMSUNG ELECTRONICS AMERICA, INC., a New York corporation; SAMSUNG TELECOMMUNICATIONS AMERICA, LLC, a Delaware limited liability company,	APPLE'S MOTION FOR RECONSIDERATION REGARDING RULINGS ON OBJECTIONS TO BRESSLER, KARE, SCHILLER, DENISON & FORSTALL EXHIBITS
17 18 19 20 21 22 23 24 25 26	Plaintiff, v. SAMSUNG ELECTRONICS CO., LTD., a Korean business entity; SAMSUNG ELECTRONICS AMERICA, INC., a New York corporation; SAMSUNG TELECOMMUNICATIONS AMERICA, LLC, a Delaware limited liability company,	APPLE'S MOTION FOR RECONSIDERATION REGARDING RULINGS ON OBJECTIONS TO BRESSLER, KARE, SCHILLER, DENISON & FORSTALL EXHIBITS
17 18 19 20 21 22 23 24 25	Plaintiff, v. SAMSUNG ELECTRONICS CO., LTD., a Korean business entity; SAMSUNG ELECTRONICS AMERICA, INC., a New York corporation; SAMSUNG TELECOMMUNICATIONS AMERICA, LLC, a Delaware limited liability company,	APPLE'S MOTION FOR RECONSIDERATION REGARDING RULINGS ON OBJECTIONS TO BRESSLER, KARE, SCHILLER, DENISON & FORSTALL EXHIBITS

I. Background.

The Court's procedures require that the parties identify their direct witnesses and related materials two days before their testimony at 7 p.m. ("the two-day rule"). (Dkt. No. 1267.) Apple thus identified and disclosed materials for Peter Bressler, Susan Kare, Philip Schiller, and Justin Denison on Sunday, July 29, 2012 for potential testimony on Tuesday, July 31, 2012.

Also per the Court's schedule, the parties briefed Samsung's objections to these exhibits on Monday, July 30, 2012 at 8 a.m. (Dkt. Nos. 1517 & 1518.) These witnesses ultimately did not testify on Tuesday, July 30, 2012 (except for Mr. Schiller briefly), and the Court did not resolve Samsung's objections to these witnesses' materials that day.

II. Samsung's new objections to previously identified (and objected to) exhibits.

Because Mr. Bressler, Ms. Kare, and Mr. Denison did not testify and Mr. Schiller's testimony had just begun, Apple disclosed a small set of additional exhibits on Wednesday:

- Peter Bressler: 3 demonstrative slides revised & 2 slides added
- Susan Kare: 3 demonstrative slides revised and 4 slides added (multiple other slides deleted for brevity)
- Peter Schiller: 1 demonstrative and 1 exhibit corrected (all typographical errors)
- Justin Denison: Deposition testimony supplemented with deposition errata, and 2 exhibits added

Apple also disclosed Scott Forstall as a potential witness for Friday, August 3, 2012.

Rather than objecting *only* to the limited supplemental witness disclosures and Mr. Forstall's materials, Samsung re-objected and added new objections for all five of these witnesses' direct exhibits and demonstratives. Samsung asserted *125*+ old and new objections to *95*+ exhibits or demonstrative slides. Its objections spanned six single-spaced pages and used vague phrases like "outside the scope" and "untimely disclosed." Samsung disclosed its objections late at night (at 12:26 a.m), forcing Apple to scramble to meet the Thursday 8:00 a.m. briefing deadline. Yet upon request, Samsung refused to identify the specific objections that it intended to brief within the parties' five page limit. (Hung Decl. Ex. A.)

On Thursday, August 2, 2012, the Court indicated that it would treat the parties' latest objections as superceding their earlier objections. (Dkt. 1544.) Believing that Samsung had waived its new objections to previously identified materials, Apple focused its limited five-page briefing on new or newly revised materials. The Court therefore entertained many of Samsung's objections that Apple did not have an opportunity to answer.

III. The Court sustains several of Samsung's objections.

Samsung's "object a lot, but vaguely" approach misled the Court into sustaining many of its objections -- including barebones, "untimely disclosed" ones that were patently false.

A. Peter Bressler Exhibits & Demonstratives

\mathbf{c}			
	EXH.	REASON FOR	ACTUAL
	NO.	SUSTAINING	FACTS
I		OBJECTION	
	PX3,	"The devices in PX3,	PX3 and PX4 were <u>disclosed</u> in the Bressler report at
l	PX4,	PX4, and PDX65-66 to	paragraphs 95-101 (D.I. 935-6 at 21-23) and <u>attached</u> as
	PDX55-	which Samsung now	exhibits 25 & 27 to the report. (Hung Decl. Ex. B.)
	PDX66	objects were either	
		omitted from the	Judge Grewal's order <u>never struck</u> PX3 or PX4 as untimely
		Bressler report or	disclosed. Indeed, Samsung <u>excluded</u> the related discussion
		struck from the	from the scope of its proposed order. (See D.I. 934-4 at 2
I		Bressler report by	(seeking to strike paragraphs 34, 51, 56, 60, 64-67, 68, 73,
		Judge Grewal's June	77-80, 81, 86, 89-92, 104, 110-127, 136, 141-143, 191-193, 255-259, 338-344, 358 and 360, but not paragraphs 95-101.))
		27, 2012 Order for being untimely	233-239, 338-344, 338 and 360, but not paragraphs 93-101.))
		disclosed." (Dkt. 1563	For the avoidance of any doubt, Apple has revised PX3 to
		at 2.)	substitute Galaxy SII i777 with the Samsung Galaxy S II
		at 2.)	T989 and deleted the third page of PX3. Each of the phones
			in revised PPX3 was cited in exhibit 25 of Bressler's report.
			in revised 11115 was ened in emilion 25 of Bressier's report.
	ı		PDX65-66 is a demonstrative relating to PX3 and PX4.
ŀ	PX133,	"These exhibits were	All five exhibits were <u>attached</u> to the Zhang Decl. ISO
	PX141,	untimely produced	Apple's preliminary injunction motion over a year ago.
Ì	PX142,	after the close of fact	See Dkt. No. 87-1 (PX174); Dkt. No. 87-2 (PX175); Dkt.
	PX174,	discovery." (Dkt. 1563	No. 87-31 (PX141); Dkt. No. 87-27 (PX133).
	PX175	at 2.)	
	PX152,	"These devices were	The devices are Samsung's devices.
	PX197,	never produced for	
	PX198	inspection during fact	Apple made them available for inspection during expert
		discovery and were not	discovery, but Samsung declined. (Hung Decl. Ex. C.)
I	ı	discussed in Bressler's	
		Report [T]hese	The devices were expressly discussed in Bressler's report at
ш			

APPLE MOT. FOR RECON. RE: RULINGS ON OBJ. TO BRESSLER, KARE, SCHILLER, DENISON & FORSTALL EXHS. Case No. 11-CV-01846-LHK

1	EXH. NO.	REASON FOR SUSTAINING	ACTUAL FACTS
2	110.	OBJECTION	FACIS
3		undisclosed devices are	paragraphs 95-101(D.I. 935-6 at 21-23) and <i>attached</i> as
		excluded pursuant to	exhibits 25 & 27 to the report. (Hung Decl. Ex. B.)
4		Judge Grewal's June	
5		27, 2012 Order striking	Judge Grewal's order <u>never struck</u> PX152, PX97, or PX198
3		portions of Bressler's	as untimely disclosed. Indeed, Samsung <u>excluded</u> the
6		Report that reference	related discussion from the scope of its proposed order. (D.I.
		undisclosed alternative	934-4 at 2 (seeking to strike paragraphs 34, 51, 56, 60, 64-
7		devices." (Dkt. 1563 at	67, 68, 73, 77-80, 81, 86, 89-92, 104, 110-127, 136, 141-143,
0	DY14 = 0	2.)	191-193, 255-259, 338-344, 358 and 360 – but not 95-101.))
8	PX173	"This exhibit was not	PX173 is discussed in the Bressler report at paragraph 104 at
9		considered by Bressler	page 35 (D.I. 935-6 at 24.). (Hung Decl. Ex. B.)
		in his expert report."	
10		(Dkt. 1563 at 3.)	

B. Susan Kare's Exhibits & Demonstratives

11

12	EXH. NO.	REASON FOR SUSTAINING	ACTUAL FACTS
13		OBJECTION	FACIS
14	PX38, PX55	"Because these exhibits were not timely disclosed	Interrogatory No. 7 did not ask for the identification of documents relating to willfulness. (Hung Decl. Ex. D.
15		in response to Interrog. No. 7 regarding evidence	(" state all facts supporting any contention by APPLE that Samsung has willfully infringed, diluted,
16		of willfulness, they may not be used for this	or falsely designated the origin of its products for each patent, trade dress, and trademark ").)
17		purpose." (Dkt. 1563 at	
18		4.)	The interrogatory's request for "all facts" does not mean that Apple waived its ability to rely on a
19			document. "[C]ourts are loath to require a party to write basically a portrait of their trial for the other
20			parties." <i>Roberts v. Heim</i> , 130 F.R.D. 424, 427 (N.D. Cal. 1989. For this reason, "contention interrogatories.
21			seek[ing] 'all facts' are overly broad and unduly
22			burdensome on their face." <i>In re eBay Seller Antitrust Litigation</i> , 2008 WL 5212170, at *2, No. C 07-1882 JF
23			(RS) (N.D. Cal. Dec. 11, 2008).
24			Regardless, Apple referred to documents relating to Samsung's copying as supporting its willfulness. (<i>Id.</i>
25			(referring to "all documents that Samsung has produced, and continues to produce evidencing
26			comparisons, analyses, studies, teardowns, and
27	DX/1.4.2.4	(([77]	investigations of Apple products").)
20	PX14.34,	"[T]hese pages contain	PDX14.34-36 depict a page from PX44. This page
28	14.36	an argument not	from PX44 is <u>expressly identified</u> and discussed at

1	EXH. NO.	REASON FOR SUSTAINING	ACTUAL FACTS
2		OBJECTION	
3		disclosed in Kare's expert reports[]"	Kare report ¶ 89. (Hung Decl. Ex. E at 50 (referring to Bates label SAMNDCA00204006.)
4	PDX14.37	"[T]hese pages contain an argument not	PDX14.37 depicts a page from PX55. This specific page of PX55 is <i>expressly identified</i> and discussed at
5		disclosed in Kare's	Kare report ¶ 85. (Hung Decl. Ex. E at 48 (referring to
6		expert reports[] and that PDX14.37 contains an	black & white version of PX55, at Bates label SAMNDCA10252515.)
7		excerpt from PX55, which was not timely	See also PX55, above.
8		disclosed in response to	see also 1 Ass, above.
9		Samsung's Interrog. No. 7 regarding willfulness."	

C. **Justin Denison's Exhibits & Demonstratives**

10

11

12

13

14

15

16

17

18

19

EXH.	REASON FOR SUSTAINING OBJECTION	ACTUAL
NO.		FACTS
PX38	"PX38 was not identified in response to Samsung's contention	See PX55 (Kare),
	Interrog. No. 7 regarding willfulness, and therefore may not be	above.
	used for this purpose." (Dkt. 1563 at 5.)	
PX62	"PX62 was not identified in response to Samsung's contention	See PX55 (Kare),
	Interrog. No. 7 regarding willfulness, and therefore may not be	above.
	used for this purpose." (Dkt. 1563 at 5.)	

D. **Scott Forstall's Exhibits & Demonstratives**

Samsung's vague "outside the scope" objection gave Apple no notice of its intent to argue that Apple's initial disclosures barred Mr. Forstall's testimony. (Hung Decl. Ex. A.) Apple provides a complete recitation of the relevant facts as they pertain to Mr. Forstall below.

20			
	EXH.	REASON FOR	ACTUAL
21	NO.	SUSTAINING	FACTS
22		OBJECTION	
22	JX1042,	"The discovery	Mr. Forstall is Apple's SVP of iOS. Apple's Rule 26(a)(1)
23	JX1044,	disclosures	disclosures indicated that he is knowledgeable about "[t]he
23	JX1045,	provided by	pertinent Apple patents-in-suit, including, conception, reduction to
24	PX12,	Samsung show	practice, and inventorship; Apple products embodying the
	PX19,	that Apple only	inventions claimed by the pertinent Apple patents-in-suit, and
25	PDX17-	indicated that	other Apple products." (Hung Decl. Ex. F.) This was sufficient.
26	18,	Forstall had	Cf. Lithuanian Commerce Corp. v. Sara Lee Hosiery, 177 F.R.D.
26	PDX20-	discoverable	245, 278 (D.N.J. 1997) (disclosure of general areas of knowledge
27	24	information	sufficient under Rule 26). Additionally:
- '		regarding the	
28		'163 Patent in its	[JX1042 – D'305 patent/icons] Mr. Forstall testified regarding

APPLE MOT. FOR RECON. RE: RULINGS ON OBJ. TO BRESSLER, KARE, SCHILLER, DENISON & FORSTALL EXHS. Case No. 11-CV-01846-LHK sf-3178692

initial disclosures and its amendment to its initial disclosures. There was no indication in these disclosures that Mr. Forstall would have discoverable information on the '915 Patent, '381 Patent, or the D'305 Patent." Mr. Forstall was deposed over several days in this action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) NO. SUSTAINING OBJECTION initial disclosures that it is and its amendment to its initial disclosures. There was no indication in these disclosures that Mr. Forstall would have discoverable information on the '915 Patent, '381 Patent, or the D'305 Patent." Mr. Forstall was asked and testified about with sort of touch and gestures for things like scrolling; other things included in that, but that was one of them." Mr. Forstall specifically testified about scrolling, zoomin how the phone operates. (Hung Decl. Ex. G at 28:19-22 we had things like pinch to zoom, and so you could put when the phone operates. (Hung Decl. Ex. G at 28:19-22 we had things like pinch to zoom, and so you could put when the phone operates. (Hung Decl. Ex. G at 28:19-22 we had things like pinch to zoom, and so you could put how the phone operates. (Hung Decl. Ex. G at 28:19-22 we had things like pinch to zoom, and so you could put how the phone operates. (Hung Decl. Ex. G at 28:19-22 we had things like pinch to zoom, and so you could put how the phone operates. (Hung Decl. Ex. G at 28:19-22 we had things like pinch to zoom, and so you could put how the phone operates. (Hung Decl. Ex. G at 28:19-22 we had things like pinch to zoom, and so you could put how the phone operates. (Hung Decl. Ex. G at 28:19-22 we had things like pinch to zoom, and so you could put how the phone operates. (Hung Decl. Ex. G at 28:19-22 we had things like pinch to zoom, and so you could put how the phone operates. (Hung Decl. Ex. G at 28:19-22 we had things like pinch to zoom, and so you could put how the phone operates. (Hung Decl. Ex. G at 28:19-22 we had the first we had to figure out a way,	1 EXH.	DEACON EOD	ACTITAT
initial disclosures and its amendment to its initial disclosures. There was no indication in these disclosures that Mr. Forstall would have discoverable information on the '915 Patent, '381 Patent, or the D'305 Patent." Mapple noted that Forstall was deposed over several days in this action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) OBJECTION initial disclosures that Mr. Forstall was amendment to its initial disclosures. There was no indicate on what topics he was deposed." (Dkt. 1563 at 6.) OBJECTION initial disclosures that Mr. Forstall samendment to its initial disclosures. There was no indicate on what topics he was deposed." (Dkt. 1563 at 6.) OBJECTION initial disclosures that the trounded recs was something that we care because it looked uniquely ours, and we didn't want to merge calls").) IX1044 - '915 patent/scroll/gestures: PDX23 scrol zooming video] Mr. Forstall was asked and testified about the many things. There was a patent with sort of touch and gestures for things like scrolling; other things included in that, but that was one of them." Mr. Forstall specifically testified about scrolling, zoomin how the phone operates. (Hung Decl. Ex. G at 28:19-22 we had things like pinch to zoom, and so you could put fingers down and – and I guess we call this a depinch. Ypinch together actually shrinks it down, but a depinch. Ypinch together actually shrinks it down, but a depinch. Ypinch together actually shrinks it down, but a depinch. Ypinch together actually shrinks it down, but a depinch. Ypinch together actually shrinks it down, but a depinch. Ypinch together actually shrinks it down, but a depinch. Ypinch together actually shrinks it down, but a depinch. Ypinch together actually shrinks it down, but a depinch. Ypinch together actually shrinks it down, but a depinch. Ypinch together actually shrinks it down, but a depinch. Ypinch together actually shrinks it down, but a depinch. Ypinch together actually shrinks it down, but a depinch. Y	231111		ACTUAL FACTS
and its amendment to its initial disclosures. There was no indication in these disclosures that Mr. Forstall would have discoverable information on the '915 Patent, '381 Patent, or the D'305 Patent." "Apple noted that Forstall was deposed over several days in this action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) In the se disclosures that Wr. Forstall was one of the specifically testified about the visual patents deal with many things. There was a patent with sort of touch and gestures for things like scrolling; other things included in that, but that was one of them." Mr. Forstall specifically testified about scrolling, zoomin how the phone operates. (Hung Decl. Ex. G at 28:19-22 we had things like pinch to zoom, and so you could put fingers down and – and I guess we call this a depinch. Ye so many completely unsolved problems that we had to to the indicate on what topics he was deposed." (Dkt. 1563 at 6.) In these disclosures that Wr. Forstall was asked and testified about the was a patent with sort of fouch and gestures for things like scrolling; other things included in that, but that was one of them." Mr. Forstall specifically testified about scrolling, zoomin how the phone operates. (Hung Decl. Ex. G at 28:19-22 we had things like pinch to zoom, and so you could put fingers down and – and I guess we call this a depinch. Ye in the same to princh together actually shrinks it down, but a depinch. Ye in the same to princh together actually shrinks it down, but a depinch. Ye in the same to princh together actually shrinks it down, but a depinch. Ye in the same to princh together actually shrinks it down, but a depinch. Ye in the same to princh together actually shrinks it down, but a depinch. Ye in the same to princh together actually shrinks it down, but a depinch. Ye in the same to princh together actually shrinks it down, but a depinch. Ye in the same together actually shrinks it down, but a depinch to what to figure out a way, [W]e can a numbe	2		TACIS
amendment to its initial disclosures. There was no indication in these disclosures that Mr. Forstall would have discoverable information on the '915 Patent, '381 Patent, or the D'305 Patent." "Apple noted that Forstall was deposed over several days in this action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) "Amount of the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) "Amount of the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) "Amount of touch and gestures for things like scrolling, zoomin how the phone operates. (Hung Decl. Ex. G at 28:19-22 we had things like pinch to zoom, and so you could put fingers down and — and I guess we call this a depinch. Ye so many completely unsolved problems that we had to to touch input, to scroll something in the way the user wou even though there is imprecise input here [W]e can a number of ways to figure out that the user intends to svertical there's other examples that we have, horizon other dimensions as well — but to determine that's their it then scroll in that dimension.").) [JX1045 — 381 patent/srubberbanding. PDX24 (rubbe video) Mr. Forstall testified about the 'zoom' and "bounce" eff (Hung Decl. Ex. G at 202:5-10 ("Was the rubber banding is on sort of key things for the fluidity of the iPhone and — am iOS, and so I know that it was one of the ones that Steve cared about.").) As noted above, Mr. Forstall testified about the '381 and	3		icons. (Hung Decl. Ex. G at 216:17-23 ("I know like the design of icons with the rounded recs was something that we cared about
There was no indication in these disclosures that Mr. Forstall would have discoverable information on the '915 Patent, '381 Patent, or the D'305 Patent." Mapple noted that Forstall was deposed over several days in this action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) There was no indication in these disclosures that Mr. Forstall was asked and testified about you had have discoverable information on the '915 Patent, or the D'305 Patent." Mr. Forstall specifically testified about serolling, zoomin how the phone operates. (Hung Decl. Ex. G at 28:19-22 we had things like pinch to zoom, and so you could put fingers down and – and I guess we call this a depinch. You whad things like pinch to zoom, and so you could put fingers down and – and I guess we call this a depinch. And so we had to figure out a way, with this touch a number of ways to figure out that the user intends to so other dimensions as well — but to determine that's their then scroll in that dimension.").) [JX1045 - '381 patent/rubberbanding; PDX24 (rubbe video] Mr. Forstall testified about looking at a patent with rubberbanding." (Hung Decl. Ex. G at 8:12-13.) F specifically testified about the "zoom" and "bounce" eff (Hung Decl. Ex. G at 202:5-10 ("Was the rubber banding discussed after that first meeting? Rubber banding is on sort of key things for the fluidity of the iPhone and – and iOS, and so I know that it was one of the ones that Steve cared about.").) As noted above, Mr. Forstall testified about the '381 and	4	amendment to its	because it looked uniquely ours, and we didn't want other
these disclosures that Mr. Forstall would have discoverable information on the '915 Patent, '381 Patent, or the D'305 Patent." "Apple noted that Forstall was deposed over several days in this action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) Ithis action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) Ithis action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) Ithis action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) Ithis action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) Ithis action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) Ithis action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) Ithis action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) Ithis action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) Ithis action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) Ithis action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) Ithis action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) Ithis action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) Ithis action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) Ithis action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) Ithis action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) Ithis action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) Ithis action and the ITC action, but does not indicate on what topics he was	5	There was no	one of the specific ones that we had talked about was the icon used
would have discoverable information on the '915 Patent, '381 Patent, or the D'305 Patent." Mr. Forstall was aked and testified about the '915 Patent, '381 Patent, or the D'305 Patent." Mr. Forstall was in this action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) Mr. Forstall specifically testified about scrolling, zoom how the phone operates. (Hung Decl. Ex. G at 28:19-24 that the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) Mr. Forstall specifically testified about scrolling, zoom how the phone operates. (Hung Decl. Ex. G at 28:19-24 that 23:24-24:17 ("And when creating the iPhone, to so many completely unsolved problems that we had to the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) Mr. Forstall specifically testified about scrolling, zoom how the phone operates. (Hung Decl. Ex. G at 28:19-24:17 ("And when creating the iPhone, to so many completely unsolved problems that we had to figure out a way, with this touch a touch input, to scroll something in the way the user wou other dimensions as well but to determine that's their intensication that the user intends to so vertical there's other examples that we have, horizon other dimensions as well but to determine that's their intensication that the user intends to so vertical there's other examples that we have, horizon other dimensions as well but to determine that's their intensication that the user intends to so vertical there's other examples that we have, horizon other dimensions as well but to determine that's their intensication that the user intends to so vertical there's other examples that we have, horizon other dimensions as well but to determine that's their intensication that the user intends to so were all this a depinch. Yellow the many of the iPhone, to many of	6		to merge calls ").)
discoverable information on the '915 Patent, '381 Patent, or the D'305 Patent." Mr. Forstall specifically testified about scrolling, zoomi how the phone operates. (Hung Decl. Ex. G at 28:19-22 we had things like pinch to zoom, and so you could put fingers down and — and I guess we call this a depinch. Ye so many completely unsolved problems that we had to touch indicate on what topics he was deposed." (Dkt. 1563 at 6.) Mr. Forstall specifically testified about scrolling, zoomi how the phone operates. (Hung Decl. Ex. G at 28:19-22 we had things like pinch to zoom, and so you could put fingers down and — and I guess we call this a depinch. Ye so many completely unsolved problems that we had to tand so we had to figure out a way, with this touch a topics he was deposed." (Dkt. 1563 at 6.) In this action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) In this action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) In this action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) In this action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) In this action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) In this action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) In this action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) In this action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) In this action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) In this action and the ITC action, but determine we had to transfer actually shrinks it down, but a depinch. Ye actually shrinks it down	7		[JX1044 – '915 patent/scroll/gestures; PDX23 scrolling and zooming video] Mr. Forstall was asked and testified about the
well, patents deal with many things. There was a patent with sort of touch and gestures for things like scrolling; other things included in that, but that was one of them." Mr. Forstall specifically testified about scrolling, zoomi how the phone operates. (Hung Decl. Ex. G at 28:19-22 we had things like pinch to zoom, and so you could put fingers down and – and I guess we call this a depinch. 2Ex. H at 23:24-24:17 ("And when creating the iPhone, t so many completely unsolved problems that we had to the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) In this action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) In this action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) In this action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) In this action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) In this action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) In this action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) In this action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) In this action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) In this action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) In this action and the ITC action, but does not indicate on what topics he was deposed." (Pkt. 1563 at 6.) In this action and the ITC action, but does not indicate on what topics he was deposed." (Pkt. 1563 at 6.) In this princh to zoom, and so you could put fingers down and – and I guess we call this a depinch. The princh to zoom, and so you could put fingers down and – and I guess we call this a depinch. The princh to zoom, and so you could put fingers down and – and I gu	8	discoverable	'915 patent. (Hung Decl. Ex. H at 7:24-8:6 ("Q. Okay. And what patents did you look at? A. There was one patent that deals with
other things included in that, but that was one of them." 12	9	the '915 Patent,	well, patents deal with many things. There was a patent that deals with sort of touch and gestures for things like scrolling; a lot of
Patent." Mr. Forstall specifically testified about scrolling, zoomi how the phone operates. (Hung Decl. Ex. G at 28:19-22 we had things like pinch to zoom, and so you could put fingers down and – and I guess we call this a depinch. You pinch together actually shrinks it down, but a depinch zo Ex. H at 23:24-24:17 ("And when creating the iPhone, together actually shrinks it down, but a depinch zo Ex. H at 23:24-24:17 ("And when creating the iPhone, together actually shrinks it down, but a depinch zo Ex. H at 23:24-24:17 ("And when creating the iPhone, together actually shrinks it down, but a depinch zo Ex. H at 23:24-24:17 ("And when creating the iPhone, together actually shrinks it down, but a depinch zo Ex. H at 23:24-24:17 ("And when creating the iPhone, together actually shrinks it down, but a depinch zo Ex. H at 23:24-24:17 ("And when creating the iPhone, together actually shrinks it down, but a depinch zo Ex. H at 23:24-24:17 ("And when creating the iPhone, together actually shrinks it down, but a depinch zo Ex. H at 23:24-24:17 ("And when creating the iPhone, together actually shrinks it down, but a depinch zo Ex. H at 23:24-24:17 ("And when creating the iPhone, together actually shrinks it down, but a depinch zo many completely unsolved problems that we had to touch input, to scroll something in the way the user work though there is imprecise input here [W]e can a number of ways to figure out that the user intends to so wertical there's other examples that we have, horizon other dimensions as well but to determine that's their intended to the strength and touch input, to scroll something in the way the user work the something in the way the user work to something in the way the user work t	10		other things included in that, but that was one of them.").)
"Apple noted that Forstall was deposed over several days in this action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) We had things like pinch to zoom, and so you could put fingers down and – and I guess we call this a depinch. You pinch together actually shrinks it down, but a depinch. You pinch together actually shrinks it down, but a depinch. You pinch together actually shrinks it down, but a depinch. You pinch together actually shrinks it down, but a depinch. You have the indicate on this action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) We had things like pinch to zoom, and so you could put fingers down and – and I guess we call this a depinch. You have the indicate of the indicate of the indicate on what together actually shrinks it down, but a depinch. You have the indicate on the indicate of the indicate on the indicate on what to together actually shrinks it down, but a depinch. You have the indicate of the indicate on the indicate on the indicate on the indicate on what to some provide indicate on the indicate on the indicate on the indicate on the indicate on what to some provide indicate on the indicate	11		Mr. Forstall specifically testified about scrolling, zooming, and how the phone operates. (Hung Decl. Ex. G at 28:19-22 ("And so
pinch together actually shrinks it down, but a depinch zo several days in this action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) IMPLICATE STATE STA	12	1 1	we had things like pinch to zoom, and so you could put two fingers down and – and I guess we call this a depinch. You know,
several days in this action and the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) So many completely unsolved problems that we had to the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) INSURABLE SEVERAL SEVERA	13		pinch together actually shrinks it down, but a depinch zooms in.");
the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) the ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) ITC action, but does not indicate on what topics he was deposed." (Dkt. 1563 at 6.) ITC action, but does not indicate on what the user intends to so vertical there's other examples that we have, horizon other dimensions as well but to determine that's their intends to so the samples that we have, horizon other dimensions as well but to determine that's their intends to so the samples that we have, horizon other dimensions.").) ITC action in the way the user would even though there is imprecise input here [W]e can a number of ways to figure out that the user intends to so vertical there's other examples that we have, horizon other dimensions as well but to determine that's their intends to so the control of the indicate on white it was a patent "Control of the indicate on the samples that the user intends to so the vertical there's other examples that we have, horizon other dimensions. ITC action in the way the user would an unmber of ways to figure out that the user intends to so the control of the indicate on the samples that the user intends to so the control of the indicate on the samples that we have, horizon other dimensions. ITC action in the vertical	14		so many completely unsolved problems that we had to tackle
a number of ways to figure out that the user intends to so vertical there's other examples that we have, horizon other dimensions as well but to determine that's their then scroll in that dimension.").) [JX1045 - 2381 patent/rubberbanding; PDX24 (rubber video] Mr. Forstall testified about looking at a patent "owith rubberbanding." (Hung Decl. Ex. G at 8:12-13.) If specifically testified about the "zoom" and "bounce" effective (Hung Decl. Ex. G at 202:5-10 ("Was the rubber banding discussed after that first meeting? Rubber banding is on sort of key things for the fluidity of the iPhone and – and iOS, and so I know that it was one of the ones that Steve cared about.").) As noted above, Mr. Forstall testified about the '381 and	15	the ITC action,	touch input, to scroll something in the way the user would want it, even though there is imprecise input here [W]e came up with
other dimensions as well but to determine that's their then scroll in that dimension.").) [JX1045 - '381 patent/rubberbanding; PDX24 (rubber video] Mr. Forstall testified about looking at a patent "owith rubberbanding." (Hung Decl. Ex. G at 8:12-13.) If specifically testified about the "zoom" and "bounce" effort (Hung Decl. Ex. G at 202:5-10 ("Was the rubber banding discussed after that first meeting? Rubber banding is one sort of key things for the fluidity of the iPhone and – and iOS, and so I know that it was one of the ones that Steve cared about.").) As noted above, Mr. Forstall testified about the '381 and	16	indicate on what	a number of ways to figure out that the user intends to scroll this vertical there's other examples that we have, horizontal and
[JX1045 – '381 patent/rubberbanding; PDX24 (rubber video] Mr. Forstall testified about looking at a patent "owith rubberbanding." (Hung Decl. Ex. G at 8:12-13.) If specifically testified about the "zoom" and "bounce" effort (Hung Decl. Ex. G at 202:5-10 ("Was the rubber banding discussed after that first meeting? Rubber banding is one sort of key things for the fluidity of the iPhone and – and iOS, and so I know that it was one of the ones that Steve cared about.").) As noted above, Mr. Forstall testified about the '381 and	17	-	other dimensions as well but to determine that's their intent, and
video] Mr. Forstall testified about looking at a patent "of with rubberbanding." (Hung Decl. Ex. G at 8:12-13.) If specifically testified about the "zoom" and "bounce" eff (Hung Decl. Ex. G at 202:5-10 ("Was the rubber banding discussed after that first meeting? Rubber banding is on sort of key things for the fluidity of the iPhone and – and iOS, and so I know that it was one of the ones that Steve cared about.").) As noted above, Mr. Forstall testified about the '381 and	18	1563 at 6.)	
specifically testified about the "zoom" and "bounce" eff (Hung Decl. Ex. G at 202:5-10 ("Was the rubber banding discussed after that first meeting? Rubber banding is on sort of key things for the fluidity of the iPhone and – and iOS, and so I know that it was one of the ones that Steve cared about.").) As noted above, Mr. Forstall testified about the '381 and	19		video] Mr. Forstall testified about looking at a patent "dealing
21 (Hung Decl. Ex. G at 202:5-10 ("Was the rubber banding discussed after that first meeting? Rubber banding is on sort of key things for the fluidity of the iPhone and – and iOS, and so I know that it was one of the ones that Steve cared about.").) 24 As noted above, Mr. Forstall testified about the '381 and	20		with rubberbanding." (Hung Decl. Ex. G at 8:12-13.) He specifically testified about the "zoom" and "bounce" effects.
sort of key things for the fluidity of the iPhone and – and iOS, and so I know that it was one of the ones that Steve cared about.").) As noted above, Mr. Forstall testified about the '381 and	21		(Hung Decl. Ex. G at 202:5-10 ("Was the rubber banding
cared about.").) As noted above, Mr. Forstall testified about the '381 and	22		sort of key things for the fluidity of the iPhone and – and all of
As noted above, Wil. I distant testified about the 381 and	23		
	24		As noted above, Mr. Forstall testified about the '381 and '915
/)	25		patents, icons, and other graphical user interface topics such as scrolling, pinching, zooming, gestures. He should be allowed to
testify on at least these topics.	26		

APPLE MOT. FOR RECON. RE: RULINGS ON OBJ. TO BRESSLER, KARE, SCHILLER, DENISON & FORSTALL EXHS. Case No. 11-CV-01846-LHK sf-3178692

1 2	Dated: August 3, 2012	MORRISON & FOERSTER LLP
3		By: /s/ Michael A. Jacobs Michael A. Jacobs
4		
5		Attorneys for Plaintiff APPLE INC.
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
1617		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		
20		

APPLE MOT. FOR RECON. RE: RULINGS ON OBJ. TO BRESSLER, KARE, SCHILLER, DENISON & FORSTALL EXHS. Case No. 11-CV-01846-LHK sf-3178692