

EXHIBIT

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SUBJECT TO PROTECTIVE ORDER
CONTAINS CONFIDENTIAL INFORMATION

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*Attorneys for Plaintiff and
Counterclaim-Defendant Apple Inc.*

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

16 APPLE INC., a California corporation,

17 Plaintiff,

18 vs.

19 SAMSUNG ELECTRONICS CO., LTD., a
20 Korean business entity, SAMSUNG
21 ELECTRONICS AMERICA, INC., a New
22 York corporation, and SAMSUNG
TELECOMMUNICATIONS AMERICA,
LLC, a Delaware limited liability company,

23 Defendants.

Civil Action No. 11-CV-01846-LHK

**APPLE INC.'S OBJECTIONS AND
RESPONSES TO SAMSUNG'S FOURTH
SET OF INTERROGATORIES**

**CONFIDENTIAL UNDER THE
PROTECTIVE ORDER**

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1 **INTERROGATORY NO. 71:**

2 Separately for each SAMSUNG product or product packaging that YOU contend
3 infringes any APPLE TRADE DRESS or APPLE TRADEMARK, state fully and in detail on a
4 trade dress-by-trade dress and trademark-by-trademark basis all facts that support YOUR
5 contention that the SAMSUNG product or product packaging is likely to cause confusion, cause
6 mistake, or deceive consumers as to the affiliation, connection, or association of SAMSUNG
7 with APPLE, or as to origin, sponsorship, or approval by APPLE of SAMSUNG'S goods,
8 services or commercial activities.

9 **RESPONSE TO INTERROGATORY NO. 71:**

10
11 Apple objects to the phrase "fully and in detail" as vague and ambiguous. Apple objects
12 to this Interrogatory as unduly burdensome, overbroad, and impracticable to the extent that it
13 requests Apple to state "all facts" supporting Apple's contention "fully and in detail," especially
14 given the late date in the discovery period at which this Interrogatory was propounded. Apple
15 further objects to this Interrogatory to the extent it seeks information that: (i) would require
16 Apple to draw a legal conclusion to respond; (ii) is outside of Apple's possession, custody, or
17 control; (iii) can be obtained as easily by Samsung, is already in Samsung's possession, or is
18 publicly available; or (iv) is subject to a confidentiality or nondisclosure agreement or governed
19 by a protective order preventing its production.

20
21 Subject to and incorporating its General Objections and its specific objections, Apple
22 responds as follows with respect to the Samsung products accused in Apple's Amended
23 Complaint:

24 Samsung is infringing Apple's Original iPhone Trade Dress, iPhone 3G Trade Dress,
25 iPhone 4 Trade Dress, iPhone Trade Dress, iPad Trade Dress, iPad 2 Trade Dress and the trade
26 dress registered in U.S. Trademark Reg. Nos. 3,470,983, 3,457,218, and 3,475,327 by
27

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1 advertising and selling a wide variety of lookalike products, including without limitation Galaxy,
 2 Galaxy S, and Galaxy SII products such as Captivate, Continuum, Droid Charge, Epic 4G,
 3 Fascinate, Galaxy Ace, Galaxy Prevail, Galaxy S (i9000), Galaxy S 4G, Galaxy S II (AT&T
 4 Edition, 4G), Galaxy S II (i9100), Galaxy S II (T-Mobile edition), Galaxy S II Epic 4G Touch,
 5 Galaxy S II Skyrocket (4G LTE), Galaxy S Showcase (i500), Infuse 4G, Mesmerize, Vibrant,
 6 Galaxy Tab 7.0, Galaxy Tab 7.0 Plus, Galaxy Tab 10.1, and Galaxy Tab 10.1 LTE. These
 7 products were intentionally designed to look like Apple products in their hardware and user
 8 interface design and infringe Apple's trade dress rights, as shown in the charts below.
 9

Trade Dress

- 10
 11 **A. Original iPhone Trade Dress; iPhone 3G Trade Dress; iPhone 4 Trade Dress;**
iPhone Trade Dress; U.S. Trademark Registration Nos. 3,470,983; 3,457,218;
 12 **3,475,327**

Trade Dress		
Original iPhone Trade Dress; iPhone Trade Dress	iPhone 3G Trade Dress	iPhone 4 Trade Dress
		
U.S. Reg. No. 3,470,983	U.S. Reg. No. 3,457,218	U.S. Reg. No. 3,475,327

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Accused Samsung Designs



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Galaxy S (i9000)



Galaxy S 4G



Galaxy S II (AT&T Edition, 4G)



Galaxy S II (i9100)



Galaxy S II (T-Mobile edition)



Galaxy S II Epic 4G Touch

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Galaxy S II Skyrocket (4G LTE)



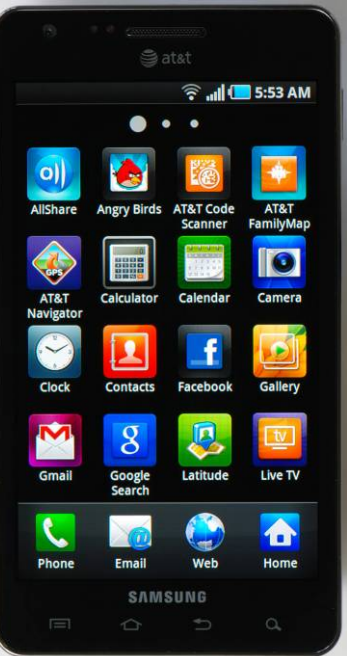
Galaxy S Showcase (i500)



Infuse 4G



Mesmerize



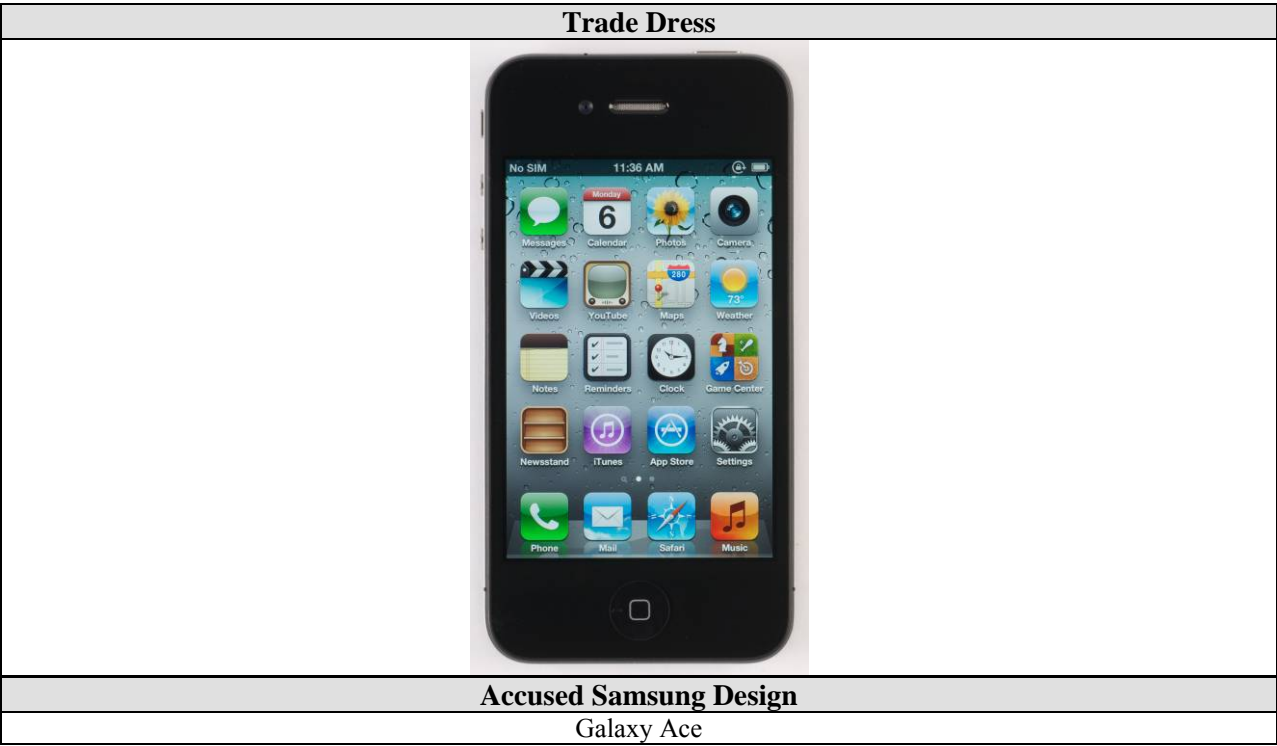
Vibrant

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B. iPhone 4 Trade Dress

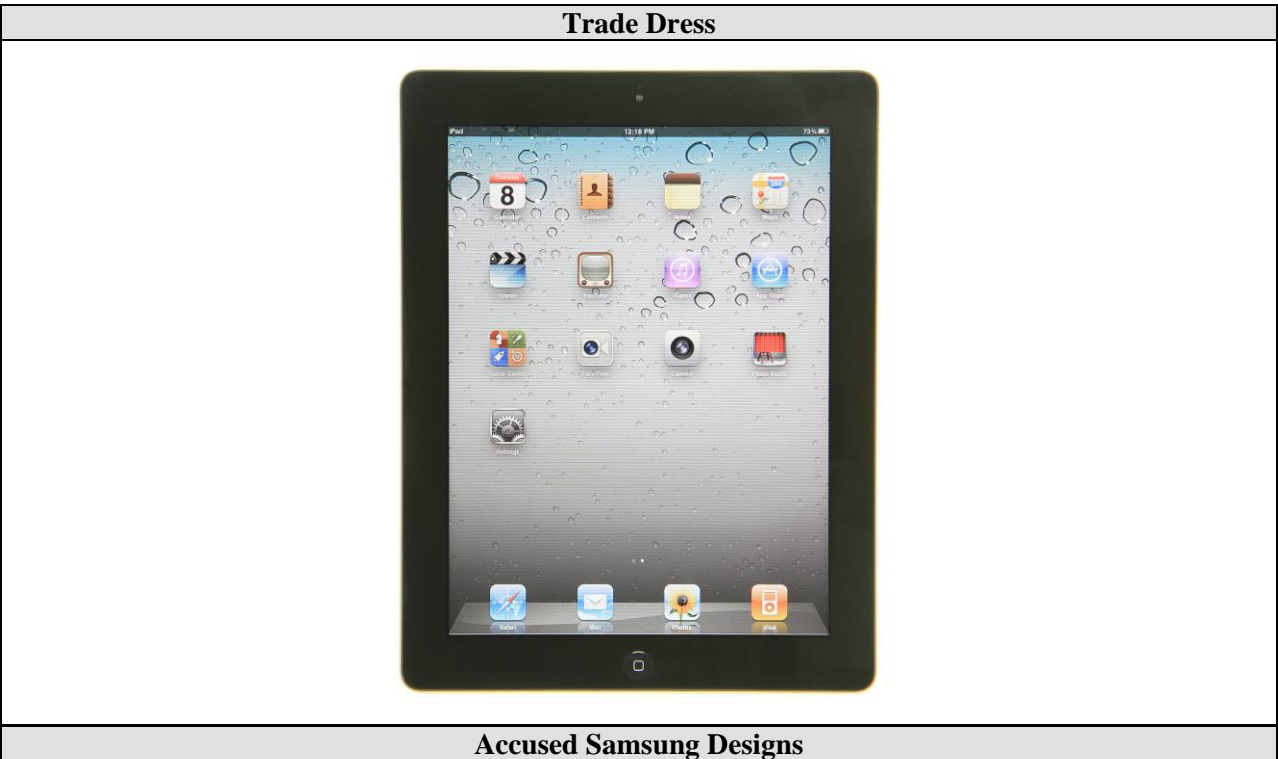


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C. iPad Trade Dress and iPad2 Trade Dress



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Galaxy Tab 7.0



Galaxy Tab 7.0 Plus



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Galaxy Tab 10.1



Galaxy Tab 10.1 LTE

Samsung is also infringing Apple's icon trademarks by advertising and selling a wide variety of products using confusingly similar icons, including without limitation phones and products such as Captivate; Continuum; Droid Charge; Epic 4G; Exhibit 4G; Fascinate; Galaxy Ace; Galaxy S (i9000); Galaxy S 4G; Galaxy S II (AT&T Edition, 4G); Galaxy S II (T-Mobile Edition); Galaxy S II Epic 4G Touch; Galaxy S II Skyrocket (4G LTE); Galaxy S Showcase; Gem; Gravity Smart; Indulge; Infuse 4G; Mesmerize; and Vibrant. The icons on these products were intentionally designed to look like Apple's icons and infringe Apple's trademark rights, as shown in the charts below.






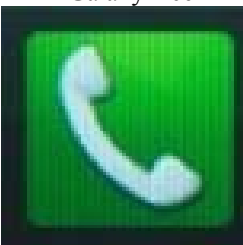

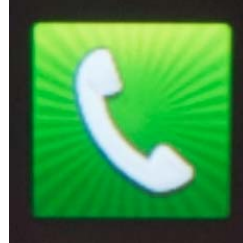
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Icon Trademarks










I. 3,886,196 – Trademark Icon for Telephone Calls



<p style="text-align: center;">Captivate</p> 	<p style="text-align: center;">Continuum</p> 	<p style="text-align: center;">Droid Charge</p> 	<p style="text-align: center;">Epic 4G</p> 
<p style="text-align: center;">Exhibit 4G</p> 	<p style="text-align: center;">Fascinate</p> 	<p style="text-align: center;">Galaxy Ace</p> 	<p style="text-align: center;">Galaxy S (i9000)</p> 
<p style="text-align: center;">Galaxy S 4G</p> 	<p style="text-align: center;">Galaxy S II (AT&T Edition, 4G)</p> 	<p style="text-align: center;">Galaxy S II (i9100)</p> 	<p style="text-align: center;">Galaxy S II (T-Mobile Edition)</p> 

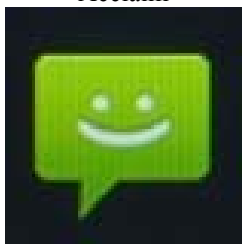



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Galaxy S II Epic 4G Touch 	Galaxy S II Skyrocket (4G LTE) 	Galaxy S Showcase 	Gem 
Gravity Smart 	Indulge 	Infuse 4G 	Mesmerize 
Vibrant 			

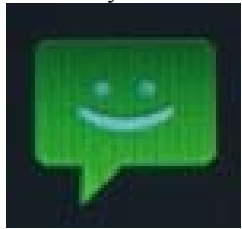
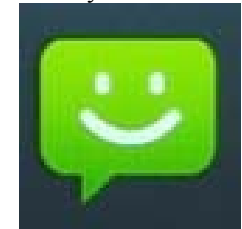
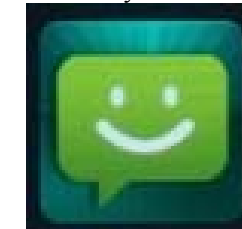

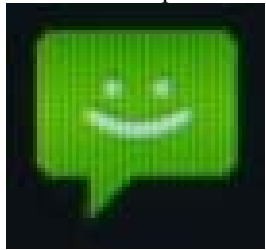



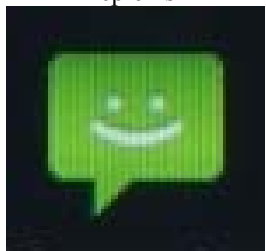
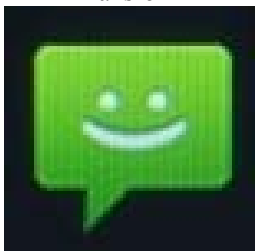
J. 3,889,642 – Trademark Icon for Messaging



Acclaim 	Continuum 	Droid Charge 	Fascinate 
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Galaxy Prevail 	Galaxy S Showcase 	Galaxy Tab 7.0 	Gem 
Intercept 	Mesmerize 	Nexus S 	Nexus S 4G 
Replenish 	Transform 		



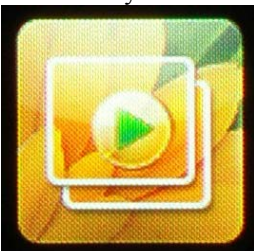

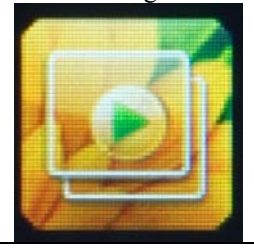

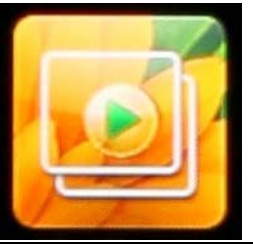
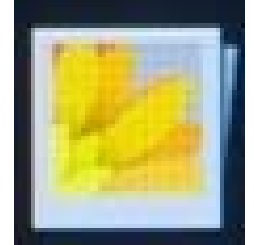

K. 3,886,200 – Trademark Icon for Photos



Captive 	Continuum 	Droid Charge 	Epic 4G 
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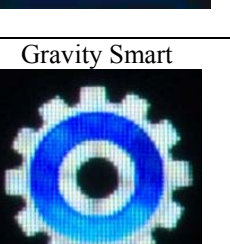
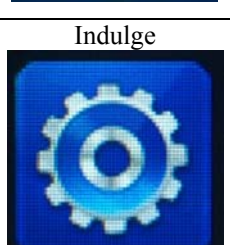



Exhibit 4G 	Fascinate 	Galaxy Ace 	Galaxy S (i9000) 
Galaxy S 4G 	Galaxy S Showcase 	Galaxy Tab 7.0 	Gem 
Gravity Smart 	Indulge 	Infuse 4G 	Mesmerize 
Sidekick 	Vibrant 		

L. 3,889,685 – Trademark Icon for Settings



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<p>Captivate</p> 	<p>Continuum</p> 	<p>Droid Charge</p> 	<p>Epic 4G</p> 
<p>Exhibit 4G</p> 	<p>Fascinate</p> 	<p>Galaxy Ace</p> 	<p>Galaxy S (i9000)</p> 
<p>Galaxy S 4G</p> 	<p>Galaxy S II (AT&T Edition, 4G)</p> 	<p>Galaxy S II (i9100)</p> 	<p>Galaxy S II (T-Mobile Edition)</p> 
<p>Galaxy S II Epic 4G Touch</p> 	<p>Galaxy S II Skyrocket (4G LTE)</p> 	<p>Galaxy S Showcase</p> 	<p>Galaxy Tab 7.0</p> 
<p>Galaxy Tab 7.0 Plus</p> 	<p>Galaxy Tab 10.1</p> 	<p>Gem</p> 	<p>Gravity Smart</p> 
<p>Indulge</p> 	<p>Infuse 4G</p> 	<p>Mesmerize</p> 	<p>Vibrant</p> 

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M. 3,886,169 – Trademark Icon for Notes



<p>Captivate</p>	<p>Continuum</p>	<p>Epic 4G</p>	<p>Exhibit 4G</p>
<p>Fascinate</p>	<p>Galaxy Ace</p>	<p>Galaxy S (i9000)</p>	<p>Galaxy S 4G</p>
<p>Galaxy S II (AT&T Edition, 4G)</p>	<p>Galaxy S II (i9100)</p>	<p>Galaxy S II Skyrocket (4G LTE)</p>	<p>Galaxy S Showcase</p>
<p>Galaxy Tab 7.0</p>	<p>Gravity Smart</p>	<p>Indulge</p>	<p>Infuse 4G</p>

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N. 3,886,197 – Trademark Icon for Contacts



Captive 	Continuum 	Droid Charge 	Epic 4G
Exhibit 4G 	Fascinate 	Galaxy Ace 	Galaxy S (i9000)
Galaxy S 4G 	Galaxy S II (AT&T Edition, 4G) 	Galaxy S II (i9100) 	Galaxy S II (T-Mobile Edition)
Galaxy S II Epic 4G Touch 	Galaxy S II Skyrocket (4G LTE) 	Galaxy S Showcase 	Galaxy Tab 7.0

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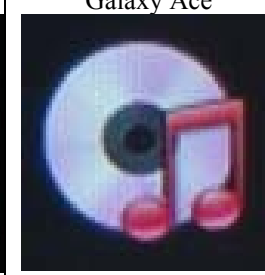



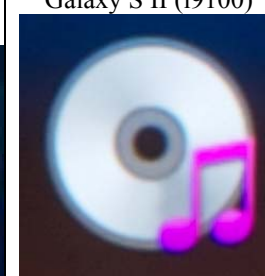



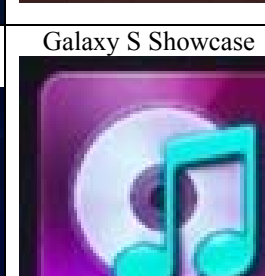

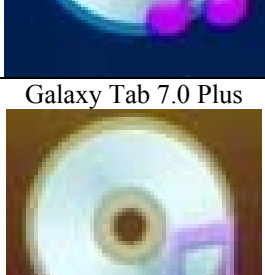


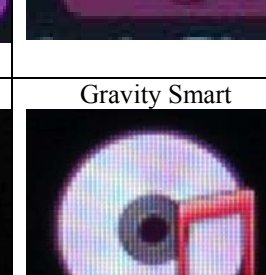


**O. Application No. 85/041,463 (Purple iTunes Store Trademark) and
Registration No. 2,935,038 (“iTunes Eighth Note and CD Design Trademark”)**

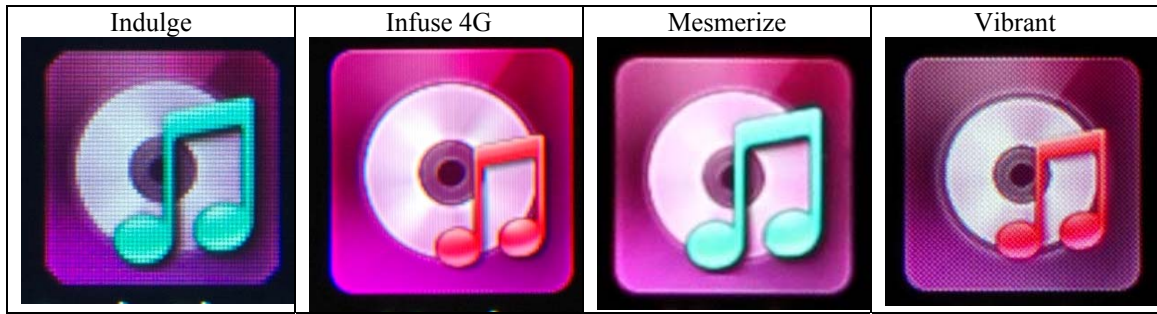


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Captivate 	Continuum 	Droid Charge 	Epic 4G 
Exhibit 4G 	Fascinate 	Galaxy Ace 	Galaxy S (i9000) 
Galaxy S 4G 	Galaxy S II (AT&T Edition, 4G) 	Galaxy S II (i9100) 	Galaxy S II (T-Mobile Edition) 
Galaxy S II Epic 4G Touch 	Galaxy S II Skyrocket (4G LTE) 	Galaxy S Showcase 	Galaxy Tab 7.0 
Galaxy Tab 7.0 Plus 	Galaxy Tab 10.1 	Gem 	Gravity Smart 

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Consumers who see Samsung’s products are likely to be confused as to the source of Samsung’s products, or misled into believing that there is an association between the Samsung products and Apple. Samsung had many options in developing its smartphones and tablet computers. Indeed, earlier versions of Samsung smartphones did not embody the same combination of elements of Apple’s trade dress. Even the icons in earlier versions of the Samsung smartphones looked different because, for example, they did not appear as a matrix of colorful square icons above a bottom “dock” of icons.

Facts that support Apple’s contention that Samsung’s Galaxy, Galaxy S, and Galaxy SII smartphone and tablet computer products have infringed and will continue to infringe the Apple trade dress and icon trademarks at issue in this lawsuit include, but are not limited to, facts relating to (i) the unique appearance of the iPhone, iPod touch, and iPad products, (ii) pre-launch publicity for the iPhone, iPod touch, and iPad products, (iii) Apple’s extensive advertising of the iPhone, iPod touch, and iPad products, (iv) unsolicited third-party press for the iPhone, iPod touch, and iPad products, including positive reviews and press accolades, (v) the iPhone, iPod touch, and iPad products’ appearance in popular media, (vi) the widespread use of the iPhone, iPod touch, and iPad products by well known political, sports, and entertainment figures, (vii) design awards received by Apple for the design of the iPhone, iPod touch, and iPad products, (viii) sales of the iPhone, iPod touch, and iPad products, (ix) Samsung’s extensive advertisements of the Galaxy, Galaxy S, and Galaxy SII smartphone and tablet computer products, (x) third-party reviews of Samsung’s Galaxy, Galaxy S, and Galaxy SII smartphone

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1 and tablet computer products, including reviews comparing Samsung’s smartphone and tablet
2 computer products to Apple’s products, and (xi) Samsung’s sales of the Galaxy, Galaxy S, and
3 Galaxy SII smartphone and tablet computer products.
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1 Dated: March 10, 2012

/s/ Mark D. Selwyn
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Facsimile: (617) 526-5000

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(MJacobs@mofo.com)
13 Richard S.J. Hung (CA SBN 197425)
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SUBJECT TO PROTECTIVE ORDER
CONTAINS CONFIDENTIAL INFORMATION

CERTIFICATE OF SERVICE

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