

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 Attorneys for Plaintiff and  
 12 Counterclaim-Defendant APPLE INC

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

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

Case No. 11-cv-01846-LHK

**APPLE’S OBJECTIONS AND  
 RESPONSES TO OBJECTIONS  
 REGARDING PROPOSED  
 EXAMINATION MATERIALS FOR  
 KARAN SINGH**

**Trial: August 10, 2012**  
**Time: 8:30 a.m.**  
**Place: Courtroom 1, 5<sup>th</sup> Floor**  
**Judge: Hon. Lucy H. Koh**

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1 Apple objects to Samsung's cross-examination materials for Karan Singh.

2 **I. APPLE'S OBJECTIONS TO SAMSUNG'S CROSS-EXAMINATION**  
3 **MATERIALS FOR DR. SINGH SHOULD BE SUSTAINED**

4 **DX2557.** This video exhibit, which does not appear on Samsung's exhibit list, is  
5 improper because it contains footage of a Galaxy Tab 10.1 LTE that contains a design-around for  
6 the '381 "bounce" patent. At approximately the :06 mark, the web page cannot be pulled down  
7 further, resulting in a depiction of the "blue glow" design-around instead of displaying an area  
8 beyond its edge (visible at 27~:28 mark on second device). While the video's poor lighting  
9 leaves the "blue glow" effect subtle, it will be clear to the jury should they attempt to recreate this  
10 action using the actual device. Judge Grewal's orders have excluded evidence of design-arounds,  
11 and the Court affirmed those orders. (Dkt. No. 898 at 9; Dkt. No. 1106; Dkt. No. 1545 at 10).  
12 DX2557 should be excluded pursuant to those orders.

13 **10/25/11 ITC-337-TA-796 Deposition Transcript.** Samsung again seeks to undo the  
14 Court's orders regarding Samsung's own Motions in Limine. Having had its motion in limine "to  
15 exclude evidence or argument not tied to the specific IP rights claimed by Apple in this action"  
16 granted (Dkt. No. 1267 at ¶ 11), Samsung cannot now claim that Dr. Singh's testimony on claim  
17 construction issues for different patents in an ITC investigation can be used here. In addition to  
18 being irrelevant, this exhibit violates the spirit of the Court's exclusion of "reference[s] to  
19 findings or rulings in other proceedings" (Dkt. No. 1267 at ¶ 11), as discussion of arguments  
20 made to the ITC may result in discussion of the disposition of those arguments. Finally, as the  
21 Court found with Samsung's attempt to use Dr. Balakrishnan's claim construction from a  
22 different ITC investigation, the high risk of jury confusion warrants exclusion under FRE 403.

23 **II. SAMSUNG'S OBJECTIONS TO APPLE'S DIRECT-EXAMINATION**  
24 **MATERIALS FOR DR. SINGH SHOULD BE OVERRULED**

25 **PDX29.1-PDX29.52.** Ignoring the Court's clear instructions (Hr'g Tr. at 915:21-917:5.)  
26 Samsung asserts multiple categorical objections to each of the 52 demonstratives in Dr. Singh's  
27 direct examination. This improper categorical objection unfairly shifts the burden of identifying  
28 the portions of Dr. Singh's demonstratives subject to Samsung's objection to the Court and to  
Apple. These objections should be overruled on that basis alone.

1 On the merits, Samsung’s objections that the slides in PDX29 lack foundation or exceed  
2 the scope of Dr. Singh’s report are specious. Slides 3, 7-8, 9, 15, 17, 19, 25, 29-31, 33, 36, 38,  
3 and 40 highlight text from the ’163 and ’915 patents, which Dr. Singh’s report discussed in detail.  
4 (*See, e.g.*, Singh Infringement Report (Decl. of J. Bartlett Exh. A, “Singh Report” or “Report”) ¶¶  
5 14, 46-87, 231-51, 314-55, 386-98, Exhs. 4, 5, 16, 17 (element-by-element ’163 and ’915 claim  
6 charts).)

7 Other slides in PDX29 specifically track the Singh Report. In particular, the iPhone  
8 videos in slides 4 and 26 illustrate Dr. Singh’s opinions that certain Apple products practice the  
9 ’163 and ’915 patents. (Report ¶¶ 33-35, 295-98.) Slides 2, 20–24, and 41–45, which list  
10 accused products and show videos demonstrating how they infringe the ’163 and ’915 patents,  
11 correspond to the Singh Report’s identification of accused products (Report ¶¶ 38, 301) and of his  
12 opinions that all identified products infringe claim 50 of the ’163 patent and claim 8 of the ’915  
13 patent (Report ¶¶ 231-51, 384-98).<sup>1</sup> Slides 47–49 feature Samsung internal documents discussed  
14 in Dr. Singh’s Report. (Report ¶¶ 275-80.) PDX29 also contains an element-by-element analysis  
15 of the same Galaxy S II product analyzed in Dr. Singh’s claim charts (Report Exhs. 5, 17), and  
16 clips and stills from *the videos of that product* that were *attached to his report*. (Report Exhs.  
17 11a, 19.)

18 Where PDX29 employs graphics to illustrate source code—as, for example, in slides 10,  
19 and 12 through 14—it tracks the code flow laid out in the Singh Report’s claim charts. *See*  
20 Report Exs. 4, 5, 16, & 17. For example, all of the method names and logical flow illustrated on  
21 slides 12 and 13 appear in the ’915 smartphone claim chart’s treatment of those same claim  
22 elements. Report Ex. 17 at 3-9. Likewise, the methods and logic shown on slide 14 are discussed  
23 in equivalent detail in the tablet claim chart. Report Ex. 16 at 3-8. A similar correspondence  
24 exists between all of the code illustrated in PDX29 and the Singh Report’s claim charts.

25 Because Dr. Singh’s infringement report provides explicit and identifiable support for

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26 <sup>1</sup> In his report, Dr. Singh explicitly reserved the right to create additional “demonstrative  
27 exhibits to assist in the presentation of my testimony and opinions as described herein or to  
28 summarize the same or information cited in this Report.”

1 every slide in PDX29, Samsung’s objections to PDX29 should be overruled.

2 **PX49.** Samsung’s objections to PX49, an internal Samsung document discussing  
3 technical features of the ’163 patent, should be overruled. Samsung’s appreciation of the  
4 technical benefits of the ’163 patent’s invention is probative of its copying and implementation of  
5 the ’163 patent. As such, PX49 is relevant to Apple’s allegation of willful infringement. (Dkt.  
6 No. 75 at ¶ 193.) PX49 is also probative of the Samsung’s understanding of the ’163 invention.<sup>2</sup>  
7 Dr. Singh’s technical expertise will help elucidate how Samsung’s understanding as reflected in  
8 PX49 corresponds to the technical elements and advances of the ’163 patent’s claim 50. This  
9 same rationale supported the Court’s recent decision to overrule similar objections to PX46. (Dkt.  
10 No. 1596 at 5.)

11 Because a technical description of a multitouch input system is precisely the sort of  
12 information reasonably relied upon by user interface experts in forming opinions, Dr. Singh’s  
13 testimony about PX49 is proper under Federal Rules of Evidence 702 and 703, which do not  
14 require personal knowledge of the document at issue in order to base his opinion on it.

15 While PX49 does not appear in the Singh Report, this is due to Samsung’s own failure to  
16 comply with discovery orders. Samsung only produced PX49 on April 10, 2012—*more than a*  
17 *month after the March 8, 2012 close of discovery, and after Dr. Singh’s report was served.* In  
18 fact, PX49 was only produced after the Court granted Apple’s motion to compel the deposition of  
19 the document’s custodian, Gee Sung Choi (Dkt. No. 850), which Samsung had previously  
20 blocked. Because Dr. Singh’s inability to include PX49 in his infringement report was the result  
21 of Samsung’s late production, to exclude it now for exceeding the scope of Dr. Singh’s report  
22 would reward Samsung for its abusive discovery tactics.

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26 <sup>2</sup> PX49 states, “Apple’s in-depth claims cover such matters as resizing text, scaling  
27 documents, web pages and/or other programs in portrait or landscape modes; gesturing, tap  
28 gestures, multiple tap gestures, swipe gestures with a finger or stylus, how documents are  
associated with a ‘render tree’ and much, much more.” (PX49 at 30.)

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Dated: August 7, 2012

MORRISON & FOERSTER LLP

By: /s/ Michael A. Jacobs  
Michael A. Jacobs

Attorneys for Plaintiff  
APPLE INC.