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 Research In Motion Corporation and  
 9 Research In Motion Ltd.

10 UNITED STATES DISTRICT COURT  
 11 NORTHERN DISTRICT OF CALIFORNIA  
 12 SAN JOSE DIVISION

13	APPLE INC., a California corporation,	)	Case No. 11-CV-01846-LHK
		)	
14	Plaintiff,	)	<b>NONPARTIES RESEARCH IN MOTION</b>
		)	<b>CORPORATION AND RESEARCH IN</b>
15	vs.	)	<b>MOTION LTD.'S OBJECTION TO THE</b>
		)	<b>JOINT STIPULATION AND [PROPOSED]</b>
16	SAMSUNG ELECTRONICS CO., LTD., a	)	<b>ORDER REGARDING A PROCEDURE</b>
	Korean corporation; SAMSUNG	)	<b>FOR REDUCING THE NUMBER OF</b>
17	ELECTRONICS AMERICA, INC., a New	)	<b>SEALING REQUESTS</b>
	York corporation; SAMSUNG	)	
18	TELECOMMUNICATIONS AMERICA,	)	
	LLC, a Delaware limited liability company,	)	
19		)	
	Defendants.	)	
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1 Nonparties Research In Motion Corporation and Research In Motion Ltd. (collectively,  
2 "RIM") respectfully submit this objection to the Joint Stipulation and [Proposed] Order Regarding  
3 a Procedure for Reducing the Number of Sealing Requests (Dkt. 1597) ("Stipulation") filed by  
4 Apple and Samsung on August 6, 2012. The Stipulation, if adopted by the Court, would  
5 substantially undermine the relief RIM and other nonparties have sought in order to protect their  
6 highly sensitive and trade secret information.

7 The Stipulation appears to allow public disclosure<sup>1</sup> of key business and financial terms of  
8 RIM's Patent License Agreement with Samsung ("Patent Agreement") under at least two  
9 circumstances, neither of which provides adequate protection to the information in question.

10 First, the Stipulation would permit disclosure as long as "neutral non-identifying  
11 designations (such as 'Party A')" are substituted for the names of the affected third parties in Trial  
12 Exhibit 630. Stipulation ¶ 5. RIM (as with all other nonparties) has already filed a redacted  
13 version of Trial Exhibit 630, identifying RIM, with the Court. Dkt. 1396-1. It would be simple  
14 for one of RIM's competitors to match the non-redacted portions of the exhibit filed by RIM with  
15 the information that would be supplied by Trial Exhibit 630 pursuant to the Stipulation, and  
16 thereby gain access to the very information that RIM (and all other nonparties) sought to protect.  
17 The terms common to both public disclosures – including the "Date Last Signed" and the  
18 production Bates numbers – could easily be matched up to identify RIM as the counterparty to the  
19 licensing information identified by the allegedly neutral moniker "Party A" in Trial Exhibit 630  
20 pursuant to the Stipulation. Moreover, even if RIM had not filed a redacted version of the relevant  
21 portion of Trial Exhibit 630, the remaining information made public pursuant to the Stipulation  
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24 <sup>1</sup> Although the Stipulation recites that "[t]he parties will not oppose each other's efforts to  
25 seal the record," ¶ 5, neither party moved to seal what is indisputably highly confidential RIM  
26 information. Saying that neither party will oppose a motion to seal is of little comfort, given that  
27 Samsung has made no effort (as required under its agreement with RIM) to take all necessary and  
28 appropriate steps to protect RIM's information from disclosure. Instead, the Stipulation appears to  
contemplate that the procedures discussed herein may be used in lieu of sealing. In any event, the  
Stipulation does not require sealing any information and indeed expressly states that "[n]othing in  
this paragraph will limit a party's right to use information that is not under seal." *Id.* ¶ 5. The  
concerns stated in RIM's motion to seal, and establishing compelling reasons justifying sealing,  
are thus undiminished.

1 would be sufficient to identify RIM because of the timing, nature, and scope of the Patent  
2 Agreement.

3           Second, the Stipulation appears to discard even the appearance of protection for nonparties  
4 by allowing disclosure of the identity of third parties that are "the subject of testimony" at trial.  
5 *See* Stipulation ¶ 5 ("The parties will substitute neutral, non-identifying designations . . . **to the**  
6 **extent such third parties will not be the subject of testimony.**") (emphasis added). Such an open-  
7 ended exception appears to swallow the rule, and the purported protections, created by the  
8 Stipulation. Under the Stipulation, any third party that is the "subject of testimony" would have all  
9 of its highly sensitive licensing information disclosed, without any confidentiality protections at  
10 all. Such a result is directly contrary to the authorities cited by RIM and the other affected third  
11 parties in their briefing. Under the Stipulation, the danger therefore remains that RIM's highly  
12 sensitive and trade secret information will be publicly disclosed.

13           RIM established through sworn declarations in prior filings that RIM would be  
14 substantially and irreparably harmed by such disclosure and compelling reasons justify sealing the  
15 information in question. *See* RIM's Administrative Motion to File Under Seal (Dkt. 1396);  
16 Declaration of Michael J. Crowley (Dkt. 1396-2); RIM's Supplemental Brief (Dkt. 1484); and the  
17 Supplemental Declaration of Michael J. Crowley (Dkt. 1484-1). The Stipulation fails to protect  
18 this information, contrary to law, and instead allows disclosure under at least two circumstances.  
19 The Stipulation should therefore be rejected, and RIM's motion to seal granted.

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21 Dated: August 8, 2012

Respectfully submitted,

IRELL & MANELLA LLP

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24 By:     /s/ Jonathan Lange      
Jonathan Lange

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26 Attorneys for Nonparties  
27 Research In Motion Corporation and  
28 Research In Motion Ltd.