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5 *Attorneys for Non-Party*
Telefonaktiebolaget
 6 *LM Ericsson*

7
 8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 SAN JOSE DIVISION

11 APPLE, INC., a California Corporation,)

Case No. 5:11-CV-01846-LHK

12 Plaintiff,)

13 vs.)

14 SAMSUNG ELECTRONICS CO., LTD.,)
 a Korean corporation; SAMSUNG)
 15 ELECTRONICS AMERICA, INC., a)
 New York corporation; SAMSUNG)
 16 TELECOMMUNICATIONS AMERICA,)
 LLC, a Delaware limited liability)
 17 company,)

**DECLARATION OF COURTLAND L.
 REICHMAN IN SUPPORT OF NON-PARTY
 TELEFONAKTIEBOLAGET LM
 ERICSSON'S MOTION FOR LEAVE TO
 FILE REPLY TO THIRD- PARTY
 INTERVENOR REUTERS AMERICA LLC'S
 OPPOSITION TO MOTION TO SEAL
 TRIAL AND PRETRIAL EVIDENCE**

18 Defendants.)

McKool Smith Hennigan P.C.
 303 Twin Dolphin Drive, Suite 600
 Redwood Shores, California 94065

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1 I, Courtland L. Reichman, declare and state:

2 1. I am an attorney at law admitted to practice before this Court and the courts of the
3 State of California, and am a shareholder in the law firm of McKool Smith Hennigan, P.C., counsel
4 for non-party Telefonaktiebolaget LM Ericsson (“Ericsson”). I submit this declaration in support of
5 “Non-Party Telefonaktiebolaget LM Ericsson’s Motion for Leave to File Reply to Third-Party
6 Intervenor Reuters America LLC’s Opposition to Motion to Seal Trial and Pretrial Evidence.” I
7 have personal knowledge of the matters set forth herein, and if called as a witness, I could and
8 would competently testify thereto.

9 2. Attached hereto as Exhibit A is “Non-Party Telefonaktiebolaget LM Ericsson’s
10 Reply to Third-Party Intervenor Reuters America LLC’s (“Reuters”) Opposition to Motion to Seal
11 Trial and Pretrial Evidence.”

12 I declare under the penalty of perjury under the laws of the United States that the foregoing
13 is true and correct. Executed this 8th day of August, 2012, in Redwood Shores, California.

14
15 /s/Courtland L. Reichman
16 Courtland L. Reichman
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PROOF OF SERVICE

I am employed in the County of San Mateo, State of California. I am over the age of 18 years and not a party to the within action; my business address is 303 Twin Dolphin Drive, Suite 600, Redwood Shores, California 94065.

On August 8, 2012, all counsel of record who are registered ECF users are being served with a copy of the foregoing document described as **DECLARATION OF COURTLAND L. REICHMAN IN SUPPORT OF NON-PARTY TELEFONAKTIEBOLAGET LM ERICSSON'S MOTION FOR LEAVE TO FILE REPLY TO THIRD- PARTY INTERVENOR REUTERS AMERICA LLC'S OPPOSITION TO MOTION TO SEAL TRIAL AND PRETRIAL EVIDENCE** via the Electronic Case Filing Program of the United States District Court for the Northern District of California per Local Rule 5-3.3.

Executed on August 8, 2012, at Redwood Shores, California.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/ Janet Wasson

Janet Wasson

EXHIBIT A

1 MCKOOL SMITH HENNIGAN, P.C.
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**NON-PARTY TELEFONAKTIEBOLAGET
LM ERICSSON'S REPLY TO THIRD-
PARTY INTERVENOR REUTERS
AMERICA LLC'S OPPOSITION TO
MOTION TO SEAL TRIAL AND PRETRIAL
EVIDENCE**

18 Defendants.)
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1 Non-Party Telefonaktiebolaget LM Ericsson (“Ericsson”) replies to Third-Party Intervenor
2 Reuters America LLC’s (“Reuters”) Opposition to Motion to Seal Trial and Pretrial Evidence (Doc.
3 No. 1556).

4 Ericsson and the other movants will be competitively harmed by the disclosure of their
5 sensitive license terms. Reuters argues that the competitive harm will be minimized if everyone’s
6 license terms are disclosed.¹ See Response at 18. The assumption underlying Reuters’ argument is
7 incorrect. “Everyone” will not be equally affected by an “across-the-board” disclosure. Many of
8 the parties with whom Ericsson negotiates or has licenses, or may negotiate or have licenses in the
9 future, do not have license information contained in the proposed Trial Exhibits and, therefore, will
10 not have license information disclosed. Ericsson will be at a competitive disadvantage in dealing
11 with parties that are not before this Court and with nothing at stake in these proceedings.²

12 Similarly, Reuters’ claim that disclosure will lead to market efficiency and allow for better
13 scholarship is misplaced.³ See Response at 19-20. Again, not all license terms are before this
14 Court. The release of only certain license terms from a limited set of licenses will not improve
15 market efficiency nor provide for better or more accurate scholarship.⁴

16 In addition, Reuters’ claim that disclosure is necessary for courts to better determine
17 damages in patent cases is misplaced. In this case as in most cases, the damage experts of the

18 ¹ Reuter’s admits that even if all of the license information is disclosed “across-the-board” the movants will be
19 competitively harmed. See Response at 18. They argue that it will not be as much. Reuters does not attempt to quantify
20 this lesser harm nor does it show how such a position is consistent with *Nixon v. Warner Communications*, and the other
cases cited in Ericsson’s motion at notes 4-9.

21 ² Reuters accuses the movants of failing to address the elephant in the room: the disclosure by IBM and Qualcomm
22 of the information they seek to redact. See Response at 19. Neither Ericsson nor its counsel received that information.
23 Even if Ericsson’s counsel had received the IBM or Qualcomm information, it would not have disclosed that
information to Ericsson consistent with the protections in place in this case. Moreover, the independent actions of IBM,
Qualcomm, and Reuters should not somehow act as a waiver of Ericsson’s confidential information and trade secrets.

24 ³ The professors’ interest in more information does not create an overriding public interest. In fact, the professors,
themselves, “recognize and respect the value of confidentiality with respect to license data.”

25 ⁴ Ericsson and its licensing counterparts are rational actors, rational competitors. If the disclosure of license terms
26 made the market more efficient, they would have done so. Moreover, contrary to Reuters’ implication, the non-
27 disclosure of license terms is not an anomaly in the business world. Ericsson and its competitors also do not disclose the
terms of their major business contracts with suppliers or customers.

1 parties have licensing information available to them. Each side is able to test the conclusion of the
2 other side based on this information through the expert reports, depositions, and various motions.
3 To the extent the parties believe necessary or appropriate, the courts, too, have access to this
4 information through the motions and related exhibits filed with them. At the same time, typical
5 protective orders ensure non-parties that their sensitive business information and trade secrets will
6 be kept confidential and not disclosed to the parties or the public. This protection of confidential
7 information actually allows parties and courts to have the information they need to determine
8 damages.

9 Finally, Reuters fails to address, let alone refute, the evidence presented by Ericsson in
10 support of its Motion to Seal.

11 Ericsson respectfully requests that the Court grant the relief it seeks in its Motion to Seal.

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13 DATED: August 8, 2012

Respectively Submitted,

14 By: /s/ Courtland L. Reichman
15 Courtland L. Reichman
16 McKool Smith Hennigan, P.C.
17 303 Twin Dolphin Drive, 6th Fl
18 Redwood Shores, CA 94065

*Attorneys for Non-Party
Telefonaktiebolaget LM Ericsson*

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/s/ Janet Wasson

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