UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

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| APPLE, INC., a California corporation,<br><br>Plaintiff,<br>v.<br><br>SAMSUNG ELECTRONICS CO., LTD., A Korean corporation; SAMSUNG ELECTRONICS AMERICA, INC., a New York corporation; SAMSUNG TELECOMMUNICATIONS AMERICA, LLC, a Delaware limited liability company,<br><br>Defendants. | Case No.: 11-CV-01846-LHK<br><br>ORDER RE: OBJECTIONS TO DAVID TEECE<br><br>(re: dkt. #1781, 1782) |

After reviewing the parties' briefing, considering the record in this case, and balancing the considerations set forth in Federal Rule of Evidence 403 ("FRE 403"), the Court rules on the parties' objections as follows:

**1. DAVID TEECE**

**A. Samsung's Objections**

| WITNESS AND EXHIBIT NO. | COURT'S RULING ON OBJECTION |
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| PX2065/Rosenbrock testimony | Sustained. As explained in the Court's previous order, ECF No. 1798, Apple has not persuasively established that use of this deposition complies with the requirements of Rule 32. |

**B. Apple's Objections**

| WITNESS AND EXHIBIT NO. | COURT'S RULING ON OBJECTION |
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| SDX3975.005 | Overruled. This slide shows the average disclosure delays with respect to ETSI standards essential patents. Samsung offers this demonstrative to illustrate the practice of other ETSI members with respect to the timing of the disclosure of their intellectual property rights. This evidence is probative of Samsung's defense that Samsung's disclosure did not violate ETSI rules and does not constitute anticompetitive conduct. Moreover, this evidence is not unduly prejudicial because it shows the practices of several ETSI members. Accordingly, under FRE 403, the slide is admissible.<br><br>Although the Court previously excluded evidence of Apple patents not at issue in this litigation, the evidence Samsung seeks to introduce here is directly tied to its defense and relates to other disclosures made to ETSI, the standard setting body relevant to Apple's claims. The general practices of ETSI members is less likely to lead to jury confusion or a waste of time than specific Apple patents that are not at issue in this litigation. |
| SDX3975.001 | Overruled. This slide shows the relative shares of subscribers as between the CDMA and UMTS standards. Samsung's theory is that competing technologies could have been adopted by another standard, the CDMA2000. Samsung explains that Dr. Teece's testimony will rebut Apple's theory that competing technologies were excluded from the UMTS standard. Thus, Dr. Teece has articulated a reason that reference to the CDMA standard is relevant to this slide. Moreover, it is unlikely that this evidence would likely waste time or confuse the jury and is admissible under FRE 403. |

**IT IS SO ORDERED.**

Dated: August 17, 2012

LUCY H. KOH
United States District Judge