

1 HAROLD J. MCELHINNY (CA SBN 66781)
hmcelhenny@mofo.com
 2 MICHAEL A. JACOBS (CA SBN 111664)
mjacobs@mofo.com
 3 RICHARD S.J. HUNG (CA SBN 197425)
rhung@mofo.com
 4 MORRISON & FOERSTER LLP
 425 Market Street
 5 San Francisco, California 94105-2482
 Telephone: (415) 268-7000
 6 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

Attorneys for Plaintiff and
 Counterclaim-Defendant APPLE INC.

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

15 APPLE INC., a California corporation,
 16
 Plaintiff,
 17
 v.
 18 SAMSUNG ELECTRONICS CO., LTD., A
 19 Korean business entity; SAMSUNG
 20 ELECTRONICS AMERICA, INC., a New York
 corporation; SAMSUNG
 21 TELECOMMUNICATIONS AMERICA, LLC, a
 Delaware limited liability company.,
 22
 Defendants.

Case No. 11-cv-01846-LHK
**APPLE'S UNOPPOSED
 ADMINISTRATIVE MOTION TO
 CLOSE THE COURTROOM**

1 Apple Inc. hereby moves to close the Courtroom during the September 13, 2011, hearing
2 on Samsung's Motion to Compel Regarding Request For Production No. 1 and Interrogatory Nos.
3 1, 3, and 6.

4 Courts frequently deny public access to judicial proceedings when disclosure of
5 confidential commercial information could "harm a litigant's competitive standing." *See Nixon v.*
6 *Warner Communications, Inc.*, 435 U.S. 589, 598 (1978); *see also New York v. Microsoft Corp.*,
7 2002 WL 1315804 (D.D.C. 2002); *Standard & Poor's Corp., Inc. v. Commodity Exchange, Inc.*,
8 541 F. Supp. 1273, 1277 (S.D.N.Y. 1982) ("the right to attend judicial proceedings should, in
9 appropriate circumstances, give way to the right to protect one's trade secrets"); *Zenith Radio*
10 *Corp.*, 529 F. Supp. at 901 (E.D. Pa. 1981) ("Judicial proceedings and records may be closed in
11 part or in full to the public in order to protect private interests, including proprietary interest in
12 trade secrets and other commercial information"). The Court should do the same here.

13 The requested relief is necessary and narrowly tailored to protect the confidentiality of the
14 information contained in the materials filed in support of the briefing related to Samsung's
15 motion to compel. Many of the materials filed in support of the briefing were filed under seal
16 pursuant to Civil L.R. 79-5(a)-(c) because they contain Apple's design trade secrets, confidential
17 business practices, and policies for preserving the secrecy and confidentiality of its product
18 development. *See* Declaration of Erica Tierney in Support of Apple's Administrative Motion to
19 File Documents Under Seal (Dkt No. 211) and Declaration of Christopher J. Stringer in Support
20 of Apple Inc.'s Opposition to Samsung's Motion to Compel (filed under seal). For instance,

21 a. Apple's Opposition to Samsung's Motion to Compel Regarding Request for
22 Production No. 1 and Interrogatory Nos. 1, 3, and 6 contains information relating to Apple's
23 design trade secrets, confidential business practices and policies for preserving the secrecy and
24 confidentiality of its product development.

25 b. The Declaration of Christopher J. Stringer in Support of Apple Inc.'s Opposition
26 contains information relating to Apple's design trade secrets, confidential business practices and
27 policies for preserving the secrecy and confidentiality of its product development.

1 c. The Declaration of Jason Bartlett in Support of Apple Inc.'s Opposition contains
2 information relating to Apple's design trade secrets.

3 d. Exhibits A, B, C, D, E, H and I to the Bartlett Declaration are all correspondence
4 between outside counsel that contain information relating to Apple's confidential business
5 practices and policies for preserving the secrecy and confidentiality of its product development.

6 e. Exhibit J to the Bartlett Declaration is a deposition transcript that has been
7 designated by Apple as HIGHLY CONFIDENTIAL – ATTORNEY'S EYES ONLY under the
8 interim protective order and contains discussion and references to information that Apple has
9 designated as HIGHLY CONFIDENTIAL – ATTORNEY'S EYES ONLY.

10 f. The Declaration of Patrick Zhang in Support of Apple Inc.'s Opposition contains
11 information relating to Apple's design trade secrets, confidential business practices and policies
12 for preserving the secrecy and confidentiality.

13 Apple does not disclose or comment on speculation about its trade secrets or business
14 practices. This information can be used by Apple's competitors to its disadvantage. Apple
15 anticipates that many of these highly confidential materials filed under seal will be discussed at
16 the hearing on September 13, 2011. Because those materials contain information that is of such a
17 highly confidential nature that public disclosure would cause great harm to Apple, Apple hereby
18 respectfully requests that the Court close the Courtroom during the September 13, 2011, hearing.

19 Samsung does not oppose this motion.
20

21 Dated: September 12, 2011

MORRISON & FOERSTER LLP

22
23 By: /s/ Michael A. Jacobs
MICHAEL A. JACOBS

24 Attorneys for Plaintiff
25 APPLE INC.
26
27
28

