

APPLE INC., a California corporation

Case No.: 11-CV-01846 LHK (PSG)

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

SAMSUNG ELECTRONICS CO. LTD., a  
Korean business entity; SAMSUNG  
ELECTRONICS AMERICA, INC., a New York  
corporation; SAMSUNG  
TELECOMMUNICATIONS AMERICA, LLC,  
a Delaware limited liability company,

## **ORDER GRANTING RENEWED MOTIONS TO SEAL**

**(Re: Docket Nos. 2228, 2231, 2250, 2268)**

## Defendants.

On February 1, 2013, the court issued an omnibus order granting-in-part and denying-in-part myriad sealing requests by both Apple, Inc. (“Apple”) and Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung Telecommunications America, LLC (collectively, “Samsung”) filed in the first suit between the two parties.<sup>1</sup> Following that order, both Apple and Samsung filed renewed motions to seal various documents that the parties each asserted contained highly confidential business information.<sup>2</sup> Samsung also moved to stay the February 1

<sup>1</sup> See Docket No. 2222.

<sup>2</sup> See Docket No. 2228 (Apple's renewed motion to seal); Docket No. 2231 (Samsung's renewed motion to seal).

1 order, which the court granted pending its resolution of Samsung's renewed request.<sup>3</sup> Apple  
2 subsequently filed a "corrected" renewed motion to seal.<sup>4</sup> Third-parties Interdigital Holdings, Inc.,  
3 Interdigital Technology, Inc., and IPR Licensing, Inc. (collectively, "Interdigital") moved to seal a  
4 licensing agreement between Interdigital and Apple.<sup>5</sup> The court now briefly addresses the renewed  
5 motions to seal.

6 At the outset, the court must acknowledge the Federal Circuit's recent directive regarding  
7 sealing requests in this very case. Following Apple and Samsung's appeal of two orders from  
8 Judge Koh denying their requests to seal similar financial information, the Federal Circuit  
9 determined that Apple and Samsung had made a sufficient showing of harm that was not  
10 outweighed by the public's interest in this case.<sup>6</sup> The court therefore considers the renewed  
11 motions to seal with the Federal Circuit's direction in mind.

12 In its February 1 order, the court found that even though the documents at issue were  
13 subject to the lower good cause standard applicable to non-dispositive motions,<sup>7</sup> Apple and  
14 Samsung had failed to make a particularized showing that certain confidential financial and  
15 licensing information they wanted sealed in fact would be harmful if published.<sup>8</sup> In the respective  
16 renewed motions, Apple, Samsung, and Interdigital offer further descriptions of the harm that  
17 would befall each of them if the financial and licensing information at issue lost its confidential  
18 status.<sup>9</sup> Apple also points out that at least two exhibits for which the court denied sealing requests

22 <sup>3</sup> See Docket Nos. 2230, 2232.

23 <sup>4</sup> See Docket No. 2250.

24 <sup>5</sup> See Docket No. 2268.

25 <sup>6</sup> See *Apple, Inc. v. Samsung Elecs. Co., Ltd.*, --- F.3d ---, 2013 WL 4487610 (Fed. Cir. 2013).

26 <sup>7</sup> See *Kamakana v. City and Cty. of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006)

27 <sup>8</sup> See Docket No. 2222.

28 <sup>9</sup> See Docket Nos. 2230, 2250, 2268.

1 include source code.<sup>10</sup> In light of the parties' additional explanations and the Federal Circuit's  
2 recent instruction, the court finds that sealing the various financial and source code documents is  
3 warranted.

4 Accordingly, Samsung's renewed motion to seal is GRANTED,<sup>11</sup> Apple's corrected  
5 renewed motion to seal is GRANTED,<sup>12</sup> Interdigital's motion to seal is GRANTED,<sup>13</sup> and Apple's  
6 original renewed motion<sup>14</sup> is DENIED AS MOOT in light of Apple's corrected motion. To the  
7 extent that Apple and Samsung offered redacted versions of the exhibits at issue, Apple and  
8 Samsung shall file those redacted versions on the public docket within fourteen days. The parties  
9 also shall comply with General Order No. 62 with regards to filing the various documents under  
10 seal.

12 **IT IS SO ORDERED.**

13 Dated: September 11, 2013

  
14 PAUL S. GREWAL  
15 United States Magistrate Judge

24 <sup>10</sup> See Docket No. 2250.  
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26 <sup>11</sup> See Docket No. 2231.  
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28 <sup>12</sup> See Docket No. 2250.  
<sup>13</sup> See Docket No. 2268.  
<sup>14</sup> See Docket No. 2228.