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Attorneys for Plaintiff
 APPLE INC.

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

APPLE INC., a California corporation,
 Plaintiff,
 v.
 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,
 Defendants.

Case No. 11-cv-01846-LHK

**APPLE'S OPPOSITION TO
 CELCO/VERIZON
 WIRELESS'S MOTION FOR
 LEAVE TO FILE AMICUS
 CURIAE BRIEF REGARDING
 APPLE'S MOTION FOR A
 PRELIMINARY INJUNCTION**

Date: October 13, 2011
 Time: 1:30 p.m.
 Courtroom: 8, 4th Floor
 Honorable Lucy H. Koh

1 Apple asks that the Court deny Verizon's¹ motion to submit an *amicus* brief as untimely
2 or, in the alternative, allow Apple to submit a response on October 6, 2011.

3 Apple moved for a preliminary injunction to bar Samsung's² sales of four products almost
4 three months ago, on July 1, 2011. The Samsung defendants submitted their opposition to that
5 motion over a month ago, on August 22, 2011. The September 21, 2011 deadline for discovery
6 relating to the motion has already passed. Finally, Apple's reply brief is due in four days, and the
7 October 13, 2011 hearing on Apple's motion is in less than three weeks.³

8 The Federal Rules of Civil Procedure do not provide for a non-party's submission of
9 *amicus* briefs in district courts. Had Verizon submitted its proposed *amicus* brief in a federal
10 appellate court, however, it would have been untimely by several weeks. *See* Fed. R. App. P.
11 29(e) (explaining that an *amicus* brief should be filed "no later than 7 days after the principal brief
12 of the party being supported").

13 Verizon's proposed submission of an *amicus* brief now – long after Samsung submitted its
14 opposition to Apple's preliminary injunction motion, after the close of motion-related discovery,
15 and on the eve of Apple's reply brief and the Court's scheduled hearing – is disruptive to Apple's
16 ability to present its positions to the Court in an orderly fashion. The belated nature of Verizon's
17 request deprives Apple of the opportunity to seek discovery (whether from Verizon, Samsung, or
18 another company) to rebut Verizon's claim that a preliminary injunction is contrary to the public
19 interest. It is important to note that Samsung's own opposition briefing devoted little space to this
20 issue, and Verizon itself asserts that it "uniquely" possesses factual information that supports its
21 positions. *See* D.N. 257, Mot. for Leave at 1-2 (explaining Verizon's belief that "it is uniquely
22 positioned to describe how the requested injunction may harm U.S. consumers, wireless carriers,
23 and businesses"). For both of these reasons, Verizon's delay is prejudicial to Apple.

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26 _____
27 ¹ Cellco Partnership d/b/a/ Verizon Wireless ("Verizon").

28 ² Samsung Elecs. Co., LTD., Samsung Elecs. Am., Inc., and Samsung Telecomm. Am.,
LLC (collectively, "Samsung").

³ *See* D.N. 86, 115, 164.

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ECF ATTESTATION

I, JASON R. BARTLETT, am the ECF User whose ID and password are being used to file the following document: APPLE’S OPPOSITION TO CELLCO/VERIZON WIRELESS’S MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF REGARDING APPLE’S MOTION FOR A PRELIMINARY INJUNCTION. In compliance with General Order 45, X.B., I hereby attest that Michael Jacobs has concurred in this filing.

Dated: September 27, 2011

JASON R. BARTLETT
MORRISON & FOERSTER LLP

By: /s/ Jason R. Bartlett
JASON R. BARTLETT