

1 MICHAEL J. BETTINGER (SBN 122196)
 IRENE YANG (SBN 245464)
 2 K&L GATES LLP
 4 Embarcadero Center, Suite 1200
 3 San Francisco, California 94111-5994
 Telephone: 415.882.8200
 4 Facsimile: 415.882.8220
 5 mike.bettinger@klgates.com
irene.yang@klgates.com

6 Of Counsel:
 7 MICHAEL J. ABERNATHY
 BRIAN J. ARNOLD
 8 K&L GATES LLP
 70 West Madison Street, Suite 3100
 9 Chicago, Illinois 560602
 Telephone: (312) 372-1121
 10 Facsimile: (312) 827-8000
mike.abernathy@klgates.com
 11 brian.arnold@klgates.com

12 Attorneys for *Amicus Curiae*
 T-MOBILE USA, INC.

13 UNITED STATES DISTRICT COURT
 14
 15 NORTHERN DISTRICT OF CALIFORNIA
 16
 17 SAN JOSE DIVISION

18 APPLE INC., a California corporation,
 19
 Plaintiff,
 20
 vs.
 21 SAMSUNG ELECTRONICS CO., LTD., a
 Korean business entity; SAMSUNG
 22 ELECTRONICS AMERICA, INC., a New
 York corporation; SAMSUNG
 23 TELECOMMUNICATIONS AMERICA,
 24 LLC, a Delaware limited liability company,
 25
 Defendants.

CASE NO. 11-cv-01846-LHK

**NOTICE OF MOTION AND MOTION
 FOR ORDER SHORTENING TIME ON
 MOTION FOR LEAVE TO FILE BRIEF
 OF *AMICUS CURIAE* T-MOBILE
 REGARDING APPLE INC.'S MOTION
 FOR A PRELIMINARY INJUNCTION
 AND FOR LEAVE TO APPEAR AT
 PRELIMINARY INJUNCTION HEARING**

Judge: Hon. Lucy H. Koh
 Courtroom 8, 4th Floor

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that T-Mobile USA, Inc. (“T-Mobile”) will and hereby does
3 bring to this Court its Motion for an Order Shortening Time on T-Mobile’s Motion for Leave to File
4 Brief of *Amicus Curiae* T-Mobile USA, Inc. Regarding Apple Inc.’s Motion for a Preliminary
5 Injunction and for Leave to Appear at the Preliminary Injunction Hearing, pursuant to Civil L.R. 6-3.

6 T-Mobile asks this Court to shorten the briefing and hearing schedule on T-Mobile’s motion
7 for leave to file the *amicus curiae* brief attached thereto, regarding Apple Inc.’s Motion for a
8 Preliminary Injunction (“P.I. Motion”), such that if the Motion for Leave is granted, T-Mobile’s
9 *amicus* brief would be considered at the October 13, 2011 hearing. As explained below, T-Mobile
10 has a substantial interest in this matter, separate and apart from the interests of the parties in the
11 above-captioned action, as to why Apple’s P.I. Motion should not be granted and Defendants’
12 products should not be enjoined, and could not present those interests in conjunction with the P.I.
13 Motion should this Motion to Shorten Time be denied.

14 This Motion is based on this Notice of Motion and Motion, the Points and Authorities below,
15 declaration in support of this Motion, the proposed *amicus curiae* brief of T-Mobile, the
16 concurrently-filed Motion for Leave to File Brief of *Amicus Curiae* T-Mobile USA, Inc. Regarding
17 Apple Inc.’s Motion for a Preliminary Injunction and for Leave to Appear at the Preliminary
18 Injunction Hearing, and such other matters as may be presented to the Court at oral argument.

19 **POINTS AND AUTHORITIES**

20 Pursuant to Civil L.R. 6-3, *amicus curiae* T-Mobile USA, Inc. moves for an Order shortening
21 time on T-Mobile’s Motion for Leave to File Brief of *Amicus Curiae* T-Mobile USA, Inc. Regarding
22 Apple Inc.’s Motion for a Preliminary Injunction and for Leave to Appear at the Preliminary
23 Injunction Hearing (“Motion for Leave”), which is being concurrently filed. Specifically, T-Mobile
24 requests that this Court shorten time for briefing and hearing on T-Mobile’s Motion for Leave, such
25 that if the Motion for Leave is granted, T-Mobile may file its *amicus curiae* brief regarding Apple’s
26 Motion for a Preliminary Injunction (“P.I. Motion”), which is attached to the Motion for Leave, and
27 also appear at the preliminary injunction hearing on October 13, 2011 and present oral argument on
28 issues relating to its *amicus curiae* brief.

1 Counsel for T-Mobile contacted counsel for the parties regarding a stipulation to shorten the
2 briefing and hearing schedule on T-Mobile's Motion for Leave as well as on the Motion for Leave
3 itself. Counsel for Apple indicated that Apple opposes and referred T-Mobile to Apple's Opposition
4 to Cellco/Verizon Wireless's Motion for Leave to File Amicus Brief Regarding Apple's Motion for a
5 Preliminary Injunction (Dkt. No. 262), which asks in the alternative that Apple "be allowed to
6 respond to Verizon's submission on October 6, 2011." Counsel for Samsung indicated that Samsung
7 does not oppose this Motion for Order Shortening Time or T-Mobile's Motion for Leave.
8 Declaration of Irene Yang in Support of T-Mobile's Motion for an Order Shortening Time, ¶ 6.

9 T-Mobile believes there is good cause for a shortened time for briefing and hearing on the
10 Motion for Leave. An Order shortening time on the Motion for Leave is efficient and will conserve
11 the Court's and parties' resources by allowing for briefing from T-Mobile relating to Apple's P.I.
12 Motion to be considered in conjunction with the parties' arguments on the P.I. Motion, rather than
13 having to address T-Mobile's positions at a later date after the P.I. Motion has already been heard. If
14 this Motion for an Order Shortening Time is not granted, allowing T-Mobile's Motion for Leave to
15 be decided in shorter than the normal 35-day briefing and hearing schedule, T-Mobile's interests in
16 this P.I. Motion will not be represented at the preliminary injunction hearing or taken into account in
17 deciding the outcome of Apple's P.I. Motion. T-Mobile does not oppose a shortened schedule
18 allowing Apple to respond to T-Mobile's Motion for Leave on October 6, 2011.

19 The underlying dispute here is a motion for preliminary injunction that Apple filed against
20 Samsung devices, including the Galaxy S 4G smartphone and Galaxy Tab 10.1 tablet ("Samsung
21 Galaxy devices"), on July 1, 2011. Dkt. No. 86. On July 18, the Court issued an expedited
22 scheduling order that set the hearing on the P.I. Motion for October 13, 2011. Dkt. No. 115. Apple
23 and Samsung are the only parties to the litigation. T-Mobile is a third party with a direct and
24 substantial interest in the outcome of the preliminary injunction: the potential effects of a preliminary
25 injunction would go far beyond Apple and Samsung. As a wireless carrier that has traditionally
26 invested heavily in Samsung handheld devices and has already prepared its 2011 holiday sales season
27 campaign prominently featuring the Samsung Galaxy devices, T-Mobile is uniquely positioned to
28 describe the harms likely to befall it, its business, and U.S. consumers should the requested injunction

