

1 QUINN EMANUEL URQUHART & SULLIVAN, LLP  
Charles K. Verhoeven (Bar No. 170151)  
2 [charlesverhoeven@quinnemanuel.com](mailto:charlesverhoeven@quinnemanuel.com)  
50 California Street, 22<sup>nd</sup> Floor  
3 San Francisco, California 94111  
Telephone: (415) 875-6600  
4 Facsimile: (415) 875-6700

5 Kevin P.B. Johnson (Bar No. 177129)  
[kevinjohnson@quinnemanuel.com](mailto:kevinjohnson@quinnemanuel.com)  
6 Victoria F. Maroulis (Bar No. 202603)  
[victoriamaroulis@quinnemanuel.com](mailto:victoriamaroulis@quinnemanuel.com)  
7 555 Twin Dolphin Drive, 5<sup>th</sup> Floor  
Redwood Shores, California 94065-2139  
8 Telephone: (650) 801-5000  
Facsimile: (650) 801-5100

9 Michael T. Zeller (Bar No. 196417)  
10 [michaelzeller@quinnemanuel.com](mailto:michaelzeller@quinnemanuel.com)  
865 S. Figueroa St., 10th Floor  
11 Los Angeles, California 90017  
Telephone: (213) 443-3000  
12 Facsimile: (213) 443-3100

13 Attorneys for SAMSUNG ELECTRONICS CO.,  
LTD., SAMSUNG ELECTRONICS AMERICA,  
14 INC. and SAMSUNG  
TELECOMMUNICATIONS AMERICA, LLC  
15

16 UNITED STATES DISTRICT COURT

17 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION  
18

19 APPLE INC., a California corporation,

20 Plaintiff,

21 vs.

22 SAMSUNG ELECTRONICS CO., LTD., a  
Korean business entity; SAMSUNG  
23 ELECTRONICS AMERICA, INC., a New  
York corporation; SAMSUNG  
24 TELECOMMUNICATIONS AMERICA,  
LLC, a Delaware limited liability company,  
25

26 Defendant.  
27  
28

CASE NO. 11-cv-01846-LHK

**DECLARATION OF ALEX BINDER IN  
SUPPORT OF SAMSUNG'S  
OBJECTIONS TO APPLE'S USE OF  
NON-REBUTTAL EVIDENCE IN  
APPLE'S REPLY BRIEF**

Date: October 13, 2011

Time: 1:30 pm

Place: Courtroom 8, 4th Floor

Judge: Hon. Lucy H. Koh

1 I, Alex Binder, declare:

2 1. I am an associate in the law firm of Quinn Emanuel Urquhart & Sullivan, LLP,  
3 counsel for Samsung Electronics Co., Ltd., Samsung Electronics America, Inc. and Samsung  
4 Telecommunications America, LLC (collectively, "Samsung"). I have personal knowledge of the  
5 facts set forth in this declaration and, if called upon as a witness, I could and would testify to such  
6 facts under oath.

7 2. Attached hereto as Exhibit A is a true and correct copy of "Samsung's Requests for  
8 Production of Documents and Things Relating to Apple Inc.'s Motion for a Preliminary Injunction,"  
9 served on July 6, 2011.

10 3. Samsung filed its Opposition to Apple's Motion for a Preliminary Injunction according  
11 to the deadline set by the court in its Order Setting Briefing and Hearing Schedule for Preliminary  
12 Injunction Motion (D.N. 115), on August 22, 2011.

13 4. Apple filed its Reply in Support of Its Motion for a Preliminary Injunction on  
14 September 30, 2007.

15 5. Apple filed its Reply Declaration of Arthur Rangel in Support of Apple's Motion for a  
16 Preliminary Injunction on September 30, 2007, including exhibits A, B, and C attached thereto.

17 6. Exhibits A, B and C to the Reply Declaration of Arthur Rangel in Support of Apple's  
18 Motion for a Preliminary Injunction are responsive to at least Samsung's Request for Production Nos.  
19 24 and 25, relating to competition between the iPhone or iPad and products Apple accuses of  
20 infringement.

21 7. Apple did not produce to Samsung the documents attached as A, B, and C to the Reply  
22 Declaration of Arthur Rangel in Support of Apple's Motion for a Preliminary Injunction until  
23 September 22, 2011.

24 8. Apple filed its Reply Declaration of Sanjay Sood in Support of Apple's Motion for a  
25 Preliminary Injunction on September 30, 2007, including exhibits D and H attached thereto.

26 9. Exhibit D to the Reply Declaration of Sanjay Sood in Support of Apple's Motion for a  
27 Preliminary Injunction is responsive to at least Samsung's Request for Production No. 24, relating to  
28 competition between the iPhone and products Apple accuses of infringement.

1           10.     Apple did not produce to Samsung the documents attached as Exhibit D to the Reply  
2 Declaration of Sanjay Sood in Support of Apple's Motion for a Preliminary Injunction until September  
3 22, 2011.

4           11.     Exhibit H to the Reply Declaration of Sanjay Sood in Support of Apple's Motion for a  
5 Preliminary Injunction is responsive to at least Samsung's Request for Production Nos. 24 and 25,  
6 relating to competition between the iPhone and the iPad and products Apple accuses of infringement.

7           12.     Apple did not produce to Samsung the documents attached as Exhibit H to the Reply  
8 Declaration of Sanjay Sood in Support of Apple's Motion for a Preliminary Injunction until September  
9 22, 2011.

10  
11           I declare under penalty of perjury under the laws of the United States that the foregoing is true  
12 and correct. Executed in San Francisco, California on October 4, 2011.

13  
14 DATED: October 4, 2011

Respectfully submitted,

15                                   QUINN EMANUEL URQUHART &  
16                                   SULLIVAN, LLP

17  
18                                   By           /s/ Alex Binder            
19                                   Charles K. Verhoeven  
20                                   Kevin P.B. Johnson  
21                                   Victoria F. Maroulis  
22                                   Michael T. Zeller  
23                                   Attorneys for SAMSUNG ELECTRONICS CO.,  
24                                   LTD., SAMSUNG ELECTRONICS AMERICA,  
25                                   INC. and SAMSUNG  
26                                   TELECOMMUNICATIONS AMERICA, LLC

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**GENERAL ORDER ATTESTATION**

I, Vicki Maroulis, am the ECF user whose ID and password are being used to file the foregoing document. I hereby attest pursuant to General Order 45.X.B. that concurrence in the electronic filing of this document has been obtained from Alex Binder.

/s/ Vicki Maroulis

# Exhibit A

1 QUINN EMANUEL URQUHART & SULLIVAN, LLP  
Charles K. Verhoeven (Cal. Bar No. 170151)  
2 charlesverhoeven@quinnemanuel.com  
50 California Street, 22<sup>nd</sup> Floor  
3 San Francisco, California 94111  
Telephone: (415) 875-6600  
4 Facsimile: (415) 875-6700

5 Kevin P.B. Johnson (Cal. Bar No. 177129)  
kevinjohnson@quinnemanuel.com  
6 Victoria F. Maroulis (Cal. Bar No. 202603)  
victoriamaroulis@quinnemanuel.com  
7 555 Twin Dolphin Drive 5<sup>th</sup> Floor  
Redwood Shores, California 94065  
8 Telephone: (650) 801-5000  
Facsimile: (650) 801-5100

9  
10 Michael T. Zeller (Cal. Bar No. 196417)  
michaelzeller@quinnemanuel.com  
865 S. Figueroa St., 10th Floor  
11 Los Angeles, California 90017  
Telephone: (213) 443-3000  
12 Facsimile: (213) 443-3100

13 Attorneys for SAMSUNG ELECTRONICS  
CO., LTD., SAMSUNG ELECTRONICS  
14 AMERICA, INC. and SAMSUNG  
TELECOMMUNICATIONS AMERICA, LLC  
15

16 UNITED STATES DISTRICT COURT

17 NORTHERN DISTRICT OF CALIFORNIA, 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,  
LLC, a Delaware limited liability company,

24 Defendants.  
25

CASE NO. 11-cv-01846-LHK

**SAMSUNG'S REQUESTS FOR  
PRODUCTION OF DOCUMENTS AND  
THINGS RELATING TO APPLE INC.'S  
MOTION FOR A PRELIMINARY  
INJUNCTION**

1 Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, Defendants and  
2 Counterclaimants Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and  
3 Samsung Telecommunications America, LLC (collectively “Samsung”) request that Defendant  
4 Apple Inc. (“Apple”) produce for inspection and copying the documents and things set forth below  
5 at the offices of Quinn Emanuel Urquhart & Sullivan, LLP, 50 California Street, 22nd Floor, San  
6 Francisco, California 94111 within 30 days, or such other time as the parties agree or the Court  
7 orders.

8 **DEFINITIONS**

9 1. The terms “APPLE,” “PLAINTIFF,” “YOU,” and “YOUR” shall refer to Apple,  
10 Inc., any predecessor or successor of Apple, Inc., and any past or present parent, division,  
11 subsidiary, affiliate, joint venture, associated organization, director, officer, agent, employee,  
12 consultant, staff member, or other representative of Apple, Inc., including counsel and patent  
13 agents, in any country.

14 2. The term “DEFENDANTS” means Samsung Electronics Co., Ltd., Samsung  
15 Electronics America, Inc., and Samsung Telecommunications America, LLC.

16 3. The terms “DOCUMENT” and “DOCUMENTS” shall have the broadest meaning  
17 ascribed to it by Federal Rule of Civil Procedure 34 and Federal Rule of Evidence 1001. This  
18 includes copies which differ from the original in any way, including handwritten notations or other  
19 written or printed matter. It also includes information stored electronically, whether in a  
20 computer database or otherwise, regardless of whether such documents are presently also in non-  
21 electronic form.

22 4. The term “RELATING” shall mean regarding, referring to, concerning,  
23 mentioning, reflecting, pertaining to, evidencing, identifying, involving, describing, discussing,  
24 commenting on, embodying, responding to, supporting, contradicting, containing, or constituting  
25 (in whole or in part).

26 5. The term “DESIGN PATENTS” shall mean U.S. Design Patent Nos. D618,677,  
27 D593,087 and D504,889 and all parents, progeny, continuations, applications, divisional

1 applications, reexaminations, or reissues thereof and all foreign counterpart applications and  
2 patents which claim the same subject matter.

3 6. The term “381 PATENT” shall mean U.S. Patent No. 7,469,381 and all parents,  
4 progeny, continuations, applications, divisional applications, reexaminations, or reissues thereof  
5 and all foreign counterpart applications and patents which claim the same subject matter.

6 7. “PRIOR ART” shall mean any reference, publication, patent, physical specimen,  
7 use, invention by another, sale, offer for sale, or other activities that are relevant to the validity of  
8 the DESIGN PATENTS or the ‘381 PATENT including anything that is relevant to the  
9 patentability of any patent claim under 35 U.S.C. §§ 102 and 103. Prior Art is not limited to  
10 references or other activities cited to the United States Patent and Trademark Office during  
11 prosecution of any patent.

12 8. “This Lawsuit” shall mean the action entitled *Apple, Inc. v. Samsung Electronics*  
13 *Co., Ltd.*, Case No. 11-cv-01846-LHK.

14 9. The connectives “and,” “or,” and “and/or” shall be construed either disjunctively or  
15 conjunctively, as necessary to bring within the scope of these requests for production all responses  
16 that might otherwise be construed to be outside of their scope.

17 10. The word “each” includes the word “every,” and the word “every” includes the  
18 word “each,” as necessary to bring within the scope of these requests for production all responses  
19 that might otherwise be construed to be outside of their scope.

20 11. The word “any” includes the word “all,” and the word “all” includes the word  
21 “any,” as necessary to bring within the scope of these requests for production all responses that  
22 might otherwise be construed to be outside of their scope.

23 12. The word “all” includes the word “each,” and the word “each” includes the word  
24 “all,” as necessary to bring within the scope of these requests for production all responses that  
25 might otherwise be construed to be outside of their scope.

26 13. The use of the singular form of any word includes the plural and vice-versa, as  
27 necessary to bring within the scope of these requests for production all responses that might  
28 otherwise be construed to be outside of their scope.



1 **INSTRUCTIONS**

2 1. Each DOCUMENT is to be produced along with all non-identical drafts thereof in  
3 their entirety, without abbreviation or redaction.

4 2. All DOCUMENTS shall be produced in the order that they are kept in the usual  
5 course of business, and shall be produced in their original folders, binders, covers or containers, or  
6 photocopies thereof.

7 3. In the event that any DOCUMENT called for by these requests or subsequent  
8 requests is to be withheld on the basis of a claim of privilege or immunity from discovery, that  
9 DOCUMENT is to be identified by stating (i) the author(s), addressee(s) and any indicated or  
10 blind copyee(s); (ii) the DOCUMENT's date, number of pages and attachments or appendices;  
11 (iii) the subject matter(s) of the DOCUMENT; (iv) the nature of the privilege or immunity  
12 asserted; and (v) any additional facts on which you would base your claim of privilege or  
13 immunity.<sup>1</sup>

14 4. These Requests for Production shall be deemed continuing so as to require further  
15 and supplemental production in accordance with the Federal Rules of Civil Procedure.

16 **REQUESTS FOR PRODUCTION**

17 **REQUEST FOR PRODUCTION NO. 1:**

18 DOCUMENTS RELATING to the conception and reduction to practice of the DESIGN  
19 PATENTS and the '381 PATENT.

20 **REQUEST FOR PRODUCTION NO. 2:**

21 DOCUMENTS sufficient to identify the individuals, including but not limited to named  
22 inventors, who contributed to the conception of the designs or alleged inventions of the DESIGN  
23 PATENTS or the '381 PATENT.

24  
25  
26 <sup>1</sup> Provided the parties reach an agreement that neither party needs to log documents and  
27 information generated after the start of this Lawsuit on April 15, 2011, this Instruction applies  
28 only to privileged information and documents generated before the start of litigation.

1 **REQUEST FOR PRODUCTION NO. 3:**

2 Samples of all products that Apple contends infringe the DESIGN PATENTS and the '381  
3 PATENT.

4 **REQUEST FOR PRODUCTION NO. 4:**

5 Communications between YOU and any other person, including, but not limited to, the  
6 inventors of the DESIGN PATENTS and of the '381 PATENT, concerning the DESIGN  
7 PATENTS or the '381 PATENT, any products accused of infringing the DESIGN PATENTS or  
8 the '381 PATENT, or This Lawsuit.

9 **REQUEST FOR PRODUCTION NO. 5:**

10 DOCUMENTS RELATING to the functionality—including the ease of manufacturing,  
11 cost savings, or any other benefit—of any claimed feature, element or combination of elements in  
12 any of the DESIGN PATENTS, including without limitation:

- 13 (a) a flat front screen,
- 14 (b) a clear front screen,
- 15 (c) a black-colored front surface,
- 16 (d) rectangular shape,
- 17 (e) four corners,
- 18 (f) rounded corners,
- 19 (g) symmetry,
- 20 (h) a rectangular screen,
- 21 (i) an inset screen,
- 22 (j) substantial borders on two sides of a screen,
- 23 (k) narrow borders on two sides of a screen,
- 24 (l) a horizontal speaker slot,
- 25 (m) a speaker slot on the front,
- 26 (n) a centered speaker,
- 27 (o) a speaker above a display screen,
- 28 (p) a speaker near the top of a phone handset,

- 1 (q) a bezel around the edge of product,
- 2 (r) a circular button on the front, or
- 3 (s) a button located at the center bottom.

4 **REQUEST FOR PRODUCTION NO. 6:**

5 DOCUMENTS RELATING to the scope, construction, meaning or interpretation of the  
6 DESIGN PATENTS or the '381 PATENT.

7 **REQUEST FOR PRODUCTION NO. 7:**

8 DOCUMENTS RELATING to any re-examination proceedings before the United States  
9 Patent and Trademark Office RELATING to the '381 PATENT.

10 **REQUEST FOR PRODUCTION NO. 8:**

11 DOCUMENTS discussing, reflecting, supporting, undermining, or otherwise RELATING  
12 to the scope, infringement, validity, and enforceability of any claim of the DESIGN PATENTS or  
13 the '381 PATENT.

14 **REQUEST FOR PRODUCTION NO. 9:**

15 Transcripts of testimony given at a deposition, hearing, trial, or other proceeding by the  
16 named inventors of the DESIGN PATENTS or the '381 PATENT RELATING to the DESIGN  
17 PATENTS or the '381 PATENT, including any testimony provided by Bas Ording RELATING to  
18 the '381 PATENT.

19 **REQUEST FOR PRODUCTION NO. 10:**

20 PRIOR ART relating to the DESIGN PATENTS or the '381 PATENT.

21 **REQUEST FOR PRODUCTION NO. 11:**

22 Samples of all products that embody the claims of any of the DESIGN PATENTS or the  
23 '381 PATENT and publications, product literature or publications relating to such products.

24 **REQUEST FOR PRODUCTION NO. 12:**

25 DOCUMENTS sufficient to identify every foreign counterpart patent application to the  
26 DESIGN PATENTS and the '381 PATENT.

27 **REQUEST FOR PRODUCTION NO. 13:**

28

1 The prosecution history for every foreign counterpart patent application to the DESIGN  
2 PATENTS and the '381 PATENT, including any English translations.

3 **REQUEST FOR PRODUCTION NO. 14:**

4 Each item of PRIOR ART cited in the prosecution history for every foreign counterpart  
5 patent application to the DESIGN PATENTS and the '381 PATENT, including any English  
6 translations.

7 **REQUEST FOR PRODUCTION NO. 15:**

8 All DOCUMENTS relied on by Cooper Woodring in his declaration submitted in support  
9 of YOUR Motion for Preliminary Injunction dated July 1, 2011.

10 **REQUEST FOR PRODUCTION NO. 16:**

11 All prior expert reports and declarations submitted by Cooper Woodring in other litigations  
12 involving design patent infringement, industrial design, or electronic consumer goods.

13 **REQUEST FOR PRODUCTION NO. 17:**

14 All trial and deposition transcripts from other litigations in which Cooper Woodring  
15 testified as an expert.

16 **REQUEST FOR PRODUCTION NO. 18:**

17 All DOCUMENTS relied on by Ravin Balakrishnan in his declaration submitted in support  
18 of YOUR Motion for Preliminary Injunction dated July 1, 2011.

19 **REQUEST FOR PRODUCTION NO. 19:**

20 All prior expert reports and declarations submitted by Ravin Balakrishnan in other  
21 litigations involving utility patents.

22 **REQUEST FOR PRODUCTION NO. 20:**

23 All trial and deposition transcripts from other litigations in which Ravin Balakrishnan  
24 testified as an expert.

25 **REQUEST FOR PRODUCTION NO. 21:**

26 DOCUMENTS from any prior or current litigation or dispute relating to infringement,  
27 validity, enforceability, or ownership of the DESIGN PATENTS, including *Apple Inc. v. Brilliant*  
28 *Store, Inc.*, Case No. 10-cv-2996-SBA.

1 **REQUEST FOR PRODUCTION NO. 22:**

2 DOCUMENTS from any prior or current litigation or dispute relating to infringement,  
3 validity, enforceability, or ownership of the '381 PATENT, including *Nokia Corp. v. Apple Inc.*,  
4 Case No. 1:09-cv-00791 (D. Del.), and *Apple Inc. v. High Tech Computer Corp. (HTC)*, Case No.  
5 1:10-cv-00167 (D. Del.)

6 **REQUEST FOR PRODUCTION NO. 23:**

7 DOCUMENTS RELATING to all licenses and potential licenses for the DESIGN  
8 PATENTS or the '381 PATENT, including all correspondence and DOCUMENTS RELATING  
9 to licensing offers or negotiations.

10 **REQUEST FOR PRODUCTION NO. 24:**

11 DOCUMENTS RELATING to competition between each version of the iPhone and any  
12 product YOU accuse of infringing the DESIGN PATENTS or the '381 PATENT.

13 **REQUEST FOR PRODUCTION NO. 25:**

14 DOCUMENTS RELATING to competition between each version of the iPad and any  
15 product YOU accuse of infringing the DESIGN PATENTS or the '381 PATENT.

16 **REQUEST FOR PRODUCTION NO. 26:**

17 DOCUMENTS sufficient to identify the respective markets of each version of the iPhone  
18 and the iPad.

19 **REQUEST FOR PRODUCTION NO. 27:**

20 DOCUMENTS sufficient to identify the respective market shares of each version of the  
21 iPhone and the iPad.

22 **REQUEST FOR PRODUCTION NO. 28:**

23 DOCUMENTS sufficient to identify the respective market share of each product that  
24 competes with the iPhone or the iPad.

25 **REQUEST FOR PRODUCTION NO. 29:**

26 DOCUMENTS sufficient to identify all projections YOU have reviewed or considered as  
27 to what the respective market share of the iPhone and iPad, and each product that competes with  
28 the iPhone or the iPad, are likely to be at any future point.

1 DATED: July 6, 2011

QUINN EMANUEL URQUHART &  
SULLIVAN, LLP

2

3

4

By/s/ Victoria F. Maroulis

5

Charles K. Verhoeven

6

Kevin P.B. Johnson

7

Victoria F. Maroulis

8

Michael T. Zeller

9

Attorneys for SAMSUNG ELECTRONICS CO.,

10

LTD., SAMSUNG ELECTRONICS AMERICA,

11

INC., and SAMSUNG

12

TELECOMMUNICATIONS AMERICA, LLC

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on July 6, 2011, I caused SAMSUNG'S REQUESTS FOR  
3 **PRODUCTION OF DOCUMENTS AND THINGS RELATING TO APPLE INC.'S**  
4 **MOTION FOR A PRELIMINARY INJUNCTION** to be electronically served on the following  
5 via email:

6 **ATTORNEYS FOR APPLE INC.**

7 HAROLD J. MCELHINNY  
hmcclhinny@mofo.com  
8 MICHAEL A. JACOBS  
mjacobs@mofo.com  
9 JENNIFER LEE TAYLOR  
jtaylor@mofo.com  
10 ALISON M. TUCHER  
atucher@mofo.com  
11 RICHARD S.J. HUNG  
rhung@mofo.com  
12 JASON R. BARTLETT  
jasonbartlett@mofo.com  
13 MORRISON & FOERSTER LLP  
425 Market Street  
14 San Francisco, California 94105-2482  
Telephone: (415) 268-7000  
15 Facsimile: (415) 268-7522

16  
17 I declare under penalty of perjury that the foregoing is true and correct. Executed in San  
18 Francisco, California on July 6, 2011.

19  
20 /s/ Erik Olson  
Erik Olson