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LTD., SAMSUNG ELECTRONICS AMERICA,

14 INC. and SAMSUNG

TELECOMMUNICATIONS AMERICA, LLC

16 UNITED STATES DISTRICT COURT

17 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

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 Defendant.

CASE NO. 11-cv-01846-LHK

**DECLARATION OF SARA JENKINS IN
SUPPORT OF SAMSUNG'S OPPOSITION
TO APPLE'S MOTION TO COMPEL
SAMSUNG TO PRODUCE DOCUMENTS
AND PROVIDE RESPONSIVE ANSWERS
TO PROPOUNDED DISCOVERY**

PUBLIC REDACTED VERSION

Date: September 28, 2011

Time: 10:00 a.m.

Place: Courtroom 5, 4th Floor

Judge: Hon. Paul S. Grewal

1 I, Sara Jenkins, 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 submit this declaration in
5 support of Samsung's Opposition to Apple's Motion to Compel Samsung to Produce Documents
6 and Provide Responsive Answers to Propounded Discovery. I have personal knowledge of the
7 facts set forth in this declaration and, if called upon as a witness, I could and would testify to such
8 facts under oath.

9 **Samsung's Production of Preliminary Injunction-Related Documents**

10 2. Pursuant to the Court's July 18, 2011 preliminary injunction scheduling order,
11 Samsung's deadline to produce documents (on a rolling basis) was September 12, 2011. Samsung
12 began its preliminary injunction-related production nearly two weeks before that date (on
13 September 1, 2011), which was just four business days after receiving Apple's August 26, 2011
14 document requests. Samsung has produced preliminary injunction-related documents both before
15 and after the rolling deadline (as Apple has done with its preliminary injunction production – see
16 paragraph 4 below), providing them to Apple as expeditiously as possible given the circumstances.
17 Specifically:

18 a. On September 1, 2011, Samsung produced 1,916 pages in 21 documents
19 responsive to Apple's preliminary injunction-related Requests for Production, Bates range
20 SAMNDCA00000001-SAMNDCA00001915.

21 b. On September 7, 2011, Samsung produced documents responsive to Apple's
22 preliminary injunction-related Requests for Production pertaining to Samsung's damages
23 expert Michael Wagner. Samsung produced these documents early, prior to the September
24 12, 2011 document production date set by the Court, at Apple's request.

25 c. On September 8, 2011, Samsung produced documents responsive to Apple's
26 preliminary injunction-related Requests for Production pertaining to Samsung's expert
27 Andries van Dam. Samsung produced these documents early, prior to the September 12,
28 2011 document production date set by the Court, at Apple's request.

1 d. On September 8, 2011, Samsung produced documents responsive to Apple's
2 preliminary injunction-related Requests for Production pertaining to Samsung's expert Itay
3 Sherman. Samsung produced these documents early, prior to the September 12, 2011
4 document production date set by the Court, at Apple's request.

5 e. On September 12, 2011, Samsung produced documents responsive to
6 Apple's preliminary injunction-related Requests for Production pertaining to Samsung's
7 expert Roger Fidler.

8 f. Also on September 12, 2011, Samsung produced 15,429 pages in 2,955
9 documents in response to Apple's preliminary injunction-related Requests for Production,
10 Bates ranges SAMNDCA00019932-SAMNDCA00027518 and SAMNDCA00500000-
11 SAMNDCA00507841.

12 g. On September 13, 2011, Samsung produced 76 CAD files, Bates range
13 SAMNDCA00507842-SAMNDCA00507917, in response to Apple's preliminary
14 injunction-related Requests for Production.

15 h. On September 16, 2011, Samsung produced 11,895 pages in 1,967
16 documents in response to Apple's preliminary injunction-related Requests for Production,
17 Bates range SAMNDCA00507918-SAMNDCA00519812.

18 i. On September 17, 2011, Samsung produced 2,082 pages in 773 documents
19 in response to Apple's preliminary injunction-related Requests for Production, Bates range
20 SAMNDCA00519813-SAMNDCA00521894.

21 j. On September 20, 2011 Samsung produced 1,143 pages in 59 documents in
22 response to Apple's preliminary injunction-related Requests for Production, Bates range
23 SAMNDCA00521895-SAMNDCA00523037.

24 3. In total, Samsung has produced 50,555 pages in 6,015 documents, Bates ranges
25 SAMNDCA00000001-SAMNDCA00027518 and SAMNDCA00500000-SAMNDCA00523037.
26 Of these, 18,015 pages were related to Patent Local Rule 3-2. The remaining 32,540 pages relate
27 to Apple's Motion for a Preliminary Injunction. Among other documents, Samsung produced
28

1 over 1,500 emails in connection with its production regarding Apple's Motion for Preliminary
2 Injunction.

3 **Apple's Production of Preliminary Injunction-Related Documents**

4 4. Pursuant to the Court's July 18, 2011 preliminary injunction scheduling order,
5 Apple's deadline to produce documents (on a rolling basis) was July 27, 2011. Apple has
6 produced preliminary injunction-related documents both before and after that date. Specifically:

7 a. On July 22, 2011, Apple produced 3,748 pages in 501 separate documents,
8 Bates range APLNDC00000001-APLNDC00003748.

9 b. On July 23, 2011, Apple produced 7,131 pages in 78 separate documents,
10 Bates range APLNDC00003749-APLNDC00010879.

11 c. On July 25, 2011, Apple produced 38 pages in 6 documents, Bates range
12 APLNDC000108800-APLNDC00010917.

13 d. On August 8, 2011, Apple produced 90 pages in 6 documents, Bates range
14 APLNDC00014267-APLNDC00014356.

15 e. On August 18, 2011, Apple produced 8 pages in 8 documents, Bates Range
16 APLNC00014357-APLNDC00014364.

17 5. In total, Apple has produced 36,350 pages to date, but of these, only 14,924 pages
18 pertained to preliminary injunction-related discovery. The remaining 21,426 pages were related to
19 Apple's infringement contentions and were provided pursuant to Patent Local Rule 3-2. Apple
20 produced only 683 emails in its preliminary-injunction related discovery.

21 **Samsung's Preliminary Injunction Document Production is More Than Twice as Large as**

22 **Apple's Preliminary Injunction Document Production**

23 6. As these page counts confirm, Samsung's preliminary injunction-related document
24 production is more than twice as large as Apple's preliminary injunction-related document
25 production.

26 **Samsung's Production of Design Documents and Apple's Request No. 1**

27 7. Apple's Request for Production No. 1 calls for: "Documents relating to your
28 [Samsung's] analysis, review, consideration, or copying of, or comparison against, any Apple

1 product or product feature in designing, developing, or implementing any feature of the Products
2 at Issue, including (1) their Exterior Design; (2) functionality that allows for an image, list, or
3 webpage to be scrolled beyond its edge until it is partially displayed; and (3) functionality that
4 allows for an image, list, or webpage that is scrolled beyond its edge to scroll back or bounce back
5 into place so that it returns to fill the screen.”

6 8. Samsung has engaged in searches of its designers’ files to find product design or
7 development documents that analyze, review, consider, or compare Samsung designs with Apple
8 products. Samsung has produced numerous design documents, including highly confidential CAD
9 files and documents related to the development and design of the accused products , including at
10 least the following: SAMNDCA00520818-SAMNDCA00521000; SAMNDCA00503885-
11 SAMNDCA00503891; SAMNDCA00504253-SAMNDCA00504275; SAMNDCA00505405;
12 SAMNDCA00505408-SAMNDCA00505459; SAMNDCA00505544-SAMNDCA00505646;
13 SAMNDCA00505745-SAMNDCA00506091; SAMNDCA00507690; SAMNDCA00521895;
14 SAMNDCA00504400-SAMNDCA00504440, SAMNDCA0040444-SAMNDCA0050452;
15 SAMNDCA00504454-SAMNDCA00504661; SAMNDCA0050468-SAMNDCA00504670;
16 SAMNDCA00504672-SAMNDCA00504686; SAMNDCA00504688-SAMNDCA00504779;
17 SAMNDCA00504781-SAMNDCA00504815; SAMNDCA00504817-SAMNDCA00504840;
18 SAMNDCA00504842-SAMNDCA00504893; SAMNDCA00504895-SAMNDCA00504905;
19 SAMNDCA00504986; SAMNDCA00504995; SAMNDCA00505029-SAMNDCA005057-
20 SAMNDCA0050575; SAMNDCA00505083-SAMNDCA00505157; SAMNDCA00505159-
21 SAMNDCA00505170; SAMNDCA00505172-SAMNDCA00505206; SAMNDCA00505221-
22 SAMNDCA00505237; SAMNDCA00505239-SAMNDCA00505244; SAMNDCA00506200-
23 SAMNDCA00506204; SAMNDCA00504151-SAMNDCA00504227; SAMNDCA00504231-
24 SAMNDCA00504244; SAMNDCA00505489-SAMNDCA00505543; SAMNDCA00503892-
25 SAMNDCA00504150; SAMDNCA0050943-SAMNDCA00506089; SAMNDCA00507234-
26 SAMNDCA00507322; SAMNDCA00505460-SAMNDCA00505468; SAMNDCA00506209-
27 SAMNDCA00506240; SAMNDCA00508311-SAMNDCA00508313; SAMNDCA00508305-
28 SAMNDCA0058307.

1 9. For example, Samsung has produced the following types of design documents
2 (which do not refer to any copying of Apple products):

- 3 ■ [REDACTED]
- 4 [REDACTED]
- 5 ■ [REDACTED]
- 6 [REDACTED]
- 7 [REDACTED]
- 8 ■ [REDACTED]
- 9 [REDACTED]
- 10 [REDACTED]
- 11 ■ [REDACTED]
- 12 [REDACTED]
- 13 ■ [REDACTED]
- 14 [REDACTED]

15 f. Third party presentations studying and categorizing design trends occurring
16 in a variety of industries across the entire globe, including trends impacting the mobile
17 handset industry.

- 18 ■ [REDACTED]
- 19 [REDACTED]
- 20 [REDACTED]

21 **Samsung's Production of Documents Regarding Lee Don-Joo in Response to**
22 **Apple's Request No. 166**

23 10. Apple's Request No. 166 calls for "All Documents to or from Lee Don-Joo relating
24 to the redesign of the Galaxy Tab 10.1 following Apple's announcement of the iPad 2 on or about
25 March 2, 2011."

26 11. Samsung has produced various documents in response to Apple's Request for
27 Production No. 166 (even where those documents were not sent to or from Lee Don-Joo, as
28 Apple's Request more narrowly specifies), including at least the following:

1 SAMNDCA00511797; SAMNDCA00511823; SAMNDCA00511849; SAMNDCA00511878;
2 SAMNDCA00511103; SAMNDCA00511723; SAMNDCA00513464; SAMNDCA00514225;
3 SAMNDCA00514572; SAMNDCA00515404; SAMNDCA00024958-SAMNDCA00024962.

4 12. For example, Samsung has produced the following types of documents:

5 a. A press guidance document related to Lee Don Joo's mis-translated
6 statement to the press.

7 [REDACTED]
8 [REDACTED]

9 **Samsung's Production of Marketing Documents and Apple's Request No. 214**

10 13. Apple's Request No. 214 calls for: "All Documents relating to marketing of any
11 Products at Issue that discuss or refer directly or indirectly to Apple or Apple products, including
12 copies of all advertisements or other promotional materials, marketing plans, market surveys,
13 focus group studies, or other documents related to testing of advertisements or advertisement
14 messaging. Documents responsive to this Request include, but are not limited to, your "Hello"
15 marketing campaign relating to the Galaxy S, your "See Flash Run" marketing campaign for the
16 Galaxy Tab, and your "Appelmos" ("Applesauce") marketing campaign relating to the Galaxy S
17 II."

18 14. Samsung has produced numerous marketing documents (regardless of whether
19 they refer to Apple or Apple products, as Apple's Request more narrowly specifies), including at
20 least the following: SAMNDCA00523037-SAMNDCA00522039; SAMNDCA00509333-
21 SAMNDCA00509341; SAMNDCA00509394-SAMNDCA00509398; SAMNDCA00510083-
22 SAMNDCA00510126; SAMNDCA00510214; SAMNDCA00519814-SAMNDCA00519921;
23 SAMNDCA0519953-SAMNDCA0520062; SAMNDCA00520133-SAMNDCA00520377;
24 SAMNDCA00521309-SAMNDCA00521439; SAMNDCA00521565-SAMNDCA00521666;
25 SAMNDCA00521688-SAMNDCA00521704; SAMNDCA00521707-SAMNDCA00521720;
26 SAMNDCA00521727-SAMNDCA00521772; SAMNDCA00521775-SAMNDCA00521831;
27 SAMNDCA00509914; SAMNDCA0050946-SAMNDCA00509983; SAMNDCA0050992-

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1 SAMNDCA00510031; SAMNDCA00510053-SAMNDCA00510075; SAMNDCA00519767-
2 SAMNDCA00519792.

3 15. For example, Samsung has produced the following types of marketing documents:

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

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[REDACTED]

o. Advertisements for Samsung mobile handsets, including Galaxy S mobile handset television advertisements.

[REDACTED]

[REDACTED]

Samsung’s Production of Customer Survey Documents in Response to Apple’s Request No. 206

16. Apple’s Request No. 206 calls for “All Documents relating to any customer surveys, studies, analyses or investigations regarding the Products at Issue.”

17. Samsung has produced various documents in response to Apple’s Request for Production No. 206 (even though Samsung believes such documents are irrelevant to the preliminary injunction proceedings), including at least the following: SAMNDCA00024963–SAMNDCA00025510.

[REDACTED]

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■ [REDACTED]
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I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed in Redwood Shores, CA on September 26, 2011.

By /s/ Sara Jenkins

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GENERAL ORDER ATTESTATION

I, Victoria 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 Sara Jenkins.

/s/ Victoria Maroulis