Apple Inc. v. Samsung Electronics Co. Ltd. et al

Exhibit 1

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1	QUINN EMANUEL URQUHART & SULLIVA	N, LLP
2	Charles K. Verhoeven (Cal. Bar No. 170151) charlesverhoeven@quinnemanuel.com 50 California Street, 22 nd Floor	
3	50 California Street, 22 nd Floor San Francisco, California 94111	
4	Telephone: (415) 875-6600 Facsimile: (415) 875-6700	
5	Kevin P.B. Johnson (Cal. Bar No. 177129)	
6	kevinjohnson@quinnemanuel.com Victoria F. Maroulis (Cal. Bar No. 202603)	
7	victoriamaroulis@quinnemanuel.com 555 Twin Dolphin Drive 5 th Floor	
8	Redwood Shores, California 94065 Telephone: (650) 801-5000	
9	Facsimile: (650) 801-5100	
10	Michael T. Zeller (Cal. Bar No. 196417) michaelzeller@quinnemanuel.com	
10	865 S. Figueroa St., 10th Floor	
11	Los Angeles, California 90017 Telephone: (213) 443-3000 Facsimile: (213) 443-3100	
12		
	Attorneys for SAMSUNG ELECTRONICS CO., LTD., SAMSUNG ELECTRONICS	
14	AMERICA, INC. and SAMSUNG TELECOMMUNICATIONS AMERICA, LLC	
15		
16		DISTRICT COURT
17		LIFORNIA, SAN JOSE DIVISION
18	APPLE INC., a California corporation,	CASE NO. 11-cv-01846-LHK
19	Plaintiff,	SAMSUNG'S PATENT LOCAL RULE
20	VS.	3-3 AND 3-4 DISCLOSURES
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		
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27		
28		
		Case No. 11-cv-01846-LHK
	SAMSUNC	3'S PATENT LOCAL RULE 3-3 AND 3-4 DISCLOSURES

1 Pursuant to the Court's Minute Order and Case Management Order, and Patent Local Rules 2 3-3 and 3-4, Defendants Samsung Electronic Co., Ltd., Samsung Electronics America, Inc., and 3 Samsung Telecommunications America, LLC (collectively, "Samsung") submit invalidity contentions and document productions for U.S. Patent Numbers 7,812,828 (the "'828 Patent"); 4 5 6,493,002 (the "002 Patent"); 7,469,381 (the "381 Patent"); 7,844,915 (the "915 Patent"); 7,853,891 (the "891 Patent"); 7,663,607 (the "607 Patent"); 7,663,163 (the "163 Patent"); and 6 7,920,129 (the "129 Patent") (collectively, "Apple Asserted Patents"). Apple Inc. is referred to 7 8 herein as "Apple" or "Plaintiff."

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PATENT LOCAL RULE 3-3 DISCLOSURES

10 1. This disclosure is directed to preliminary invalidity and unenforceability issues
 11 only and does not address claim construction or non-infringement. Samsung reserves all rights
 12 with respect to such issues, including but not limited to its position that claims of the Apple
 13 Asserted Patents are to be construed in a particular manner and are not infringed.

14 2. These invalidity contentions are preliminary and are based on Samsung's current 15 knowledge, understanding, and belief as to the facts and information available as of the date of 16 these contentions. Samsung has not yet completed its investigation, discovery, or analysis of 17 information related to this action, and additional discovery may require Samsung to supplement or 18 amend its invalidity contentions. For instance, Apple has failed to produce prior art, invalidity 19 contentions, expert reports, dispositive motions, prehearing and posthearing briefs, and other 20relevant materials from its litigations with HTC, Motorola, and Nokia, which include many of the 21 Apple Asserted Patents and related patents. As one example, Apple has not yet produced 22 materials relating to NeXT computers, including the NeXTSTEP source code for multiple versions 23 of the prior art NeXTSTEP operating system, even though Samsung has requested this prior art. 24 Samsung reserves the right to amend or supplement its charts once it gains access to relevant 25 materials Apple has not yet produced. While Samsung has made a good-faith effort to provide a 26 comprehensive list of prior art relevant to this case, Samsung reserves the right to modify or 27 supplement its prior art list and invalidity contentions at a later time with or based upon pertinent 28 information that may be subsequently discovered from Apple or third-parties. Moreover,

discovery is ongoing and Samsung reserves the right to pursue all other defenses that may be
 available to it, including but not limited to defenses that the Apple Asserted Patents are
 unenforceable based on laches, estoppels, waiver acquiescence, inequitable conduct, patent
 misuse, patent exhaustion, express or implied license, or any other grounds.

5 3. Any invalidity analysis depends, ultimately, upon claim construction, which is a question of law reserved for the Court. The asserted claims have not yet been construed by the 6 7 Court in this case and, thus, Samsung has not yet had the opportunity to compare the asserted 8 claims of the Apple Asserted Patents (as construed by the Court) with the prior art. Samsung 9 reserves the right to amend, supplement, or materially modify its invalidity contentions after the 10 claims have been construed by the Court. Samsung also reserves the right to amend, supplement, 11 or materially modify its invalidity contentions based on any claim construction positions that 12 Apple may take in this case. Samsung also reserves the right to assert that a claim is indefinite, 13 not enabled, or fails to meet the written description requirement based on any claim construction position Plaintiff may take in this case or based on any claim construction the Court may adopt in 14 this case. 15

16 4. Samsung's invalidity contentions are directed to the claims asserted by Plaintiff that 17 are identified in Plaintiff's August 26, 2011 Disclosure of Asserted Claims and Infringement 18 Contentions. In its Infringement Contentions, however, Plaintiff states that it "reserves the right to 19 supplement or amend these disclosures as further facts are revealed during the course of this litigation." Samsung therefore reserves the right to modify, amend, supplement or otherwise alter 20 21 its invalidity contentions in the event that Plaintiff supplements or amends its infringement 22 contentions or take a claim construction position that is different than or in addition to those set 23 forth in its infringement contentions, or for any other reason constituting good cause to modify, 24 amend, supplement or otherwise alter these invalidity contentions.

5. Samsung further contends that Plaintiff appears to be pursuing overly broad
constructions of the asserted claims of the Apple Asserted Patents in an effort to piece together an
infringement claim where none exists and to accuse products that do not practice the claims as
properly construed. At the same time, Plaintiff's infringement contentions are in most places too

1 general and vague to discern exactly how Plaintiff contends each accused product practices each element of the asserted claims. Samsung has requested that Plaintiff remedy the deficiencies in its 2 3 infringement contentions, but Plaintiff has not done so. Accordingly, these invalidity contentions 4 are not intended to be, and are not, an admission that the asserted claims are infringed by any of 5 Samsung's products or technology, that any particular feature or aspect of any of the accused products practices any elements of the asserted claims, or that any of Plaintiff's proposed 6 7 constructions are supportable or proper. To the extent that any of the prior art references disclose 8 the same functionality or feature of any of the accused products, Samsung reserves the right to 9 argue that said feature or functionality does not practice any element of any of the asserted claims, 10 and to argue, in the alternative, that if said feature or functionality is found to practice any element of any of the asserted claims of the Apple Asserted Patents, then the prior art reference 11 demonstrates that that element is not novel to the invention and is not patentable. 12

6. Attached hereto are representative claim charts that demonstrate how the asserted
claims of the Apple Asserted Patents are invalid in view of certain prior art. The references cited
in the attached claim charts may disclose the limitations of the asserted claims of the Apple
Asserted Patents either expressly and/or inherently. Moreover, the suggested obviousness
combinations are in the alternative to Samsung's anticipated contentions. These obviousness
combinations should not be construed to suggest that any reference included in any combination is
not anticipatory in its own right.

20 7. In this action, Plaintiff asserts that Samsung infringes certain claims of the Apple 21 Asserted Patents. Although Plaintiff asserts that these claims are either literally infringed or 22 infringed under the doctrine of equivalents, Plaintiff has failed to provide any analysis or 23 explanation regarding alleged infringement of the asserted claims of the patents-in-suit under the 24 doctrine of equivalents. Samsung reserves its rights to modify, amend, supplement or otherwise 25 alter its preliminary infringement contentions in the event Plaintiff is permitted to modify, amend, 26 supplement, or clarify their infringement contentions with respect to direct infringement (literal 27 and under the doctrine of equivalents).

8. Samsung is providing invalidity contentions only for the claims asserted by
 Plaintiff, but hereby reserves the right to seek invalidation of all claims in each of the Apple
 Asserted Patents.

4 9. Samsung reserves the right to modify, amend, or supplement these disclosures as
5 additional information becomes available, and as its discovery and investigation proceed.

THE '828 PATENT

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I.

A. Local Patent Rule 3-3(a): Identification of Prior Art

At this time, Samsung contends that at least the following prior art references anticipate or
 render obvious, either alone or in combination, the asserted claims of the '828 Patent:

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1. **Patent References**¹

12	Chart No(s).	Country of Origin	Patent Number	Date of Issue	Priority Date		
13	A-1	US	4,618,989	10/21/1986	1/21/1983		
13	A-2	US	5,488,204	1/30/1996	6/8/1992		
14	A-3	US	5,583,946	12/10/1996	9/30/1993		
	A-4	US	5,638,093	6/10/1997	12/7/1993		
15	A-5	US	5,734,751	3/31/1998	7/22/1994		
15	A-6	US	5,812,118	9/22/1998	6/25/1996		
16	A-7	US	5,825,352	10/20/1998	1/4/1996		

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2. **Publications**²

Chart No(s).	Title	Date of Publication	Author	Publisher
A-8	Machine Vision: Theory, Algorithms, Practicalities (2d	Nov. 1996	E.R. Davies	Academic Press
	Ed.) (ISBN 012206092X)			
A-9	Interpretation of Tactile Data from an FSR Pressure Pad Transducer Using Image	Nov. 1994	Apurva M. Desai	Simon Fraser University, Canada
	Processing Techniques, Master's Thesis			

24 Additional prior art that has not been charted, but is still relevant to the invalidity of the

25 328 Patent is listed in Exhibit B. Samsung reserves the right to amend these invalidity

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 $28 \begin{vmatrix} 2 \\ 28 \end{vmatrix}$ Samsung incorporates by reference all prior art references identified in the publications

 $[\]begin{bmatrix} 1 \\ 27 \end{bmatrix}$ Samsung incorporates by reference all prior art references cited in the patents listed herein and/or their file histories.

contentions to assert these references depending on the claim construction and infringement
 positions Apple may take as the case proceeds. Moreover, Samsung reserves the right to use these
 references in combination with other references to render the claims of the '828 Patent obvious in
 the event Apple takes the position that certain claim limitations are missing from the references
 charted in Exhibits A and C.

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B. Local Patent Rule 3-3(b): Whether Each Item Anticipates or Renders Obvious the Asserted Claims

Plaintiff asserts claims 1-3, 6, 9-13, 15-16, 20-31, and 34-35 of the '828 Patent against Samsung in this lawsuit. All of those claims are invalid because the '828 Patent fails to meet one or more of the requirements for patentability. The individual bases for invalidity are provided below and in the claim charts attached as Exhibits A and C. Each of the foregoing listed prior art documents, the underlying work, and/or the underlying apparatus or method qualifies as prior art under one or more sections of 35 U.S.C. § 102 and/or 35 U.S.C. § 103.

Although Samsung has identified at least one citation per limitation for each reference, 14 each and every disclosure of the same limitation in the same reference is not necessarily identified. 15 Rather, in an effort to focus the issues, Samsung has cited representative portions of identified 16 references, even where a reference may contain additional support for a particular claim element. 17 In addition, persons of ordinary skill in the art generally read a prior art reference as a whole and 18 in the context of other publications and literature. Thus, to understand and interpret any specific 19 statement or disclosure within a prior art reference, such persons would rely on other information 20 within the reference, along with other publications and their general scientific knowledge. 21 Samsung may rely upon uncited portions of the prior art references and on other publications and 22 expert testimony to provide context, and as aids to understanding and interpreting the portions that 23 are cited. Samsung may also rely on uncited portions of the prior art references, other disclosed 24 publications, and the testimony of experts to establish that a person of ordinary skill in the art 25 would have been motivated to modify or combine certain of the cited references so as to render the 26 claims obvious. 27

1. Anticipation

Some or all of the asserted claims of the '828 Patent are invalid as anticipated under 35 U.S.C. § 102 in view of each of the prior art references identified above and in the claim charts included in Exhibit A, which identify specific examples of where each limitation of the asserted claims is found in the prior art references. As explained above, the cited portions of prior art references identified in the attached claim charts are exemplary only and representative of the content and teaching of the prior art references, and should be understood in the context of the reference as a whole and as they would be understood by a person of ordinary skill in the art.

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2. **Obviousness**

To the extent any limitation is deemed not to be exactly met by an item of prior art listed
above and in Exhibit A, then any purported differences are such that the claimed subject matter as
a whole would have been obvious to one skilled in the art at the time of the alleged invention, in
view of the state of the art and knowledge of those skilled in the art. The item of prior art would,
therefore, render the relevant claims invalid for obviousness under 35 U.S.C. § 103(a).

15 In addition, the references identified above render one or more asserted claims of the '828 16 Patent obvious when the references are read in combination with each other, and/or when read in 17 view of the state of the art and knowledge of those skilled in the art. Each and every reference 18 identified is also relevant to the state of the art at the time of the alleged invention. Any of the 19 references disclosed above may be combined to render obvious (and therefore invalid) each of 20 Plaintiff's asserted claims. Samsung may rely upon a subset of the above identified references or 21 all of the references identified above, including all references in Exhibits A, B, and C, for purposes 22 of obviousness depending on the Court's claim construction, positions taken by Apple during this 23 litigation, and further investigation and discovery.

Moreover, to the extent the foregoing references are found not to anticipate the asserted claims, the foregoing references render the asserted claims obvious either alone or in combination with one or more of the other references identified above pursuant to P.R. 3-3(a). As explained herein and/or in the accompanying charts, it would have been obvious to a person of skill in the art

1	at the time of the alleged invention of the asserted claims of the '828 Patent to combine the various
2	references cited herein so as to practice the asserted claims of the '828 Patent.
3	In accordance with P.R. 3-3(b), prior art references rendering the asserted claims obvious,
4	alone or in combination with other references, are outlined below and included in Exhibits A and
5	C, which includes exemplary claim charts for the asserted claims of the '828 Patent showing
6 7	specifically where in each reference or combinations of references each asserted claim is found,
8	and an explanation of why the prior art renders the asserted claim obvious. Where applicable, the
9	charts in Exhibit A and C include the motivation to combine references.
10	In particular, Samsung contends that the asserted claims of the '828 Patent would have
11	been obvious in view of the prior art references identified above. For example, Exhibit C includes
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13	exemplary claim charts that describe how the asserted claims of the '828 Patent would have been
14	obvious in view of the following references alone or in combination:
15	• All references identified in Exhibit A, if found not to anticipate the claims of the '828 Patent, render the claims of the '828 Patent obvious alone;
16 17	• Exhibit C-1: U.S. Patent No. 5,168,531 ("Sigel '531") and Baker '951, Bisset '352, Bertram '157, Davies, Desai, Duwaer '381, and/or Tsukune;
18 19	• Exhibit C-2: U.S. Patent No. 6,738,154 ("Venable '154") and Baker '951, Bisset '352, Bertram '157, Davies, Desai, Duwaer '381, Konrad, Shieh '118, Takahashi '093, and/or Tsukune '989
20	In addition to the appointic combinations of microart and the appointic combinations of
21	In addition to the specific combinations of prior art and the specific combinations of
22	groups of prior art disclosed, Samsung reserves the right to rely on any other combination of any
23	prior art references disclosed herein. Samsung further reserves the right to rely upon combinations
24	disclosed within the prosecution history of the references cited herein. These obviousness
25	combinations reflect Samsung's present understanding of the potential scope of the claims that
26	Plaintiff appears to be advocating and should not be seen as Samsung's acquiescence to Plaintiff's
20	interpretation of the patent claims.
28	
	-8- Case No. 11-cv-01846-LHK SAMSUNG'S PATENT LOCAL RULE 3-3 AND 3-4 DISCLOSURES

1	Samsung also reserves the right to amend or supplement these contentions regarding
2	anticipation or obviousness of the asserted claims, in view of further information from Plaintiff,
3	information discovered during discovery, or a claim construction ruling by the Court. Plaintiff has
4	not identified what elements or combinations it alleges were not known to one of ordinary skill in
5	the art at the time. Therefore, for any claim limitation that Plaintiff alleges is not disclosed in a
6	particular prior art reference, Samsung reserves the right to assert that any such limitation is either
7	inherent in the disclosed reference or obvious to one of ordinary skill in the art at the time in light
8	of the same, or that the limitation is disclosed in another of the references disclosed above and in
9	combination would have rendered the asserted claim obvious.
10	C. Local Patent Rule 3-3(c): Charts Identifying where Specifically in each Alleged item of Prior Art each Asserted Claim is Found
11	Anegeu item of i nor Art each Asserteu Claim is Found
12	Pursuant to Local Patent Rule 3-3(c), charts identifying where specifically in each alleged
13	item of prior art each limitation of each asserted claim is found, including for each limitation that
14	Apple contends is governed by 35 U.S.C. § 112(6), the identity of the structure(s), act(s), or
15	material(s) in each item of prior art that performs the claimed function is attached in Exhibits A
16	and C.
17	D. Local Patent Rule 3-3(d): Other Grounds for Invalidity
18	Samsung identifies the following grounds for invalidity of the asserted claims of the '828
10	Sumsung ruentines the following grounds for invariancy of the asserted elatins of the ope
10	Patent based on 35 U.S.C. §§ 101 and/or 112. Samsung reserves the right to supplement these
19	Patent based on 35 U.S.C. §§ 101 and/or 112. Samsung reserves the right to supplement these
19 20	Patent based on 35 U.S.C. §§ 101 and/or 112. Samsung reserves the right to supplement these disclosures based on further investigation and discovery.
19 20 21	 Patent based on 35 U.S.C. §§ 101 and/or 112. Samsung reserves the right to supplement these disclosures based on further investigation and discovery. 3. Invalidity Based on 35 U.S.C. § 101
19 20 21 22	 Patent based on 35 U.S.C. §§ 101 and/or 112. Samsung reserves the right to supplement these disclosures based on further investigation and discovery. 3. Invalidity Based on 35 U.S.C. § 101 The asserted claims of the '828 Patent are invalid under 35 U.S.C. § 101 because they only
 19 20 21 22 23 	 Patent based on 35 U.S.C. §§ 101 and/or 112. Samsung reserves the right to supplement these disclosures based on further investigation and discovery. 3. Invalidity Based on 35 U.S.C. § 101 The asserted claims of the '828 Patent are invalid under 35 U.S.C. § 101 because they only claim abstract ideas. For example, each asserted claim of the '828 Patent contains the limitation
 19 20 21 22 23 24 	 Patent based on 35 U.S.C. §§ 101 and/or 112. Samsung reserves the right to supplement these disclosures based on further investigation and discovery. 3. Invalidity Based on 35 U.S.C. § 101 The asserted claims of the '828 Patent are invalid under 35 U.S.C. § 101 because they only claim abstract ideas. For example, each asserted claim of the '828 Patent contains the limitation
 19 20 21 22 23 24 25 	 Patent based on 35 U.S.C. §§ 101 and/or 112. Samsung reserves the right to supplement these disclosures based on further investigation and discovery. 3. Invalidity Based on 35 U.S.C. § 101 The asserted claims of the '828 Patent are invalid under 35 U.S.C. § 101 because they only claim abstract ideas. For example, each asserted claim of the '828 Patent contains the limitation
 19 20 21 22 23 24 25 26 	 Patent based on 35 U.S.C. §§ 101 and/or 112. Samsung reserves the right to supplement these disclosures based on further investigation and discovery. 3. Invalidity Based on 35 U.S.C. § 101 The asserted claims of the '828 Patent are invalid under 35 U.S.C. § 101 because they only claim abstract ideas. For example, each asserted claim of the '828 Patent contains the limitation
 19 20 21 22 23 24 25 26 27 	 Patent based on 35 U.S.C. §§ 101 and/or 112. Samsung reserves the right to supplement these disclosures based on further investigation and discovery. 3. Invalidity Based on 35 U.S.C. § 101 The asserted claims of the '828 Patent are invalid under 35 U.S.C. § 101 because they only claim abstract ideas. For example, each asserted claim of the '828 Patent contains the limitation

1 2	4. Invalidity Based on Enablement or Written Description Under 35 U.S.C. § 112(1) and/or Invalidity Based on Indefiniteness Under 35 U.S.C. § 112(2)
3	Based on Samsung's present understanding of Plaintiff's infringement contentions,
4	Samsung asserts that claims 1-3, 6, 9-13, 15-16, and 20-31 of the '828 Patent are invalid for
5	reciting at least the following claim terms/phrases:
6 7	• "mathematically fit[ting] an ellipse to at least one of the [one or more] pixel groups"
8	• "transmit[ting] one or more ellipse parameters as a control signal to an electronic or electromechanical device"
9 10	• "means for producing a proximity image representing a scan of a plurality of electrodes of a touch-sensitive surface"
11	• "means for segmenting the proximity image into one or more pixel groups"
12	• "means for fitting an ellipse to at least one of the pixel groups"
13	• "the touch object comprises at least a portion of a hand"
14	• "the touch object comprises at least a portion of one or more fingers"
15	• "the touch object comprises at least a portion of a body part"
16 17	• "the body part comprises one or more of a hand, a finger, an ear, or a cheek"
18	• "means for transmitting one or more ellipse parameters as a control signal to an electronic or electromechanical device"
19 20	• "means for tracking a path of one or more pixel groups through a plurality of time- sequenced proximity images"
21 22	• "means for fitting an ellipse to at least one of the pixel groups in a plurality successive proximity images"
23	• "means for tracking a change in one or more ellipse parameters through a plurality of time-sequenced proximity images"
24	These claim terms/phrases as apparently construed by Apple violate the written description,
25	enablement, and/or definiteness requirements of 35 U.S.C. § 112.
26 27	Based on Samsung's present understanding of Plaintiff's infringement contentions, at least
28	one or more of these claim terms/phrases are indefinite because they are inconsistent with and
	-10- Case No. 11-cv-01846-LHK SAMSUNG'S PATENT LOCAL RULE 3-3 AND 3-4 DISCLOSURES

1 broader than the alleged invention disclosed in the specification and given Plaintiff's apparent 2 constructions of the claims, any person of ordinary skill in the art at the time of the invention 3 would not understand what is claimed, even when the claims are read in light of the specification. Moreover, based on Samsung's present understanding of Plaintiff's infringement contentions, each 4 5 of the asserted claims in which these claim terms/phrases appear lack written description because the specification of the '828 Patent demonstrates that the patentee neither conceived of nor 6 7 demonstrated possession of all that Apple now contends the claims cover. In addition, based on 8 Samsung's present understanding of Plaintiff's infringement contentions, each of the asserted 9 claims in which these claim terms/phrases appear are invalid because the specification fails to 10 provide sufficient disclosure to enable any person of ordinary skill in the art to which it pertains, or with which it is most nearly connected, to implement the invention without undue 11 12 experimentation. Therefore, the claims fail to satisfy the requirements of § 112 ¶¶ 1 and 2.

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II.

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A. Local Patent Rule 3-3(a): Identification of Prior Art

At this time, Samsung contends that at least the following prior art references anticipate or
render obvious, either alone or in combination, the asserted claims of the '002 Patent:

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1. **Patent References**³

THE '002 PATENT

18	Chart No(s).	Country of Origin	Patent Number	Date of Issue	Priority Date
19	D-1	US	5,754,174	05/19/1998	08/27/1992
20	D-2	US	5,825,357	10/20/1998	12/13/1993
20	D-3	US	5,745,096	04/28/1998	06/03/1991
21	D-4	US	5,542,088	07/30/1996	04/29/1994
<i>2</i> 1	D-5	US	5,491,795	2/13/1996	05/04/1993

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2. **Publications**⁴

23 24	Chart No(s).	Title	Date of Publication	Author	Publisher
25	D-6	Using PC Tools For Windows	July 1993	Halliday, Caroline, et. al.	Que Corporation

³ Samsung incorporates by reference all prior art references cited in the patents listed herein and/or their file histories.

 ⁴ Samsung incorporates by reference all prior art references identified in the publications
 ²⁸ listed herein.

3. Systems

All versions of the following prior art systems commercially sold, publicly known or used
before the priority date of the '002 Patent, including documents and source code describing the
same:

5	ChartSystemNo(s).		Date Offered	Offering Entity		
6	D-6	PC Tools for Windows 1.0	July 1993 or earlier	Central Point		
7	D-7	NeXTSTEP Operating System ver. 3.0	Sep. 1992	Next Computer, Inc.		
8			•			

Additional prior art that has not been charted, but is still relevant to the invalidity of the
'002 Patent is listed in Exhibit E. Samsung reserves the right to amend these invalidity
contentions to assert these references depending on the claim construction and infringement
positions Apple may take as the case proceeds. Moreover, Samsung reserves the right to use these
references in combination with other references to render the claims of the '002 Patent obvious in
the event Apple takes the position that certain claim limitations are missing from the references
charted in Exhibits D and F.

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B.

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Local Patent Rule 3-3(b): Whether Each Item Anticipates or Renders Obvious the Asserted Claims

Plaintiff asserts claims 1-4, 6-7, 9-20, 25-29, 31-32, 34-45, and 50 of the '002 Patent
against Samsung in this lawsuit. All of those claims are invalid because the '002 Patent fails to
meet one or more of the requirements for patentability. The individual bases for invalidity are
provided below and in the claim charts attached as Exhibits D and F. Each of the foregoing listed
prior art documents, the underlying work, and/or the underlying apparatus or method qualifies as
prior art under one or more sections of 35 U.S.C. § 102 and/or 35 U.S.C. § 103.

Although Samsung has identified at least one citation per limitation for each reference,
each and every disclosure of the same limitation in the same reference is not necessarily identified.
Rather, in an effort to focus the issues, Samsung has cited representative portions of identified
references, even where a reference may contain additional support for a particular claim element.
In addition, persons of ordinary skill in the art generally read a prior art reference as a whole and

in the context of other publications and literature. Thus, to understand and interpret any specific 1 2 statement or disclosure within a prior art reference, such persons would rely on other information 3 within the reference, along with other publications and their general scientific knowledge. 4 Samsung may rely upon uncited portions of the prior art references and on other publications and 5 expert testimony to provide context, and as aids to understanding and interpreting the portions that are cited. Samsung may also rely on uncited portions of the prior art references, other disclosed 6 7 publications, and the testimony of experts to establish that a person of ordinary skill in the art 8 would have been motivated to modify or combine certain of the cited references so as to render the 9 claims obvious.

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4. Anticipation

Some or all of the asserted claims of the '002 Patent are invalid as anticipated under 35 U.S.C. § 102 in view of each of the prior art references identified above and in the claim charts included in Exhibit D, which identify specific examples of where each limitation of the asserted claims is found in the prior art references. As explained above, the cited portions of prior art references identified in the attached claim charts are exemplary only and representative of the content and teaching of the prior art references, and should be understood in the context of the reference as a whole and as they would be understood by a person of ordinary skill in the art.

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5. **Obviousness**

To the extent any limitation is deemed not to be exactly met by an item of prior art listed
above and in Exhibit D, then any purported differences are such that the claimed subject matter as
a whole would have been obvious to one skilled in the art at the time of the alleged invention, in
view of the state of the art and knowledge of those skilled in the art. The item of prior art would,
therefore, render the relevant claims invalid for obviousness under 35 U.S.C. § 103(a).

In addition, the references identified above render one or more asserted claims of the '002 Patent obvious when the references are read in combination with each other, and/or when read in view of the state of the art and knowledge of those skilled in the art. Each and every reference identified is also relevant to the state of the art at the time of the alleged invention. Any of the references disclosed above may be combined to render obvious (and therefore invalid) each of Plaintiff's asserted claims. Samsung may rely upon a subset of the above identified references or
 all of the references identified above, including all references in Exhibits D, E, and F, for purposes
 of obviousness depending on the Court's claim construction, positions taken by Apple during this
 litigation, and further investigation and discovery.

Moreover, to the extent the foregoing references are found not to anticipate the asserted claims, the foregoing references render the asserted claims obvious either alone or in combination with one or more of the other references identified above pursuant to P.R. 3-3(a). As explained herein and/or in the accompanying charts, it would have been obvious to a person of skill in the art at the time of the alleged invention of the asserted claims of the '002 Patent to combine the various references cited herein so as to practice the asserted claims of the '002 Patent.

In accordance with P.R. 3-3(b), prior art references rendering the asserted claims obvious, alone or in combination with other references, are outlined below and included in Exhibits D and F, which includes exemplary claim charts for the asserted claims of the '002 Patent showing specifically where in each reference or combinations of references each asserted claim is found, and an explanation of why the prior art renders the asserted claim obvious. Where applicable, the charts in Exhibit D and F include the motivation to combine references.

In particular, Samsung contends that the asserted claims of the '002 Patent would have
 been obvious in view of the prior art references identified above. For example, Exhibit F includes
 exemplary claim charts that describe how the asserted claims of the '002 Patent would have been
 obvious in view of the following references alone or in combination:

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All references identified in Exhibit D, if found not to anticipate the claims of the '002 Patent or render the claims of the '002 Patent obvious alone;Exhibit F-1: U.S. Patent No. 5,394,521 ("Henderson '521"); U.S. Patent No.

- 5,233,687 ("Henderson '687"); U.S. Patent No. 5,072,412 ("Henderson '412"); D.A.
- Henderson, Jr. & S. Card, K., "Rooms: The Use of Multiple Virtual Workspaces to

-14- Case No. 11-cv-01846-LHK SAMSUNG'S PATENT LOCAL RULE 3-3 AND 3-4 DISCLOSURES

1 Reduce Space Contention in a Window-Based Graphical User Interface," ACM 2 Transactions on Graphics, vol. 5, no. 3, pp. 210-243 (Jul. 1986) ("Henderson 3 1986); and Stuart K. Card & Austin Henderson, Jr., "A Multiple, Virtual-Workspace Interface to Support User Task Switching," CHI '87 Proceedings of the 4 5 SIGCHI/GI conference on Human factors in computing systems and graphics interface (1987) ("Henderson 1987"). 6 7 Exhibit F-2: "Archie RISC OS," PERSONAL COMPUTER WORLD, January 1989; 8 Acorn A3000 Welcome Guide; Acorn A5000 Welcome Guide; RISC OS 2 User 9 Guide; RISC OS 3 User & Apps Guide; RISC OS 2 Programmer's Reference 10 Manual; and RISC OS 3 Programmer's Reference Manual. 11 In addition to the specific combinations of prior art and the specific combinations of 12 groups of prior art disclosed, Samsung reserves the right to rely on any other combination of any 13 prior art references disclosed herein. Samsung further reserves the right to rely upon combinations 14 disclosed within the prosecution history of the references cited herein. These obviousness 15 combinations reflect Samsung's present understanding of the potential scope of the claims that 16 Plaintiff appears to be advocating and should not be seen as Samsung's acquiescence to Plaintiff's 17 interpretation of the patent claims. 18 Samsung also reserves the right to amend or supplement these contentions regarding 19 anticipation or obviousness of the asserted claims, in view of further information from Plaintiff, 20 information discovered during discovery, or a claim construction ruling by the Court. Plaintiff has 21 not identified what elements or combinations it alleges were not known to one of ordinary skill in 22 the art at the time. Therefore, for any claim limitation that Plaintiff alleges is not disclosed in a 23 particular prior art reference, Samsung reserves the right to assert that any such limitation is either 24 inherent in the disclosed reference or obvious to one of ordinary skill in the art at the time in light

of the same, or that the limitation is disclosed in another of the references disclosed above and in

26 combination would have rendered the asserted claim obvious.

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C.

Local Patent Rule 3-3(c): Charts Identifying where Specifically in each Alleged item of Prior Art each Asserted Claim is Found

Pursuant to Local Patent Rule 3-3(c), charts identifying where specifically in each alleged item of prior art each limitation of each asserted claim is found, including for each limitation that Apple contends is governed by 35 U.S.C. § 112(6), the identity of the structure(s), act(s), or material(s) in each item of prior art that performs the claimed function is attached in Exhibits D and F.

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D. Local Patent Rule 3-3(d): Other Grounds for Invalidity

Samsung identifies the following grounds for invalidity of the asserted claims of the '002
Patent based on 35 U.S.C. §§ 101 and/or 112. Samsung reserves the right to supplement these
disclosures based on further investigation and discovery.

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1. Invalidity Based on 35 U.S.C. § 101

The asserted claims of the '002 Patent are invalid under 35 U.S.C. § 101 because they only 13 claim abstract ideas. Many limitations in the asserted claims are common abstractions in 14 computer systems and programming languages. For example, "a cursor," "an operating 15 environment," "individual programming modules," "application programs," "status and/or control 16 functions," "first window region," "display areas," "independently displayed," "independently 17 active," "associated with [a] programming module," window layer," "appears on top," 18 "information for display," "sensitive to user input," "message-based communication," "interactive 19 display activity," "variably sized," "control information," "additional display element," "user 20 sensitive graphics," "initiates a response," and "private window layer," are all programming 21 abstractions; these are concepts, not physical objects, machines, or transformations. 22 2. **Invalidity Based on Enablement or Written Description Under 35** 23 U.S.C. § 112(1) and/or Indefiniteness Under 35 U.S.C. § 112(2) 24 Based on Samsung's present understanding of Plaintiff's infringement contentions,

Samsung asserts that the asserted claims of the '002 Patent are invalid for reciting at least the
following claim terms/phrases:

- 27
- "independent display areas"
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"independently active of any application program"

- "private window layer"
- "control strip"

Claim 25: "an indicia generation logic coupled to the data display screen"
 These claim terms/phrases as apparently construed by Apple violate the written description, enablement, and/or definiteness requirements of 35 U.S.C. § 112.

Based on Samsung's present understanding of Plaintiff's infringement contentions, at least 8 one or more of these claim terms/phrases are indefinite because they are inconsistent with and 9 broader than the alleged invention disclosed in the specification and given Plaintiff's apparent 10 constructions of the claims, any person of ordinary skill in the art at the time of the invention 11 would not understand what is claimed, even when the claims are read in light of the specification. 12 Moreover, based on Samsung's present understanding of Plaintiff's infringement contentions, each 13 of the asserted claims in which these claim terms/phrases appear lack written description because 14 the specification of the '002 Patent demonstrates that the patentee neither conceived of nor 15 demonstrated possession of all that Apple now contends the claims cover. In addition, based on 16 Samsung's present understanding of Plaintiff's infringement contentions, each of the asserted 17 claims in which these claim terms/phrases appear are invalid because the specification fails to 18 provide sufficient disclosure to enable any person of ordinary skill in the art to which it pertains, 19 or with which it is most nearly connected, to implement the invention without undue 20 experimentation. Therefore, the claims fail to satisfy the requirements of § 112 ¶¶ 1 and 2. 21

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III.

THE '381 PATENT

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A. Local Patent Rule 3-3(a): Identification of Prior Art

At this time, Samsung contends that at least the following prior art references anticipate or render obvious, either alone or in combination, the asserted claims of the '381 Patent:

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1	1. Patent References ⁵							
2	Chart No(s).	Country of Origin	Patent N	lumber	Date	e of Issue	Priority Date	
3	G-1	WO US	03/08		October 2, 2003 ⁶ Jan. 18, 2011		March 19, 2002	
4	G-2	WO US	01/29	0702 .210	April Dec.	26, 2001 ⁷ 19, 2006	October 20, 1999	
5	G-3	US US	11/322 11/322	2,551 ⁸	Dec.	$23,2005^{10} \\ 23,2005^{11}$	Dec. 23, 2005 Dec. 8, 2005	
6	G-4	US	6,337			. 8, 2002	Nov. 20, 1998	
7		2. Systems						
8	A	All versions of the follow	ing prior a	rt system	s comm	ercially sold,	publicly known or used	
9	before th	e priority date of the '38	1 Patent, in	ncluding	docume	nts and source	e code describing the	
10	same:							
11	Chart No(s).	System		Date O	ffered	Of	fering Entity	
12	G-5 G-6	LaunchTile XNav		2005 2005		Benjamin Be Benjamin Be		
13	G-7	DiamondTouch DTFlas	sh	2005	Mitsubishi E		Electric Research	
14						Laboratories		
15	A	Additional prior art that h	as not beer	n charted	, but is s	till relevant to	the invalidity of the	
16	'381 Pat	ent is listed in Exhibit H.	Samsung	reserves	the righ	t to amend the	ese invalidity	
17	contentio	ons to assert these referer	nces depen	ding on t	he claim	construction	and infringement	
18	positions	s Apple may take as the c	ase procee	eds. Mor	eover, S	amsung reserv	ves the right to use these	
19	reference	es in combination with of	ther referen	nces to re	nder the	claims of the	'381 Patent obvious in	
20	the even	t Apple takes the position	n that certa	in claim	limitatio	ons are missing	g from the references	
21		n Exhibit G.						
22								
23								
24		msung incorporates by r	eference al	ll prior a	t referer	nces cited in th	ne patents listed herein	
25		eir file histories.						
26	⁷ Put	olication date.						
27	⁹ Ap	plication number. plication number.						
28	¹⁰ Fil	ling date. ling date.						
				10			Case No. 11 ov 01946 I HV	
			SAMS	<u>-18-</u> SUNG'S P	ATENT I	OCAL RULE 3	Case No. 11-cv-01846-LHK -3 AND 3-4 DISCLOSURES	

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В.

Local Patent Rule 3-3(b): Whether Each Item Anticipates or Renders Obvious the Asserted Claims

Plaintiff asserts claims 1-20 of the '381 Patent against Samsung in this lawsuit. All of those claims are invalid because the '381 Patent fails to meet one or more of the requirements for patentability. The individual bases for invalidity are provided below and in the claim charts attached as Exhibit G. Each of the foregoing listed prior art documents, the underlying work, and/or the underlying apparatus or method qualifies as prior art under one or more sections of 35 U.S.C. § 102 and/or 35 U.S.C. § 103.

Although Samsung has identified at least one citation per limitation for each reference, 9 each and every disclosure of the same limitation in the same reference is not necessarily identified. 10 Rather, in an effort to focus the issues, Samsung has cited representative portions of identified 11 references, even where a reference may contain additional support for a particular claim element. 12 In addition, persons of ordinary skill in the art generally read a prior art reference as a whole and 13 in the context of other publications and literature. Thus, to understand and interpret any specific 14 statement or disclosure within a prior art reference, such persons would rely on other information 15 within the reference, along with other publications and their general scientific knowledge. 16 Samsung may rely upon uncited portions of the prior art references and on other publications and 17 expert testimony to provide context, and as aids to understanding and interpreting the portions that 18 are cited. Samsung may also rely on uncited portions of the prior art references, other disclosed 19 publications, and the testimony of experts to establish that a person of ordinary skill in the art 20 would have been motivated to modify or combine certain of the cited references so as to render the 21 claims obvious. 22

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3. Anticipation

Some or all of the asserted claims of the '381 Patent are invalid as anticipated under 35 U.S.C. § 102 in view of each of the prior art references identified above and in the claim charts included in Exhibit G, which identify specific examples of where each limitation of the asserted claims is found in the prior art references. As explained above, the cited portions of prior art references identified in the attached claim charts are exemplary only and representative of the content and teaching of the prior art references, and should be understood in the context of the
 reference as a whole and as they would be understood by a person of ordinary skill in the art.

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Obviousness

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To the extent any limitation is deemed not to be exactly met by an item of prior art listed above and in Exhibit G, then any purported differences are such that the claimed subject matter as a whole would have been obvious to one skilled in the art at the time of the alleged invention, in view of the state of the art and knowledge of those skilled in the art. The item of prior art would, therefore, render the relevant claims invalid for obviousness under 35 U.S.C. § 103(a).

9 In addition, the references identified above render one or more asserted claims of the '381 10 Patent obvious when the references are read in combination with each other, and/or when read in view of the state of the art and knowledge of those skilled in the art. Each and every reference 11 identified is also relevant to the state of the art at the time of the alleged invention. Any of the 12 13 references disclosed above may be combined to render obvious (and therefore invalid) each of Plaintiff's asserted claims. Samsung may rely upon a subset of the above identified references or 14 all of the references identified above, including all references in Exhibits G and H, for purposes of 15 16 obviousness depending on the Court's claim construction, positions taken by Apple during this 17 litigation, and further investigation and discovery.

Moreover, to the extent the foregoing references are found not to anticipate the asserted claims, the foregoing references render the asserted claims obvious either alone or in combination with one or more of the other references identified above pursuant to P.R. 3-3(a). As explained herein and/or in the accompanying charts, it would have been obvious to a person of skill in the art at the time of the alleged invention of the asserted claims of the '381 Patent to combine the various references cited herein so as to practice the asserted claims of the '381 Patent.

In accordance with P.R. 3-3(b), prior art references rendering the asserted claims obvious,
 alone or in combination with other references, are outlined below and included in Exhibits G,
 which includes exemplary claim charts for the asserted claims of the '381 Patent showing.

- which includes exemplary claim charts for the asserted claims of the '381 Patent showing
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specifically where in each reference or combinations of references each asserted claim is found,
and an explanation of why the prior art renders the asserted claim obvious. Where applicable, the
charts in Exhibit G include the motivation to combine references.

In particular, Samsung contends that the asserted claims of the '381 Patent would have
been obvious in view of the prior art references identified above. For example, the asserted claims
of the '381 Patent would have been obvious in view of the following references alone or in
combination:

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• All references identified in Exhibit G, if found not to anticipate the claims of the '381 Patent, render the claims of the '381 Patent obvious alone;

In addition to the specific combinations of prior art and the specific combinations of
groups of prior art disclosed, Samsung reserves the right to rely on any other combination of any
prior art references disclosed herein. Samsung further reserves the right to rely upon combinations
disclosed within the prosecution history of the references cited herein. These obviousness
combinations reflect Samsung's present understanding of the potential scope of the claims that
Plaintiff appears to be advocating and should not be seen as Samsung's acquiescence to Plaintiff's
interpretation of the patent claims.

18 Samsung also reserves the right to amend or supplement these contentions regarding 19 anticipation or obviousness of the asserted claims, in view of further information from Plaintiff, 20information discovered during discovery, or a claim construction ruling by the Court. Plaintiff has 21 not identified what elements or combinations it alleges were not known to one of ordinary skill in 22 the art at the time. Therefore, for any claim limitation that Plaintiff alleges is not disclosed in a 23 particular prior art reference, Samsung reserves the right to assert that any such limitation is either 24 inherent in the disclosed reference or obvious to one of ordinary skill in the art at the time in light 25 of the same, or that the limitation is disclosed in another of the references disclosed above and in 26 combination would have rendered the asserted claim obvious.

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C.

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Local Patent Rule 3-3(c): Charts Identifying where Specifically in each Alleged item of Prior Art each Asserted Claim is Found

Pursuant to Local Patent Rule 3-3(c), charts identifying where specifically in each alleged item of prior art each limitation of each asserted claim is found, including for each limitation that Apple contends is governed by 35 U.S.C. § 112(6), the identity of the structure(s), act(s), or material(s) in each item of prior art that performs the claimed function is attached in Exhibits G.

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D. Local Patent Rule 3-3(d): Other Grounds for Invalidity

Samsung identifies the following grounds for invalidity of the asserted claims of the '381 8 Patent based on 35 U.S.C. §§ 101 and/or 112. Samsung reserves the right to supplement these disclosures based on further investigation and discovery. 10

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Invalidity Based on 35 U.S.C. § 101

The asserted claims of the '381 Patent are invalid under 35 U.S.C. § 101 because they only 12 claim abstract ideas. For example, "displaying a first portion of an electronic document," 13 "detecting a movement of an object," "translating the electronic document in a first direction," "to 14 display a second portion of the electronic document," "displaying an area beyond the edge of the 15 document," "displaying a third portion of the electronic document," "translating the electronic 16 document in a second direction," "to display a fourth portion of the electronic document," "the 17 second direction is opposite the first direction," "simulation of an equation of motion having 18 friction," "visually distinct from the document," "damped motion," "elastically attached," "edge of 19 the electronic document," "beyond the edge of the electronic document," "programs," 20 "instructions," and "computer readable storage medium" are each programming language 21 abstractions; these are concepts, not physical objects or tangible classes. 22

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Invalidity Based on Enablement or Written Description Under 35 U.S.C. § 112(1) and/or Indefiniteness Under 35 U.S.C. § 112(2) 2.

25 Based on Samsung's present understanding of Plaintiff's infringement contentions, 26 Samsung asserts that claims 1-20 of the '381 Patent are invalid for reciting at least the following 27 claim terms/phrases:

> Case No. 11-cv-01846-SAMSUNG'S PATENT LOCAL RULE 3-3 AND 3-4 DISCLOSURES

1	• "first direction"
2	• "second direction"
3	• "display" or "displayed" or "displaying"
4	• "translate" or "translated" or "translating" or "translation"
5	 "translate" or "translated" or "translating" or "translation"
6	• "first portion" or "second portion" or "third portion" or "fourth portion"
7	• "visually distinct"
8	• "programs"
9	• "instructions"
10	 "computer readable storage medium"
11	
12	• "near the touch screen"
13	• "elastically attached"
14	• "damped motion"
15	• "in accordance with a simulation of an equation of motion having friction"
16	These claim terms/phrases as apparently construed by Apple violate the written description,
17	enablement, and/or definiteness requirements of 35 U.S.C. § 112.
18	Based on Samsung's present understanding of Plaintiff's infringement contentions, at least
19	one or more of these claim terms/phrases are indefinite because they are inconsistent with and
20	broader than the alleged invention disclosed in the specification and given Plaintiff's apparent
21	constructions of the claims, any person of ordinary skill in the art at the time of the invention
22	would not understand what is claimed, even when the claims are read in light of the specification.
23	Moreover, based on Samsung's present understanding of Plaintiff's infringement contentions, each
24	of the asserted claims in which these claim terms/phrases appear lack written description because
25	the specification of the '381 Patent demonstrates that the patentee neither conceived of nor
26	demonstrated possession of all that Apple now contends the claims cover. In addition, based on
27	
28	Samsung's present understanding of Plaintiff's infringement contentions, each of the asserted
	_ 73 Case No. 11_cv_01846_I HK
	-23- Case No. 11-cv-01846-LHK SAMSUNG'S PATENT LOCAL RULE 3-3 AND 3-4 DISCLOSURES

claims in which these claim terms/phrases appear are invalid because the specification fails to
 provide sufficient disclosure to enable any person of ordinary skill in the art to which it pertains,
 or with which it is most nearly connected, to implement the invention without undue

4 experimentation. Therefore, the claims fail to satisfy the requirements of § 112 ¶¶ 1 and 2.

IV. THE '915 PATENT

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A. Local Patent Rule 3-3(a): Identification of Prior Art

At this time, Samsung contends that at least the following prior art references anticipate or render obvious, either alone or in combination, the asserted claims of the '915 Patent:

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1. **Patent References**¹²

10	Chart No(s).	Country of Origin	Patent N	umber	Date	of Issue	Pı	riority Date
11	J-6	Japan	(Public No.) 2		(Published) June 16, 2000		(Filed) November 25, 1998	
12			1630		June	10, 2000		1998
13	2. Publications ¹³							
14 15	Chart No(s).	Title		Date Public		Auth		Publisher
	J- 1	Multi-user, Multi-displ Interaction with a Singl		Octob 20		Chris For C., Esent		UIST '06 (ACM Oct. 15-
16		Single-display Geospat	ial	20	50	Shen, C.,		18 2006)
17		Application. Reprinted Mitsubishi Electronic R				Wigdor, I Ryall, K.	D., and	printed in original at pp.
18		Laboratories ("MERL")				ity uii, it.		273-276;
19		Technical Report No. T 083.	R2006-					reprinted by Mitsubishi
	J-1	DiamondTouch: a mult		20 (origi		P.H. Dietz and Leigh, D.		Proc ACM UIST, (ACM
20		touch technology Repu MERL TR No. TR2003		20	03	Leigh, D.		2001) printed
21				(reprin	nting)			in original at pp. 219-226,;
22								reprinted by Mitsubishi
23	J-1	DiamondTouch SDK: S	11	20	03	Alan Eser Cliff Forl		Mitsubishi
24		for Multi-User, Multi-T Applications, MERL TI				Kathy Ry	all,	
25		TR2003-125				Sam Ship		
	J-1	J-1 Enabling interaction with single		Dece	mber	Edward 7	lse,	Advanced
26	¹² S	amsung incorporates by 1	eference a	ll prior a	rt refere	ences cited	in the pa	tents listed herein
27	and/or th	eir file histories.		•				
28	¹⁵ S listed her	amsung incorporates by 1 rein.	eference a	ll prior a	rt refere	ences identi	ified in tl	ne publications

1	Chart No(s).	Title	Date of Publication	Author	Publisher
2		user applications through speech and gestures on a multi-	2005	Chia Shen, Saul Greenberg,	<u>Visual</u> Interfaces;
3		<i>user tabletop</i> . Reprinted as MERL TR No. TR2005-130		Clifton Forlines:	reprinted by Mitsubishi
4					
5	J-1	Multi-User Multi-Touch Games on DiamondTouch with the	December 2005	Alan Esenther and Kent	Mitsubishi
6		<i>DTFlash Toolkit</i> , printed as <u>MERL Technical Report</u> No.		Wittenburg,	
7		TR2005-105			
8	J-2	SmartSkin: An Infrastructure for	2002	Jun Rekimoto	Proceedings of the SIGCHI
9		Freehand Manipulation on Interactive Surfaces			<u>Conference on</u> Human Factors in
10 11					<u>Computing</u> Systems:
11					<u>Changing our</u> world, Changing
12	J-2	Concurrent Manipulation of	2006	K. Fukuchi	ourselves, Tokyo Institute
13		Multiple Components on Graphical User Interface, PhD Dissertation			of Technology
15	J-2	Interaction Techniques for SmartSkin	2002	K. Fukuchi and J. Rekimoto	Proceedings of UIST'02, 2002
16	J-3	The Automatic Recognition of Gestures, PhD Dissertation	1991	Dean Rubine	<u>N/A</u>
17	J-3	Specifying Gestures of Example	July 1, 1991	Dean Rubine	<u>Computer</u> <u>Graphics Vol. 25,</u> No. 4
18 19 20	J-3	Integrating Gesture Recognition and Direct Manipulation	1991	Dean Rubine	Proceedings of '91 USENIX Technical Conference (Summer)
21	J-3	Combining Gestures and Direct Manipulation	1992	Dean Rubine	<u>CHI-92</u>
22	J-4	HybridTouch: an intuitive manipulation technique for	2006	Masanori Sugimoto and	Proceedings of the 8th
23		PDAs using their front and rear surfaces		Keiichi Hiroki	Conference on Human-
24		Surfaces			Computer Interaction with
25					Mobile Devices and Services
26					2006 ("MobileHCI"
27	J-5	. Multi-touch interaction wall	2006	Jefferson Y. Han.	'06). ACM SIGGRAPH
28		1		1	
	 	0.13.00	-25-	Case	No. 11-cv-01846-LHK D 3-4 DISCLOSURES
		SAMS	UNG S PATENT	LUCAL KULE 3-3 AN	D 3-4 DISCLOSURES

1	Chart No(s).	Title	Date of Publication	Author	Publisher
2	110(5/				2006 Emerging technologies
3					(SIGGRAPH '06). ACM, New
4					York, NY, USA, , Article 25.
5					("Multi-touch Wall")
6	J-5	Synthesis and control on large	2006	Philip L. Davidson and	In Proceedings of the 2006
7		scale multi-touch sensing displays.		Jefferson Y. Han	conference on
8					New interfaces for musical
9					expression (NIME '06).
10	J-5	Low-cost multi-touch sensing through frustrated total internal	2006	Jefferson Y. Han	In Proceedings of the 18th annual
11		reflection.			ACM symposium on User interface
12					software and technology (UIST '05).
13	J-5	Unveiling the Genius of Multi-	2006	Jefferson Y.	available at
14		<i>Touch Interface Design</i> (a/k/a "TED Video")		Han	http://www.ted.c om/talks/jeff_han
15					<u>_demos_his_brea</u> <u>kthrough_touchsc</u> reen.html
16		3. Systems			
17 18	A	All versions of the following prior a	rt systems comm	ercially sold, public	cly known or used
18	before th	e priority date of the '915 Patent, in	ncluding docume	ents and source code	e describing the
20	same:				
21	Chart No(s).	System	Date Offered	Offering	g Entity
22 23	J-1	Diamond Touch Table	At Least as Early as November 2002	Mitsubishi Electro Laboratory	onic Research
24	J-2	Sony SmartSkin System	At Least as Early as 2002	Sony Corp.	
25	J-3	Dean Rubine GDP and MDP Systems	1991	Dean Rubine/SGI	Inc.
26	J-4 J-5	HvbridTouch System Jeff Han Multi-Touch System(s)	2006 2004	Various Jeff Han, Percepti	ve Pixel New
27	J -J	sen man want-rouch System(S)	2007	York University	1 1 1 1 1 1 1 1 1 1 W
28					
			-26-	Case	No. 11-cv-01846-LHK
		SAMS	SUNG'S PATENT I	LOCAL RULE 3-3 AN	D 3-4 DISCLOSURES

Additional prior art that has not been charted, but is still relevant to the invalidity of the '915 Patent is listed as background or combinatory references in Exhibits J-1 through J-6. Samsung reserves the right to amend these invalidity contentions to assert these references depending on the claim construction and infringement positions Apple may take as the case proceeds. Moreover, Samsung reserves the right to use these references in combination with other references to render the claims of the '915 Patent obvious in the event Apple takes the position that certain claim limitations are missing from the references charted in Exhibits J and L.

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B. Local Patent Rule 3-3(b): Whether Each Item Anticipates or Renders Obvious the Asserted Claims

Plaintiff asserts claims 1-21 of the '915 Patent against Samsung in this lawsuit. All of those claims are invalid because the '915 Patent fails to meet one or more of the requirements for patentability. The individual bases for invalidity are provided below and in the claim charts attached as Exhibit J. Each of the foregoing listed prior art documents, the underlying work, and/or the underlying apparatus or method qualifies as prior art under one or more sections of 35 U.S.C. § 102 and/or 35 U.S.C. § 103.

Although Samsung has identified at least one citation per limitation for each reference, 16 each and every disclosure of the same limitation in the same reference is not necessarily identified. 17 Rather, in an effort to focus the issues, Samsung has cited representative portions of identified 18 references, even where a reference may contain additional support for a particular claim element. 19 In addition, persons of ordinary skill in the art generally read a prior art reference as a whole and 20 in the context of other publications and literature. Thus, to understand and interpret any specific 21 statement or disclosure within a prior art reference, such persons would rely on other information 22 within the reference, along with other publications and their general scientific knowledge. 23 Samsung may rely upon uncited portions of the prior art references and on other publications and 24 expert testimony to provide context, and as aids to understanding and interpreting the portions that 25 are cited. Samsung may also rely on uncited portions of the prior art references, other disclosed 26

- 27 publications, and the testimony of experts to establish that a person of ordinary skill in the art
- 28

would have been motivated to modify or combine certain of the cited references so as to render the
 claims obvious.

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Anticipation

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Some or all of the asserted claims of the '915 Patent are invalid as anticipated under 35 U.S.C. § 102 in view of each of the prior art references identified above and in the claim charts included in Exhibit J, which identify specific examples of where each limitation of the asserted claims is found in the prior art references. As explained above, the cited portions of prior art references identified in the attached claim charts are exemplary only and representative of the content and teaching of the prior art references, and should be understood in the context of the reference as a whole and as they would be understood by a person of ordinary skill in the art.

11

5. **Obviousness**

To the extent any limitation is deemed not to be exactly met by an item of prior art listed above and in Exhibit J, then any purported differences are such that the claimed subject matter as a whole would have been obvious to one skilled in the art at the time of the alleged invention, in view of the state of the art and knowledge of those skilled in the art. The item of prior art would, therefore, render the relevant claims invalid for obviousness under 35 U.S.C. § 103(a).

17 In addition, the references identified above render one or more asserted claims of the '915 18 Patent obvious when the references are read in combination with each other, and/or when read in 19 view of the state of the art and knowledge of those skilled in the art. Each and every reference 20 identified is also relevant to the state of the art at the time of the alleged invention. Any of the 21 references disclosed above may be combined to render obvious (and therefore invalid) each of Plaintiff's asserted claims. Samsung may rely upon a subset of the above identified references or 22 23 all of the references identified above, including all references in Exhibits J and K, for purposes of 24 obviousness depending on the Court's claim construction, positions taken by Apple during this 25 litigation, and further investigation and discovery.

26 Moreover, to the extent the foregoing references are found not to anticipate the asserted 27 claims, the foregoing references render the asserted claims obvious either alone or in combination

1	with one or more of the other references identified above pursuant to P.R. 3-3(a). As explained
2	herein and/or in the accompanying charts, it would have been obvious to a person of skill in the art
3	at the time of the alleged invention of the asserted claims of the '915 Patent to combine the various
4	references cited herein so as to practice the asserted claims of the '915 Patent.
5	
6	In accordance with P.R. 3-3(b), prior art references rendering the asserted claims obvious,
7	alone or in combination with other references, are outlined below and included in Exhibits J and L,
8	which includes exemplary claim charts for the asserted claims of the '915 Patent showing
9	specifically where in each reference or combinations of references each asserted claim is found,
10	and an explanation of why the prior art renders the asserted claim obvious. Where applicable, the
11	charts in Exhibit J and L include the motivation to combine references.
12	In particular, Samsung contends that the asserted claims of the '915 Patent would have
13	been obvious in view of the prior art references identified above. For example, Exhibit L includes
14 15	exemplary claim charts that describe how the asserted claims of the '915 Patent would have been
16	obvious in view of the following references alone or in combination:
17	• All references identified in Exhibit J-1 through J-6, if found not to anticipate the
18	claims of the '915 Patent, render the claims of the '915 Patent obvious alone;
19	 Exhibit J-2: Sony SmartSkin references disclosed explicitly above under chart J-2
20	for anticipation purposes in combination with one or more of (a) U.S. Patent
21	Publication 2007/0132789 to Ording et al, (b) the LaunchTile system, (c) the XNav
22	system.
23	• Exhibit J-3: Rubine references disclosed explicitly above under chart J-3 for
24	anticipation purposes in combination with one or more of (a) U.S. Patent
25	Publication 2007/0132789 to Ording et al, (b) the LaunchTile system, (c) the XNav
26	system, Masanori Sugimoto and Keiichi Hiroki. HybridTouch: an intuitive
27	manipulation technique for PDAs using their front and rear surfaces; Proceedings
28	
	-29- Case No. 11-cv-01846-LHK
	SAMSUNG'S PATENT LOCAL RULE 3-3 AND 3-4 DISCLOSURES

1	of the 8th Conference on Human-Computer Interaction with Mobile Devices and
2	Services 2006 ("MobileHCI" '06). ACM, New York, NY, USA, 137-140.
3	• Exhibit J-4: HybridTouch reference disclosed explicitly above under chart J-4 for
4	anticipation purposes in combination with one or more of (a) U.S. Patent
5	Publication 2007/0132789 to Ording et al, (b) the LaunchTile system, (c) the XNav
6	system.
7	• Exhibit J-5: Han references disclosed explicitly above under chart J-5 for
8	anticipation purposes in combination with one or more of (a) U.S. Patent
9	Publication 2007/0132789 to Ording et al, (b) the LaunchTile system, (c) the XNav
10	system.
11	• Exhibit J-6: Nomura Patent disclosed explicitly above under char J-5 for
12	anticipation purposes in combination with one or more of (a) U.S. Patent
13	Publication 2007/0132789 to Ording et al, (b) the LaunchTile system, (c) the XNav
14	system, (d) "The Automatic Recognition of Gestures," Dean Rubine, PhD Thesis,
15	1991.
16	In addition to the specific combinations of prior art and the specific combinations of
17	groups of prior art disclosed, Samsung reserves the right to rely on any other combination of any
18	prior art references disclosed herein. Samsung further reserves the right to rely upon combinations
19	disclosed within the prosecution history of the references cited herein. These obviousness
20	combinations reflect Samsung's present understanding of the potential scope of the claims that
21	Plaintiff appears to be advocating and should not be seen as Samsung's acquiescence to Plaintiff's
22	interpretation of the patent claims.
23	Samsung also reserves the right to amend or supplement these contentions regarding
24	anticipation or obviousness of the asserted claims, in view of further information from Plaintiff,
25	information discovered during discovery, or a claim construction ruling by the Court. Plaintiff has
26	not identified what elements or combinations it alleges were not known to one of ordinary skill in
27	the art at the time. Therefore, for any claim limitation that Plaintiff alleges is not disclosed in a
28	particular prior art reference, Samsung reserves the right to assert that any such limitation is either
	-30- Case No. 11-cv-01846-LHK SAMSUNG'S PATENT LOCAL RULE 3-3 AND 3-4 DISCLOSURES

1	inherent in the disclosed reference or obvious to one of ordinary skill in the art at the time in light
2	of the same, or that the limitation is disclosed in another of the references disclosed above and in
3	combination would have rendered the asserted claim obvious.
4	C. Local Patent Rule 3-3(c): Charts Identifying where Specifically in each Alleged item of Prior Art each Asserted Claim is Found
6	Pursuant to Local Patent Rule 3-3(c), charts identifying where specifically in each alleged
7	item of prior art each limitation of each asserted claim is found, including for each limitation that
8	Apple contends is governed by 35 U.S.C. § 112(6), the identity of the structure(s), act(s), or
9	material(s) in each item of prior art that performs the claimed function is attached in Exhibits J and
10	L.
11	D. Local Patent Rule 3-3(d): Other Grounds for Invalidity
12	Samsung identifies the following grounds for invalidity of the asserted claims of the '915
13	Patent based on 35 U.S.C. §§ 101 and/or 112. Samsung reserves the right to supplement these
14	disclosures based on further investigation and discovery.
15	6. Invalidity Based on 35 U.S.C. § 101
16	The asserted claims of the '915 Patent are invalid under 35 U.S.C. § 101 because they only
17	claim abstract ideas. Many limitations in the asserted claims are common abstractions in
18	computer systems and programming languages. For example, both "event object" and "invoking a
19	call" are programming language abstractions; these are concepts, not physical objects or tangible
20	classes.
21	7. Invalidity Based on Enablement or Written Description Under 35 U.S.C. § 112(1) and/or Indefiniteness Under 35 U.S.C. § 112(2)
22	Based on Samsung's present understanding of Plaintiff's infringement contentions,
23	Samsung asserts that claims 1-21 of the '915 Patent are invalid for reciting at least the following
24	claim terms/phrases:
25	• "event object"
26	• "integrated with the device"
27 28	• "invokes a scroll or gesture operation"
	-31- Case No. 11-cv-01846-LHK SAMSUNG'S PATENT LOCAL RULE 3-3 AND 3-4 DISCLOSURES

1	• "view associated with the event object"
2	• "based on an amount of a scroll"
3	• "predetermined position in relation to the user input"
4	• "predetermined maximum displacement"
5	
6	• "rubberbanding"
7	These claim terms/phrases as apparently construed by Apple violate the written description,
8	enablement, and/or definiteness requirements of 35 U.S.C. § 112.
9	Based on Samsung's present understanding of Plaintiff's infringement contentions, at least
10	one or more of these claim terms/phrases are indefinite because they are inconsistent with and
11	broader than the alleged invention disclosed in the specification and given Plaintiff's apparent
12	constructions of the claims, any person of ordinary skill in the art at the time of the invention
13	would not understand what is claimed, even when the claims are read in light of the specification.
14	Moreover, based on Samsung's present understanding of Plaintiff's infringement contentions, each
15	of the asserted claims in which these claim terms/phrases appear lack written description because
16	the specification of the '915 Patent demonstrates that the patentee neither conceived of nor
17	demonstrated possession of all that Apple now contends the claims cover. In addition, based on
18	Samsung's present understanding of Plaintiff's infringement contentions, each of the asserted
19	claims in which these claim terms/phrases appear are invalid because the specification fails to
20	provide sufficient disclosure to enable any person of ordinary skill in the art to which it pertains,
21	or with which it is most nearly connected, to implement the invention without undue
22	experimentation. Therefore, the claims fail to satisfy the requirements of § 112 \P 1 and 2.
23	V. THE '891 PATENT
24	A. Local Patent Rule 3-3(a): Identification of Prior Art
25	At this time, Samsung contends that at least the following prior art references anticipate or
26	render obvious, either alone or in combination, the asserted claims of the '891 Patent:
27	
28	
	-32- Case No. 11-cv-01846-LHK
I	CANCENCIC DATENTEL OCAL DUE 2.2 AND 2.4 DIGCLOCUDES

Chart No(s).	Country of Origin	Patent Nun	iber D	te o	f Issue	Р	riority Date
M-1	US	6,907,44	7	<u>5/14</u> /	2005		4/30/2001
M-2	US	7,155,72			/2006		3/28/2000
M-3	US	7,249,32			2007		4/6/2000
M-4	US	7,417,65	0	8/26/	2008		3/16/2000
M-5	US	2002/0143		0/3/	2002		1/10/2001
M-6	EP	1 022 65			2000		1/19/1999
M-7	WO	01/6938	7	9/20/	2001		3/16/2000
	2. Publicat	ions ¹⁵					
Chart No(s).	Title		Date of Publicati		Auth	or	Publisher
M-8	Popout Prism: Addin	g Perceptual	4/2002		Suh e	t al.	Association
	Principles to Overvie						Computing
	Document Interfaces						Machines
M-9	TransPort LT User's	Guide	1/20/200	C	Micr		Micron
					Electroni	cs Inc.	Electronics I
	3. Systems						
	5. Systems						
A	All versions of the follo	wing prior art	systems con	nmei	rcially sol	d, publi	cly known or u
		01	•		•		•
	All versions of the follone priority date of the '8	01	•		•		•
before th		01	•		•		•
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Defore the same: Chart No(s). M-10 M-11 M-12 M-13 M-14	ATI Multimedia Cen Crusader: No Remors Crusader: No Remors Crusader: No Regret Grand Theft Auto III Micron Computers Sony Computer Disp including Sony Trinit Computers with Sony Displays	891 Patent, inc 891 Patent, inc ter se and lays, tron, and y Computer	Date Offered Before 7/10/200	men 2 2 2 2	ts and sou	Offerin Techn Electro Rocksta Mid	e describing the g Entity ologies Inc. nic Arts r Games cron
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Defore the same: Chart No(s). M-10 M-11 M-12 M-13 M-14	ATI Multimedia Cen Crusader: No Remors Crusader: No Remors Crusader: No Regret Grand Theft Auto III Micron Computers Sony Computer Disp including Sony Trinit Computers with Sony Displays Windows XP and Co	891 Patent, inc 891 Patent, inc ter se and lays, tron, and y Computer	Date Offered Before 7/10/200 Before 7/10/200	men 2 2 2 2 2	ts and sou AT	Offerin Techn Electro Rocksta Mic Sc	e describing the g Entity ologies Inc. nic Arts r Games cron ony
Defore the same: Chart No(s). M-10 M-11 M-12 M-13 M-14	ATI Multimedia Cen Crusader: No Remors Crusader: No Remors Crusader: No Regret Grand Theft Auto III Micron Computers Sony Computer Disp including Sony Trinit Computers with Sony Displays Windows XP and Co	891 Patent, inc 891 Patent, inc ter se and lays, tron, and y Computer	Date Offered Before 7/10/200 Before 7/10/200	men 2 2 2 2 2	ts and sou AT	Offerin Techn Electro Rocksta Mic Sc	e describing the g Entity ologies Inc. nic Arts r Games cron ony
Defore the same: Chart No(s). M-10 M-11 M-12 M-13 M-14 M-15	ATI Multimedia Cen Crusader: No Remors Crusader: No Remors Crusader: No Regret Grand Theft Auto III Micron Computers Sony Computer Disp including Sony Trinit Computers with Sony Displavs Windows XP and Co Windows XP	891 Patent, inc 891 Patent, inc ter se and lays, tron, and y Computer mputers with	Date Offered Before 7/10/200	men 2 2 2 2 2 2	ts and sou AT	Offerin Techn Electro Rocksta Mid Sc rosoft ar	e describing the g Entity ologies Inc. nic Arts r Games cron ony nd/or Various Ianufacturers
Defore the same: Chart No(s). M-10 M-11 M-12 M-13 M-14 M-15 14 S	ATI Multimedia Cen Crusader: No Remors Crusader: No Remors Crusader: No Regret Grand Theft Auto III Micron Computers Sony Computer Disp including Sony Trinit Computers with Sony Displays Windows XP and Co Windows XP	891 Patent, inc 891 Patent, inc ter se and lays, tron, and y Computer mputers with	Date Offered Before 7/10/200	men 2 2 2 2 2 2	ts and sou AT	Offerin Techn Electro Rocksta Mid Sc rosoft ar	e describing the g Entity ologies Inc. nic Arts r Games cron ony nd/or Various Ianufacturers
Chart No(s). M-10 M-11 M-12 M-13 M-14 M-14 M-15	ATI Multimedia Cen Crusader: No Remors Crusader: No Remors Crusader: No Regret Grand Theft Auto III Micron Computers Sony Computer Disp including Sony Trinit Computers with Sony Displavs Windows XP and Co Windows XP	891 Patent, inc 891 Patent, inc ter se and lays, tron, and y Computer mputers with y reference all	Date Offered Before 7/10/200 Before 7/10/200 Before 7/10/200 Before 7/10/200 Before 7/10/200 Before 7/10/200 Before 7/10/200Before 7/10/200Prior art re	men 2 2 2 2 2 2 2 2 2 2 2 2 2	AT AT Micr Com	Offerin Techn Electro Rocksta Mic Sc rosoft ar puter M	e describing the g Entity ologies Inc. nic Arts r Games cron ony nd/or Various Ianufacturers atents listed her

Additional prior art that has not been charted, but is still relevant to the invalidity of the '891 Patent is listed in Exhibit N. Samsung reserves the right to amend these invalidity contentions to assert these references depending on the claim construction and infringement positions Apple may take as the case proceeds. Moreover, Samsung reserves the right to use these references in combination with other references to render the claims of the '891 Patent obvious in the event Apple takes the position that certain claim limitations are missing from the references charted in Exhibits M and O.

8

B. Local Patent Rule 3-3(b): Whether Each Item Anticipates or Renders Obvious the Asserted Claims

Plaintiff asserts claims 1-3, 5-7, 14-21, 23, 24, 26-28, 30-32, 39-46, 48, 49, 51-53, 55-57,
64-71, 73, and 74 of the '891 Patent against Samsung in this lawsuit. All of those claims are
invalid because the '891 Patent fails to meet one or more of the requirements for patentability.
The individual bases for invalidity are provided below and in the claim charts attached as Exhibits
M and O. Each of the foregoing listed prior art documents, the underlying work, and/or the
underlying apparatus or method qualifies as prior art under one or more sections of 35 U.S.C. §
102 and/or 35 U.S.C. § 103.

Although Samsung has identified at least one citation per limitation for each reference, 17 each and every disclosure of the same limitation in the same reference is not necessarily identified. 18 Rather, in an effort to focus the issues, Samsung has cited representative portions of identified 19 references, even where a reference may contain additional support for a particular claim element. 20 In addition, persons of ordinary skill in the art generally read a prior art reference as a whole and 21 in the context of other publications and literature. Thus, to understand and interpret any specific 22 statement or disclosure within a prior art reference, such persons would rely on other information 23 within the reference, along with other publications and their general scientific knowledge. 24 Samsung may rely upon uncited portions of the prior art references and on other publications and 25 expert testimony to provide context, and as aids to understanding and interpreting the portions that 26 are cited. Samsung may also rely on uncited portions of the prior art references, other disclosed 27 publications, and the testimony of experts to establish that a person of ordinary skill in the art

would have been motivated to modify or combine certain of the cited references so as to render the
 claims obvious.

3

Anticipation

4.

Some or all of the asserted claims of the '891 Patent are invalid as anticipated under 35 U.S.C. § 102 in view of each of the prior art references identified above and in the claim charts included in Exhibit M, which identify specific examples of where each limitation of the asserted claims is found in the prior art references. As explained above, the cited portions of prior art references identified in the attached claim charts are exemplary only and representative of the content and teaching of the prior art references, and should be understood in the context of the reference as a whole and as they would be understood by a person of ordinary skill in the art.

11

5. **Obviousness**

To the extent any limitation is deemed not to be exactly met by an item of prior art listed above and in Exhibit M, then any purported differences are such that the claimed subject matter as a whole would have been obvious to one skilled in the art at the time of the alleged invention, in view of the state of the art and knowledge of those skilled in the art. The item of prior art would, therefore, render the relevant claims invalid for obviousness under 35 U.S.C. § 103(a).

17 In addition, the references identified above render one or more asserted claims of the '891 18 Patent obvious when the references are read in combination with each other, and/or when read in 19 view of the state of the art and knowledge of those skilled in the art. Each and every reference 20 identified is also relevant to the state of the art at the time of the alleged invention. Any of the 21 references disclosed above may be combined to render obvious (and therefore invalid) each of Plaintiff's asserted claims. Samsung may rely upon a subset of the above identified references or 22 23 all of the references identified above, including all references in Exhibits M, N, and O, for 24 purposes of obviousness depending on the Court's claim construction, positions taken by Apple 25 during this litigation, and further investigation and discovery.

Moreover, to the extent the foregoing references are found not to anticipate the asserted
 claims, the foregoing references render the asserted claims obvious either alone or in combination

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1	with one or more of the other references identified above pursuant to P.R. 3-3(a). As explained	
2	herein and/or in the accompanying charts, it would have been obvious to a person of skill in the art	
3	at the time of the alleged invention of the asserted claims of the '891 Patent to combine the various	
4	references cited herein so as to practice the asserted claims of the '891 Patent.	
5	In accordance with P.R. 3-3(b), prior art references rendering the asserted claims obvious,	
6 7	alone or in combination with other references, are outlined below and included in Exhibits M and	
8	O, which includes exemplary claim charts for the asserted claims of the '891 Patent showing	
9	specifically where in each reference or combinations of references each asserted claim is found,	
10	and an explanation of why the prior art renders the asserted claim obvious. Where applicable, the	
11	charts in Exhibit M and O include the motivation to combine references.	
12	In particular, Samsung contends that the asserted claims of the '891 Patent would have	
13	been obvious in view of the prior art references identified above. For example, Exhibit O includes	
14 15	exemplary claim charts that describe how the asserted claims of the '891 Patent would have been	
16	obvious in view of the following references alone or in combination:	
17	• All references identified in Exhibit M, if found not to anticipate the claims of the	
18	'891 Patent, render the claims of the '891 Patent obvious alone;	
19	• Exhibit O-1: US 2003/0016253 (Aoki '253) and Cooperman '447, Andrew '729, Stoakley '326, Horvitz '650, Steinman '630, Sakaguchi '650, Suh, Micron, ATI,	
20	Crusader, GTA3, Micron Computers, Sony Trinitron, Windows XP, and/or U.S. Patent Application No. 2003/0051228 ("Martinez")	
21	In addition to the specific combinations of prior art and the specific combinations of	
22	groups of prior art disclosed, Samsung reserves the right to rely on any other combination of any	
23 24	prior art references disclosed herein. Samsung further reserves the right to rely upon combinations	
24 25	disclosed within the prosecution history of the references cited herein. These obviousness	
26	combinations reflect Samsung's present understanding of the potential scope of the claims that	
27	Plaintiff appears to be advocating and should not be seen as Samsung's acquiescence to Plaintiff's	
28	interpretation of the patent claims.	
	-36- Case No. 11-cv-01846-LHK	
	SAMSUNG'S PATENT LOCAL RULE 3-3 AND 3-4 DISCLOSURES	

Samsung also reserves the right to amend or supplement these contentions regarding 1 anticipation or obviousness of the asserted claims, in view of further information from Plaintiff, 2 3 information discovered during discovery, or a claim construction ruling by the Court. Plaintiff has not identified what elements or combinations it alleges were not known to one of ordinary skill in 4 5 the art at the time. Therefore, for any claim limitation that Plaintiff alleges is not disclosed in a particular prior art reference, Samsung reserves the right to assert that any such limitation is either 6 7 inherent in the disclosed reference or obvious to one of ordinary skill in the art at the time in light 8 of the same, or that the limitation is disclosed in another of the references disclosed above and in 9 combination would have rendered the asserted claim obvious. C. Local Patent Rule 3-3(c): Charts Identifying where Specifically in each 10 Alleged item of Prior Art each Asserted Claim is Found 11 Pursuant to Local Patent Rule 3-3(c), charts identifying where specifically in each alleged 12 item of prior art each limitation of each asserted claim is found, including for each limitation that 13 Apple contends is governed by 35 U.S.C. § 112(6), the identity of the structure(s), act(s), or 14 material(s) in each item of prior art that performs the claimed function is attached in Exhibits M 15 and O. 16 D. Local Patent Rule 3-3(d): Other Grounds for Invalidity 17 Samsung identifies the following grounds for invalidity of the asserted claims of the '891 18 Patent based on 35 U.S.C. §§ 101 and/or 112. Samsung reserves the right to supplement these 19 disclosures based on further investigation and discovery. 20 1. Invalidity Based on 35 U.S.C. § 101 21 The asserted claims of the '891 patent are invalid under 35 U.S.C. § 101 because they only 22 claim abstract ideas. For example, "starting a timer"; "closing the first window in response to a 23 determination that the timer expired"; "the first window has been displayed independently from a 24

position of a cursor on the screen"; "displaying a first window"; "the first window being
translucent; "at least a portion of a second window being capable of being displayed on the digital

processing system under the first window, the portion of the second window, when present, being
visible under the first window on a screen"; and "closing the first window without user input" are

1	each programming language abstractions; these are concepts, not physical objects, machines, or
$\frac{1}{2}$	transformations.
3	2. Invalidity Based on Enablement or Written Description Under 35 U.S.C. § 112(1) and/or Indefiniteness Under 35 U.S.C. § 112(2)
4	Based on Samsung's present understanding of Plaintiff's infringement contentions,
6	Samsung asserts that claims 1-3, 5-7, 14-21, 23, 24, 26-28, 30-32, 39-46, 48, 49, 51-53, 55-57, 64-
7	71, 73, and 74 of the '891 Patent are invalid for reciting at least the following claim terms/phrases:
8	• "starting a timer"
9	• "closing the first window in response to a determination that the timer expired"
10	• "the first window does not close in response to any input from a user input device of the digital processing system"
11 12	• "the first window has been displayed independently from a position of a cursor on the screen"
13	• "translucent"
14	• "the first window is at a top level in a window displaying hierarchy"
15 16	• "the first window does not respond to any input from a user input device of the digital processing system"
17	• "determining a position on a display of the digital processing system independent of a position of a cursor on the display"
18 19	• "restarting the timer in response to receiving a second input for the first window"
20	• "closing the first window without user input"
21	• "determining whether or not a condition is met"
22 23	• "said closing the first window is in response to a determination that the condition is met"
24	• "means for displaying a first window in response to receiving a first input from a user input device of the digital processing system"
25	• "means for starting a timer"
26 27 28	• "means for closing the first window in response to a determination that the timer expired"
28	-38- Case No. 11-cv-01846-LHK SAMSUNG'S PATENT LOCAL RULE 3-3 AND 3-4 DISCLOSURES
	SAMSUNG'S PATENT LOCAL RULE 3-3 AND 3-4 DISCLOSURES

1	• "means for fading out an image of the first window"
2	• "means for determining a position on a display of the digital processing system independent of a position of a cursor on the display"
4	• "means for restarting the timer in response to receiving a second input for the first window"
5	• "means for displaying a first window, the first window being translucent"
6 7	• "means for closing the first window without user input"
8	• "means for determining whether or not a condition is met"
9	These claim terms/phrases as apparently construed by Apple violate the written description,
10	enablement, and/or definiteness requirements of 35 U.S.C. § 112.
11	Based on Samsung's present understanding of Plaintiff's infringement contentions, at least
12	one or more of these claim terms/phrases are indefinite because they are inconsistent with and
13	broader than the alleged invention disclosed in the specification and given Plaintiff's apparent
14	constructions of the claims, any person of ordinary skill in the art at the time of the invention
15	would not understand what is claimed, even when the claims are read in light of the specification.
16	Moreover, based on Samsung's present understanding of Plaintiff's infringement contentions, each
17	of the asserted claims in which these claim terms/phrases appear lack written description because
18	the specification of the '891 Patent demonstrates that the patentee neither conceived of nor
19	demonstrated possession of all that Apple now contends the claims cover. In addition, based on
20	Samsung's present understanding of Plaintiff's infringement contentions, each of the asserted
21	claims in which these claim terms/phrases appear are invalid because the specification fails to
22	provide sufficient disclosure to enable any person of ordinary skill in the art to which it pertains,
23	or with which it is most nearly connected, to implement the invention without undue
24	experimentation. Therefore, the claims fail to satisfy the requirements of § 112 ¶¶ 1 and 2.
25	VI. THE '607 PATENT
26	A. Local Patent Rule 3-3(a): Identification of Prior Art
27	At this time, Samsung contends that at least the following prior art references anticipate or
28	render obvious, either alone or in combination, the asserted claims of the '607 Patent:
	-39- Case No. 11-cv-01846-LHK SAMSUNG'S PATENT LOCAL RULE 3-3 AND 3-4 DISCLOSURES

1	1. Patent References ¹⁶							
2	Chart No(s).	Country of Origin	Patent N	umber	Date	of Issue	Pı	riority Date
3	P-1	US	7,372	455	4/13	3/2008		2/10/2003
	P-2	US	6,790.	.160	11/1	9/2005	1	2/19/2002
4	P-3	US	4,686.	,332	8/11	1/1987		6/26/1986
5	P-4	US	7,218.		5/15	5/2007		6/7/2001
5	P-5	JP	2002-34			9/2001		5/21/2001
6	P-6	US	5,920.			/1999		1/4/1996
	P-7	US	5,543.			/1996		12/3/1993
7	P-8	US	2003/00	69653	4/10)/2003		10/9/2001
8		2. Publicatio	ons ¹⁷					
9	Chart No(s).	Title		Date Public		Auth	lor	Publisher
10	P-9	"Integration of a C		5/21/2	2002	A.K Le		Society for
11		Capacitive Touch Scre 1/8-VGA FSTN-LCD and LCD-Based Tou	To Form			(Synaptio	cs Inc.)	Information Display
12	P-10	"Smartskin: An Infras		200)1	Jun Rek	imoto	Association for
12	1 10	for Freehand Manipul						Computing
13		Interactive Surfac	ces"					Machinery
	P-11	"DiamondTouch: A M		200)1	Paul Die		Association for
14	Touch Technology"					Darren	Leigh	Computing Machinery
15	3. Systems							
16	All versions of the following prior art systems commercially sold, publicly known or used							
17	before th	e priority date of the '60	7 Patent, ir	ncluding	docume	nts and sou	arce code	e describing the
18 19	same:			_				-
20	Chart No(s).	System		Date O	ffered		Offering	g Entity
	P-7	Synaptics clearPad	(cPad)	April	2001	Syr	naptics Ir	ncorporated
21	P-10	Sony Smartski		200)2		Sony	Corp.
	P-11	MERL DiamondT	ouch	200)2	Ν	<u>/litsubish</u>	i Electric
22	P-8	Quantum Research		200)2	Quar	ntum Res	search Group
23	OT603xx sensor							
24	Additional prior art that has not been charted, but is still relevant to the invalidity of the							
25	'607 Patent is listed in Exhibit Q. Samsung reserves the right to amend these invalidity							
26	16 Somewing incomponents, by reference all might art references aited in the notante listed herein							
27	and/or their file histories.							
28	¹⁷ Samsung incorporates by reference all prior art references identified in the publications listed herein.							
				_ 40_			Case	No. 11-cv-01846-LHK
			SAMS	SUNG'S P	ATENT I	LOCAL RUL	E 3-3 AN	No. 11-cv-01846-LHK D 3-4 DISCLOSURES

1 contentions to assert these references depending on the claim construction and infringement 2 positions Apple may take as the case proceeds. Moreover, Samsung reserves the right to use these 3 references in combination with other references to render the claims of the '607 Patent obvious in the event Apple takes the position that certain claim limitations are missing from the references 4 5 charted in Exhibits P and R.

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Local Patent Rule 3-3(b): Whether Each Item Anticipates or Renders **B**. **Obvious the Asserted Claims**

Plaintiff asserts claims 1-3, 6-8, and 10-11 of the '607 Patent against Samsung in this 8 lawsuit. All of those claims are invalid because the '607 Patent fails to meet one or more of the requirements for patentability. The individual bases for invalidity are provided below and in the claim charts attached as Exhibits P and R. Each of the foregoing listed prior art documents, the underlying work, and/or the underlying apparatus or method qualifies as prior art under one or more sections of 35 U.S.C. § 102 and/or 35 U.S.C. § 103.

Although Samsung has identified at least one citation per limitation for each reference, 14 each and every disclosure of the same limitation in the same reference is not necessarily identified. 15 Rather, in an effort to focus the issues, Samsung has cited representative portions of identified 16 references, even where a reference may contain additional support for a particular claim element. 17 In addition, persons of ordinary skill in the art generally read a prior art reference as a whole and 18 in the context of other publications and literature. Thus, to understand and interpret any specific 19 statement or disclosure within a prior art reference, such persons would rely on other information 20 within the reference, along with other publications and their general scientific knowledge. 21 Samsung may rely upon uncited portions of the prior art references and on other publications and 22 expert testimony to provide context, and as aids to understanding and interpreting the portions that 23 are cited. Samsung may also rely on uncited portions of the prior art references, other disclosed 24 publications, and the testimony of experts to establish that a person of ordinary skill in the art 25 would have been motivated to modify or combine certain of the cited references so as to render the 26 claims obvious. 27

4. Anticipation

Some or all of the asserted claims of the '607 Patent are invalid as anticipated under 35 U.S.C. § 102 in view of each of the prior art references identified above and in the claim charts included in Exhibit P, which identify specific examples of where each limitation of the asserted claims is found in the prior art references. As explained above, the cited portions of prior art references identified in the attached claim charts are exemplary only and representative of the content and teaching of the prior art references, and should be understood in the context of the reference as a whole and as they would be understood by a person of ordinary skill in the art.

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5. **Obviousness**

To the extent any limitation is deemed not to be exactly met by an item of prior art listed
above and in Exhibit P, then any purported differences are such that the claimed subject matter as
a whole would have been obvious to one skilled in the art at the time of the alleged invention, in
view of the state of the art and knowledge of those skilled in the art. The item of prior art would,
therefore, render the relevant claims invalid for obviousness under 35 U.S.C. § 103(a).

15 In addition, the references identified above render one or more asserted claims of the '607 16 Patent obvious when the references are read in combination with each other, and/or when read in 17 view of the state of the art and knowledge of those skilled in the art. Each and every reference 18 identified is also relevant to the state of the art at the time of the alleged invention. Any of the 19 references disclosed above may be combined to render obvious (and therefore invalid) each of 20 Plaintiff's asserted claims. Samsung may rely upon a subset of the above identified references or 21 all of the references identified above, including all references in Exhibits P, Q, and R, for purposes 22 of obviousness depending on the Court's claim construction, positions taken by Apple during this 23 litigation, and further investigation and discovery.

Moreover, to the extent the foregoing references are found not to anticipate the asserted claims, the foregoing references render the asserted claims obvious either alone or in combination with one or more of the other references identified above pursuant to P.R. 3-3(a). As explained herein and/or in the accompanying charts, it would have been obvious to a person of skill in the art

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1	at the time of the alleged invention of the asserted claims of the '607 Patent to combine the various
2	references cited herein so as to practice the asserted claims of the '607 Patent.
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3	In accordance with P.R. 3-3(b), prior art references rendering the asserted claims obvious,
4	alone or in combination with other references, are outlined below and included in Exhibits P and
5	R, which includes exemplary claim charts for the asserted claims of the '607 Patent showing
6	specifically where in each reference or combinations of references each asserted claim is found,
7	and an explanation of why the prior art renders the asserted claim obvious. Where applicable, the
8 9	charts in Exhibit P and R include the motivation to combine references.
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11	In particular, Samsung contends that the asserted claims of the '607 Patent would have
12	been obvious in view of the prior art references identified above. For example, Exhibit R includes
	exemplary claim charts that describe how the asserted claims of the '607 Patent would have been

14 obvious in view of the following references alone or in combination:

- All references identified in Exhibit P, if found not to anticipate the claims of the
 '607 Patent, render the claims of the '607 Patent obvious alone;
- Exhibit R-1: Philipp U.S. Patent No. 6,452,5154 in view of Caldwell et al. U.S.
 Patent No. 5,572,205

Exhibit R-2: Gerpheide et al. U.S. Patent No. 5,565,658 in view of Gerpheide U.S.
 Patent No. 5,305,017

In addition to the specific combinations of prior art and the specific combinations of
groups of prior art disclosed, Samsung reserves the right to rely on any other combination of any
prior art references disclosed herein. Samsung further reserves the right to rely upon combinations
disclosed within the prosecution history of the references cited herein. These obviousness
combinations reflect Samsung's present understanding of the potential scope of the claims that
Plaintiff appears to be advocating and should not be seen as Samsung's acquiescence to Plaintiff's
interpretation of the patent claims.

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1	Samsung also reserves the right to amend or supplement these contentions regarding				
2	anticipation or obviousness of the asserted claims, in view of further information from Plaintiff,				
3	information discovered during discovery, or a claim construction ruling by the Court. Plaintiff has				
4	not identified what elements or combinations it alleges were not known to one of ordinary skill in				
5	the art at the time. Therefore, for any claim limitation that Plaintiff alleges is not disclosed in a				
6	particular prior art reference, Samsung reserves the right to assert that any such limitation is either				
7	inherent in the disclosed reference or obvious to one of ordinary skill in the art at the time in light				
8	of the same, or that the limitation is disclosed in another of the references disclosed above and in				
9	combination would have rendered the asserted claim obvious.				
10	C. Local Patent Rule 3-3(c): Charts Identifying where Specifically in each Alleged item of Prior Art each Asserted Claim is Found				
11	Anegeu item of i nor Art each Asserteu Claim is Found				
12	Pursuant to Local Patent Rule 3-3(c), charts identifying where specifically in each alleged				
13	item of prior art each limitation of each asserted claim is found, including for each limitation that				
14	Apple contends is governed by 35 U.S.C. § 112(6), the identity of the structure(s), act(s), or				
15	material(s) in each item of prior art that performs the claimed function is attached in Exhibits P				
16	and R.				
17	D. Local Patent Rule 3-3(d): Other Grounds for Invalidity				
18	Samsung identifies the following grounds for invalidity of the asserted claims of the '607				
19	Patent based on 35 U.S.C. §§ 101 and/or 112. Samsung reserves the right to supplement these				
20	disclosures based on further investigation and discovery.				
21	1. Invalidity Based on Enablement or Written Description Under 35 U.S.C. § 112(1) and/or Indefiniteness Under 35 U.S.C. § 112(2)				
22	Based on Samsung's present understanding of Plaintiff's infringement contentions,				
23	Samsung asserts that claims 1-3, 6-8, 10, and 11 of the '607 Patent are invalid for reciting at least				
24	the following claim terms/phrases:				
25	• "configured to detect multiple touches or near touches that occur at a same time and				
26	at distinct locations"				
27	• "produce distinct signals"				
28					
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	SAMSUNG'S PATENT LOCAL RULE 3-3 AND 3-4 DISCLOSURES				

1	• "detect changes in charge coupling between the first conductive lines and the
2	second conductive lines"
3	• "substantially parallel"
4	• "substantially perpendicular"
5	
6	• "pixilated image"
7	• "recognizing multiple touch events that occur at different locations on the touch
8	panel at a same time"
9	• "dummy features"
10	These claim terms/phrases as apparently construed by Apple violate the written description,
11	enablement, and/or definiteness requirements of 35 U.S.C. § 112.
12	Based on Samsung's present understanding of Plaintiff's infringement contentions, at least
13	one or more of these claim terms/phrases are indefinite because they are inconsistent with and
14	broader than the alleged invention disclosed in the specification and given Plaintiff's apparent
15	constructions of the claims, any person of ordinary skill in the art at the time of the invention
16 17	would not understand what is claimed, even when the claims are read in light of the specification.
17	Moreover, based on Samsung's present understanding of Plaintiff's infringement contentions, each
18 19	of the asserted claims in which these claim terms/phrases appear lack written description because
20	the specification of the '607 Patent demonstrates that the patentee neither conceived of nor
20	demonstrated possession of all that Apple now contends the claims cover. In addition, based on
21	Samsung's present understanding of Plaintiff's infringement contentions, each of the asserted
22	claims in which these claim terms/phrases appear are invalid because the specification fails to
23	provide sufficient disclosure to enable any person of ordinary skill in the art to which it pertains,
25	or with which it is most nearly connected, to implement the invention without undue
26	experimentation. Therefore, the claims fail to satisfy the requirements of § $112 \P 1$ and 2.
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	-45- Case No. 11-cv-01846-LHK SAMSUNG'S PATENT LOCAL RULE 3-3 AND 3-4 DISCLOSURES

VII. 1 **THE '163 PATENT**

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Local Patent Rule 3-3(a): Identification of Prior Art A.

3 At this time, Samsung contends that at least the following prior art references anticipate or 4 render obvious, either alone or in combination, the asserted claims of the '163 Patent: 5

	1. I atent Kereren			
Chart No(s).	Country of Origin	Patent Number	Date	of Issue
S-1	United States	6,211,856	April	3, 2001
S-2	United States	7,327,349		y 5, 2008
S-3	United States	5,615,384	March	25, 1997
S-4	United States	5,579,037	Novembe	er 26, 1996
S-5	United States	4,899,292		ry 6, 1990
S-6, U		5,877,751	March	2, 1999
U	United States	7,933,632	April	26, 2011
U	United States	7,089,507		t 8, 2006
U	United States	6.054.990		25, 2000
U	United States	7,289,102	October	r 30, 2007
U	United States	6,157,935		er 5, 2000
U	United States	5,463,725	October	r 31, 1995
U	United States	7,138,983	Novembe	er 21, 2006
U	United States	7,522,198	April	21, 2009
U	United States	7,852,357	Decemb	er 9, 2010
U	United States	7,327,932	Februar	y 5, 2008
U	Japan	20000163031A	June 1	16, 2000
	2. Publications ¹⁹			
Chart No(s).	Title	Date of Publication	Author	Publisher
S-7, U	AppLens and LaunchTile: Two Designs for One- Handed Thumb Use on Small Devices	2005 (submitted to CHI Conference by Sep. 13, 2004)	Karlson, Amy; Bederson, Benjamin, SanGiovanni, John	Association fo Computing Machinery
S-8	West: A Web Browser for Small Terminals	1999	Bjork	Association fo Computing Machinery
S-6	2002/0030699 Hand-Held with Auto-Zoom for Graphical Display of Web	March 14, 2002	Jan Van Ee (Inventor)	United States Patent Office
S-2	Page ZoneZoom: Map Navigation for	January 2004	Robbins, Daniel C.; Cutrell,	Association fo Computing
	amsung incorporates by refere	nce all prior art refere	ences cited in the pa	atents listed here

Patent References¹⁸ 1.

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Chart No(s).	Title	Date of Publication	Author	Publisher
110(5/	Smartphones with	I upiteution	Edward; Sarin,	Machinery
	Recursive View Segmentation		Raman; Horvitz,	
S-9	2005/0195221 System and	September 8, 2005	Eric Berger et al.	United States
5 /	Method for Facilitating the	September 0, 2005	Derger et ul.	Patent Office
	Presentation of Content via			
TT	Device Displays	Law 2 2004	I Ct 1	Linite d Cteter
U	2004/0107403 Presenting HTML Content on a Small	June 3, 2004	Jon Stephenson Von Tetzchner	United States Patent Office
	Screen Terminal Display		Von retzenner	I atem Office
U	2006/0048051 Method for	March 2, 2006	Mihal Lazaridis	United States
	Rendering Formatted			Patent Office
	Content on a Mobile			
U	Device 2002/0069220 Remote	June 6, 2002	Bao Q. Tran	United States
U	Data Access and	June 0, 2002	Duo Q. man	Patent Office
	Management System			
	Utilizing Handwriting Input			
U	2009/0135162 System and Method for Detecting the	May 28, 2009	Wijdeven et al.	United States Patent Office
	Method for Detecting the Location, Size, and Shape			ratent Office
	of Multiple Objects that			
	Interact with a Touch			
	Screen Display			
U	2006/0101354 Gesture	May 11, 2006	Hashimoto et al.	United States
	inputs for a Portable Display Device			Patent Office
U	2006/0026535 Mode	February 2, 2006	Hotelling et al.	United States
	Based Graphical User	, , , , , , , , , , , , , , , , , , ,	U	Patent Office
	Interfaces for Touch			
U	Sensitive Input Devices 2004/0236790 Systems	November 25,	Majid Anwar	United States
U	and Methods for Digital	2004	Majiu Aliwai	Patent Office
	Document Processing	2001		
U	2002/0060701 Graphical	May 23, 2002	Patrick J.	United States
	user interface for displaying		Naughton et al.	Patent Office
	and navigating in a directed graph structure			
		-47- SAMSUNG'S PATENT I		No. 11-cv-01846-LH

3. Systems²⁰

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2 All versions of the following prior art systems commercially sold, publicly known or used 3 before the priority date of the '163 Patent, including documents and source code describing the 4 same: 5 Chart **Offering Entity** System Date No(s). **Offered/Known** LaunchTile Software²¹ 6 Ben Bederson *et al.* Microsoft²² September 2004 S-7 **S-**2 ZoneZoom Flash Prototype At least as early as 7 January 2004 Microsoft²³ S-2 SmartPhlow Traffic At least as early as 8 Monitoring Application January 2004 S-10 XNav At least as early as Ben Bederson et al. 9 August 25, 2005 U Jeff Han's Breakthrough Jeff Han At least as early as 10 Touchscreen, See August 1, 2006 http://blog.ted.com/2006/08 11 /01/jeff han on ted 12 Additional prior art that that is relevant to the invalidity of the '163 Patent is listed in 13 Exhibit T. Samsung reserves the right to amend these invalidity contentions to assert these 14 references depending on the claim construction and infringement positions Apple may take as the 15 case proceeds. Moreover, Samsung reserves the right to use these references in combination with 16 17 20 Discovery, and in particular, third party discovery is ongoing. As discovery is in the early stages, Samsung is not yet in possession of all evidence regarding the systems that invalidate the 18 '163 patent. Where possible, Samsung has cited to documentation that evidences the systems' practicing of the invention. However, Samsung anticipates amending these contentions as 19 discovery progresses. 20 ²¹ The LaunchTile software is described in AppLens and LaunchTile: Two Designs for One-Handed Thumb Use on Small Devices, Bederson et al., CHI 2005, ACM, Apr. 2-7, 2005 (Exhibits 21 A-C to the Bederson Declaration filed Aug. 22, Dkt. No. 165); Video Demonstration of LaunchTile (Exhibit D to the Bederson Declaration filed Aug. 22, Dkt. No. 165); PowerPoint 22 slides displayed at the CHI conference (Exhibit E to the Bederson Declaration filed Aug. 22, Dkt. No. 165); Executable version of LaunchTile (Exhibit F to the Bederson Declaration filed Aug. 22, 23 Dkt. No. 165). In addition to being attached the Bederson declaration filed on August 22, these 24 documents have been previously produced in this litigation. See ZoneZoom: Map Navigation for Smartphones with Recursive View Segmentation, 25 Robbins et al., ACM Press (Jan. 2004) at 4.1. See ZoneZoom: Map Navigation for Smartphones with Recursive View Segmentation, 26 Robbins et al., ACM Press (Jan. 2004) at 4.2. Samsung is seeking third party discovery on these 27 products. Also relevant is "ZoneZoom: map navigation for smartphones with recursive view segmentation", Robbins et al., AVI '04 Proceedings of the working conference on advanced visual 28 interfaces. Case No. 11-cv-01846-LHK

SAMSUNG'S PATENT LOCAL RULE 3-3 AND 3-4 DISCLOSURES

other references to render the claims of the '163 Patent obvious in the event Apple takes the
 position that certain claim limitations are missing from the references charted in Exhibits S and U.

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B.

Local Patent Rule 3-3(b): Whether Each Item Anticipates or Renders Obvious the Asserted Claims

Plaintiff asserts claims 2, 4-13, 17-18, 27-42, and 47-52 of the '163 Patent against Samsung in this lawsuit. All of those claims are invalid because the '163 Patent fails to meet one or more of the requirements for patentability. The individual bases for invalidity are provided below and in the claim charts attached as Exhibits S and U. Each of the foregoing listed prior art documents, the underlying work, and/or the underlying apparatus or method qualifies as prior art under one or more sections of 35 U.S.C. § 102 and/or 35 U.S.C. § 103.

Although Samsung has identified at least one citation per limitation for each reference, 11 each and every disclosure of the same limitation in the same reference is not necessarily identified. 12 Rather, in an effort to focus the issues, Samsung has cited representative portions of identified 13 references, even where a reference may contain additional support for a particular claim element. 14 In addition, persons of ordinary skill in the art generally read a prior art reference as a whole and 15 in the context of other publications and literature. Thus, to understand and interpret any specific 16 statement or disclosure within a prior art reference, such persons would rely on other information 17 within the reference, along with other publications and their general scientific knowledge. 18 Samsung may rely upon uncited portions of the prior art references and on other publications and 19 expert testimony to provide context, and as aids to understanding and interpreting the portions that 20 are cited. Samsung may also rely on uncited portions of the prior art references, other disclosed 21 publications, and the testimony of experts to establish that a person of ordinary skill in the art 22 would have been motivated to modify or combine certain of the cited references so as to render the 23

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claims obvious.

4. Anticipation

Some or all of the asserted claims of the '163 Patent are invalid as anticipated under 35
U.S.C. § 102 in view of each of the prior art references identified above and in the claim charts
included in Exhibit S, which identify specific examples of where each limitation of the asserted

-49- Case No. 11-cv-01846-LHK SAMSUNG'S PATENT LOCAL RULE 3-3 AND 3-4 DISCLOSURES claims is found in the prior art references. As explained above, the cited portions of prior art
 references identified in the attached claim charts are exemplary only and representative of the
 content and teaching of the prior art references, and should be understood in the context of the
 reference as a whole and as they would be understood by a person of ordinary skill in the art.

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5. **Obviousness**

To the extent any limitation is deemed not to be exactly met by an item of prior art listed
above and in Exhibit S, then any purported differences are such that the claimed subject matter as
a whole would have been obvious to one skilled in the art at the time of the alleged invention, in
view of the state of the art and knowledge of those skilled in the art. The item of prior art would,
therefore, render the relevant claims invalid for obviousness under 35 U.S.C. § 103(a).

In addition, the references identified above render one or more asserted claims of the '163 11 Patent obvious when the references are read in combination with each other, and/or when read in 12 13 view of the state of the art and knowledge of those skilled in the art. Each and every reference 14 identified is also relevant to the state of the art at the time of the alleged invention. Any of the 15 references disclosed above may be combined to render obvious (and therefore invalid) each of 16 Plaintiff's asserted claims. Samsung may rely upon a subset of the above identified references or 17 all of the references identified above, including all references in Exhibits S, T, and U, for purposes 18 of obviousness depending on the Court's claim construction, positions taken by Apple during this 19 litigation, and further investigation and discovery.

Moreover, to the extent the foregoing references are found not to anticipate the asserted claims, the foregoing references render the asserted claims obvious either alone or in combination with one or more of the other references identified above pursuant to P.R. 3-3(a). As explained herein and/or in the accompanying charts, it would have been obvious to a person of skill in the art at the time of the alleged invention of the asserted claims of the '163 Patent to combine the various references cited herein so as to practice the asserted claims of the '163 Patent.

In accordance with P.R. 3-3(b), prior art references rendering the asserted claims obvious,
alone or in combination with other references, are outlined below and included in Exhibits S and

1	U, which includes exemplary claim charts for the asserted claims of the '163 Patent showing					
2	specifically where in each reference or combinations of references each asserted claim is found,					
3	and an explanation of why the prior art renders the asserted claim obvious.					
4	In particular, Samsung contends that the asserted claims of the '163 patent would have					
5	been obvious in view of the prior art references identified above and in Exhibits S, T and U. For					
6	example, Exhibits S and U include exemplary claim charts that describe how the asserted claims					
7 8	of the '163 Patent would have been obvious in view of the following references alone or in					
9	combination:					
10	• All references identified above and in the claim charts in Exhibit S, if found not to					
11	anticipate the claims of the '163 Patent, render the claims of the '163 patent					
12	obvious alone;					
13	• Any reference identified above and in the claim charts in Exhibit S, if found not to					
14	anticipate the claims of the '163 patent, can be combined with any other reference					
15	identified above and in the claim charts in Exhibit S to render the claims of the					
16	'163 patent obvious;					
17	• To the extent any element is found to be missing from any reference charted in					
18	Exhibit S, that reference can be combined with any reference or combination of					
19	references disclosing the allegedly missing element and identified in Exhibit U to					
20	render the claims of the '163 patent obvious.					
21	• Any reference identified in Exhibit U may be combined with any other reference or					
22	combination of references identified in Exhibit U to render the claims of the '163					
23	patent obvious.					
24	In addition to these specific combinations of prior art and the specific combinations of					
25	groups of prior art disclosed, Samsung reserves the right to rely on any other combination of any					
26	prior art references disclosed herein. Samsung further reserves the right to rely upon combinations					
27	disclosed within the prosecution history of the references cited herein. These obviousness					
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	SAMSUNG'S PATENT LOCAL RULE 3-3 AND 3-4 DISCLOSURES					

combinations reflect Samsung's present understanding of the potential scope of the claims that
 Plaintiff appears to be advocating and should not be seen as Samsung's acquiescence to Plaintiff's
 interpretation of the patent claims.

- Samsung also reserves the right to amend or supplement these contentions regarding 4 5 anticipation or obviousness of the asserted claims, in view of further information from Plaintiff, information discovered during discovery, or a claim construction ruling by the Court. Plaintiff has 6 7 not identified what elements or combinations it alleges were not known to one of ordinary skill in 8 the art at the time. Therefore, for any claim limitation that Plaintiff alleges is not disclosed in a 9 particular prior art reference, Samsung reserves the right to assert that any such limitation is either 10 inherent in the disclosed reference or obvious to one of ordinary skill in the art at the time in light of the same, or that the limitation is disclosed in another of the references disclosed above and in 11 12 combination would have rendered the asserted claim obvious.
- 13 14

C. Local Patent Rule 3-3(c): Charts Identifying where Specifically in each Alleged item of Prior Art each Asserted Claim is Found

Pursuant to Local Patent Rule 3-3(c), charts identifying where specifically in each alleged item of prior art each limitation of each asserted claim is found, including for each limitation that Apple contends is governed by 35 U.S.C. § 112(6), the identity of the structure(s), act(s), or material(s) in each item of prior art that performs the claimed function is attached in Exhibits S and U.

19 20

D. Local Patent Rule 3-3(d): Other Grounds for Invalidity

Samsung identifies the following grounds for invalidity of the asserted claims of the '163
 Patent based on 35 U.S.C. §§ 101 and/or 112. Samsung reserves the right to supplement these
 disclosures based on further investigation and discovery.

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1. Invalidity Based on 35 U.S.C. § 101

The asserted claims of the '163 patent are invalid under 35 U.S.C. § 101 because they only claim abstract ideas. For example, each asserted claim of the '163 Patent contains the limitations "detecting a first gesture at a location on the displayed portion of the structured electronic

1	document" and "determining a first box in the plurality of boxes at the location of the first
2	gesture." Furthermore, the claims merely contain abstract software instructions.
3	2. Invalidity Based on Enablement or Written Description Under 35 U.S.C. § 112(1) and/or Indefiniteness Under 35 U.S.C. § 112(2)
4	Based on Samsung's present understanding of Plaintiff's infringement contentions,
5	Samsung asserts that claims 2, 4-13, 17-18, 27-42, & 47-52 of the '163 Patent are invalid for
6 7	reciting at least the following claim terms/phrases:
8	• "at least a portion of a structured electronic document"
0 9	• "boxes of content," "first box," and "second box"
10	• "translating"
11	• "substantially centered"
12 13	• "enlarging and translating the structured electronic document so that the first box is substantially centered on the touch screen display"
14 15	• "while the first box is enlarged, detecting a second gesture on a second box other than the first box; and translating the structured electronic document so that the second box is substantially centered on the touch screen display"
16	• "the plurality of boxes are defined by a style sheet language"
17 18	• "the width of the first box is substantially the same as the width of the touch screen display"
19 20	• "means for displaying at least a portion of a structured electronic document on the touch screen display, wherein the structured electronic document comprises a plurality of boxes of content"
21 22	• "means for detecting a first gesture at a location on the displayed portion of the structured electronic document"
23 24	• "means for determining a first box in the plurality of boxes at the location of the first gesture"
25	• "means for enlarging and translating the structured electronic document so that the first box is substantially centered on the touch screen display"
26 27 28	• "means for, while the first box is enlarged, a second gesture is detected on a second box other than the first box"
	-53- Case No. 11-cv-01846-LHK SAMSUNG'S PATENT LOCAL RULE 3-3 AND 3-4 DISCLOSURES
	SAMSUNG'S PATENT LOCAL RULE 3-3 AND 3-4 DISCLOSURES

"means for, in response to detecting the second gesture, the structured electronic document is translated so that the second box is substantially centered on the touch screen display"

These claim terms/phrases as apparently construed by Apple violate the written description, enablement, and/or definiteness requirements of 35 U.S.C. § 112.

5 Based on Samsung's present understanding of Plaintiff's infringement contentions, at least 6 one or more of these claim terms/phrases are indefinite because they are inconsistent with and 7 broader than the alleged invention disclosed in the specification and given Plaintiff's apparent 8 constructions of the claims, any person of ordinary skill in the art at the time of the invention 9 would not understand what is claimed, even when the claims are read in light of the specification. 10 Moreover, based on Samsung's present understanding of Plaintiff's infringement contentions, each 11 of the asserted claims in which these claim terms/phrases appear lack written description because 12 the specification of the '163 Patent demonstrates that the patentee neither conceived of nor 13 demonstrated possession of all that Apple now contends the claims cover. In addition, based on 14 Samsung's present understanding of Plaintiff's infringement contentions, each of the asserted 15 claims in which these claim terms/phrases appear are invalid because the specification fails to 16 provide sufficient disclosure to enable any person of ordinary skill in the art to which it pertains, 17 or with which it is most nearly connected, to implement the invention without undue 18 experimentation. Therefore, the claims fail to satisfy the requirements of § 112 ¶¶ 1 and 2.

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VIII. THE '129 PATENT

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A. Local Patent Rule 3-3(a): Identification of Prior Art

At this time, Samsung contends that at least the following prior art references anticipate or render obvious, either alone or in combination, the asserted claims of the '129 Patent:

23 24

1. **Patent References**²⁴

	Chart	Country of Origin	Patent Number	Date of Issue	Priority Date
25	No(s).				
	V-1	US	4,571,454	2/18/1986	11/11/1982
26	V-2	US	5,083,118	1/21/1992	4/16/1990
	V-3	US	5,113,041	5/12/1992	12/28/1990
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28 Samsung incorporates by reference all prior art references cited in the patents listed herein and/or their file histories.

<u>No(s).</u> V-4	Country of Origin	Patent N	umber	Date	of Issue	Priority Date
N <i>I</i> F	US	5,565.	658	10/1	5/1996	7/13/1992
V-5	US	7,218,		5/15	5/2007	6/7/2001
V-6	US	7,932.	898		5/2001	9/20/2005
V-7	WO	2005/11	4369	12/1	/2005	5/6/2004
 Systems All versions of the following prior art systems commercially sold, publicly known or us before the priority date of the '129 Patent, including documents and source code describing the 						
same: Chart System Date Offered Offering Entity						Offering Entity
<u>No(s).</u>		u ale a ana an	A + 1 = =	at an		
V-8	Whirlpool Velos TM To	uchscreen	At lea early		Whirlpool	
			Decei			
			200			
ontentio ositions eference	ent is listed in Exhibit W ons to assert these refere a Apple may take as the es in combination with o t Apple takes the positio n Exhibits V and X.	nces depend case procee ther referen n that certai	ding on the ds. More acces to re	ne claim eover, S nder the	a construction amsung rese claims of th	n and infringement erves the right to us ne '129 Patent obvi
charted i B				Each It	tem Anticip	ates or Renders
В	Obvious the Asse	erted Clain	15		-	
B		erted Clain	15		-	
B	Obvious the Asse	erted Clain 3, 5, 7, 9-12	ns 2, 14, 16-	19, 21-2	22, 24-26, ar	nd 28 of the '129 Pa
B P gainst S	Obvious the Asse laintiff asserts claims 1- amsung in this lawsuit.	erted Clain 3, 5, 7, 9-12 All of thos	ns 2, 14, 16- e claims	19, 21-2 are inva	22, 24-26, ar lid because	nd 28 of the '129 Pa the '129 Patent fail
B P gainst S	Obvious the Ass laintiff asserts claims 1-	erted Clain 3, 5, 7, 9-12 All of thos	ns 2, 14, 16- e claims	19, 21-2 are inva	22, 24-26, ar lid because	nd 28 of the '129 Pa the '129 Patent fail
B P gainst S neet one	Obvious the Asse laintiff asserts claims 1- amsung in this lawsuit.	erted Clain 3, 5, 7, 9-12 All of thos nents for pa	ns 2, 14, 16- e claims tentabilit	19, 21-2 are inva y. The	22, 24-26, ar lid because individual ba	nd 28 of the '129 Pa the '129 Patent fail ases for invalidity a
B P gainst S neet one provided	Obvious the Asse Plaintiff asserts claims 1- camsung in this lawsuit. For more of the requirem below and in the claim	erted Clain 3, 5, 7, 9-12 All of thos nents for pa charts attac	ns 2, 14, 16- e claims tentabilit hed as E	19, 21-2 are inva y. The xhibits V	22, 24-26, ar lid because individual ba V and X. Ea	nd 28 of the '129 Pa the '129 Patent fail ases for invalidity a sch of the foregoing
B P against S neet one provided	Obvious the Asse laintiff asserts claims 1- amsung in this lawsuit. or more of the requirem	erted Clain 3, 5, 7, 9-12 All of thos nents for pa charts attac	ns 2, 14, 16- e claims tentabilit hed as E	19, 21-2 are inva y. The xhibits V	22, 24-26, ar lid because individual ba V and X. Ea	nd 28 of the '129 Pa the '129 Patent fail ases for invalidity a sch of the foregoing
B gainst S neet one provided prior art	Obvious the Asse Plaintiff asserts claims 1- camsung in this lawsuit. For more of the requirem below and in the claim	erted Clain 3, 5, 7, 9-12 All of thos nents for pa charts attac ng work, ar	ns 2, 14, 16- e claims tentabilit hed as E nd/or the	19, 21-2 are inva y. The xhibits V underly	22, 24-26, ar lid because individual ba V and X. Ea ing apparatu	nd 28 of the '129 Pa the '129 Patent fail ases for invalidity a sch of the foregoing as or method qualifi
B ngainst S neet one provided prior art	Obvious the Asse laintiff asserts claims 1- amsung in this lawsuit. or more of the requirent below and in the claim documents, the underlyi	erted Clain 3, 5, 7, 9-12 All of thos nents for pa charts attac ng work, ar	ns 2, 14, 16- e claims tentabilit hed as E nd/or the	19, 21-2 are inva y. The xhibits V underly	22, 24-26, ar lid because individual ba V and X. Ea ing apparatu	nd 28 of the '129 Pa the '129 Patent fail ases for invalidity a sch of the foregoing as or method qualifi
B ngainst S neet one provided prior art	Obvious the Asse laintiff asserts claims 1- amsung in this lawsuit. or more of the requirent below and in the claim documents, the underlyi	erted Clain 3, 5, 7, 9-12 All of thos nents for pa charts attac ng work, ar	ns 2, 14, 16- e claims tentabilit hed as E nd/or the	19, 21-2 are inva y. The xhibits V underly	22, 24-26, ar lid because individual ba V and X. Ea ing apparatu	nd 28 of the '129 Pa the '129 Patent fails ases for invalidity a sch of the foregoing as or method qualifi

1 Although Samsung has identified at least one citation per limitation for each reference, each and every disclosure of the same limitation in the same reference is not necessarily identified. 2 3 Rather, in an effort to focus the issues, Samsung has cited representative portions of identified 4 references, even where a reference may contain additional support for a particular claim element. 5 In addition, persons of ordinary skill in the art generally read a prior art reference as a whole and in the context of other publications and literature. Thus, to understand and interpret any specific 6 7 statement or disclosure within a prior art reference, such persons would rely on other information 8 within the reference, along with other publications and their general scientific knowledge. 9 Samsung may rely upon uncited portions of the prior art references and on other publications and 10 expert testimony to provide context, and as aids to understanding and interpreting the portions that are cited. Samsung may also rely on uncited portions of the prior art references, other disclosed 11 12 publications, and the testimony of experts to establish that a person of ordinary skill in the art 13 would have been motivated to modify or combine certain of the cited references so as to render the

14 || claims obvious.

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3. Anticipation

Some or all of the asserted claims of the '129 Patent are invalid as anticipated under 35 U.S.C. § 102 in view of each of the prior art references identified above and in the claim charts included in Exhibit V, which identify specific examples of where each limitation of the asserted claims is found in the prior art references. As explained above, the cited portions of prior art references identified in the attached claim charts are exemplary only and representative of the content and teaching of the prior art references, and should be understood in the context of the reference as a whole and as they would be understood by a person of ordinary skill in the art.

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4. **Obviousness**

To the extent any limitation is deemed not to be exactly met by an item of prior art listed above and in Exhibit V, then any purported differences are such that the claimed subject matter as a whole would have been obvious to one skilled in the art at the time of the alleged invention, in view of the state of the art and knowledge of those skilled in the art. The item of prior art would, therefore, render the relevant claims invalid for obviousness under 35 U.S.C. § 103(a).

In addition, the references identified above render one or more asserted claims of the '129 1 2 Patent obvious when the references are read in combination with each other, and/or when read in 3 view of the state of the art and knowledge of those skilled in the art. Each and every reference 4 identified is also relevant to the state of the art at the time of the alleged invention. Any of the 5 references disclosed above may be combined to render obvious (and therefore invalid) each of Plaintiff's asserted claims. Samsung may rely upon a subset of the above identified references or 6 7 all of the references identified above, including all references in Exhibits V, W, and X, for 8 purposes of obviousness depending on the Court's claim construction, positions taken by Apple 9 during this litigation, and further investigation and discovery.

Moreover, to the extent the foregoing references are found not to anticipate the asserted claims, the foregoing references render the asserted claims obvious either alone or in combination with one or more of the other references identified above pursuant to P.R. 3-3(a). As explained herein and/or in the accompanying charts, it would have been obvious to a person of skill in the art at the time of the alleged invention of the asserted claims of the '129 Patent to combine the various references cited herein so as to practice the asserted claims of the '129 Patent.

In accordance with P.R. 3-3(b), prior art references rendering the asserted claims obvious,
 alone or in combination with other references, are outlined below and included in Exhibits V and
 X, which includes exemplary claim charts for the asserted claims of the '129 Patent showing
 specifically where in each reference or combinations of references each asserted claim is found,
 and an explanation of why the prior art renders the asserted claim obvious. Where applicable, the
 charts in Exhibit V and X include the motivation to combine references.

In particular, Samsung contends that the asserted claims of the '129 Patent would have
 been obvious in view of the prior art references identified above. For example, Exhibit X includes
 exemplary claim charts that describe how the asserted claims of the '129 Patent would have been
 obvious in view of the following references alone or in combination:

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- All references identified in Exhibit V, if found not to anticipate the claims of the '129 Patent, render the claims of the '129 Patent obvious alone;
- 3
- Exhibit X-1: Exhibit X-1: U.S Patent No. 7,372,455 to Perski ("Perski '455") and U.S. Patent No. 5,083,118 to Kazama ("Kazama '118")

5 In addition to the specific combinations of prior art and the specific combinations of 6 groups of prior art disclosed, Samsung reserves the right to rely on any other combination of any 7 prior art references disclosed herein. Samsung further reserves the right to rely upon combinations 8 disclosed within the prosecution history of the references cited herein. These obviousness 9 combinations reflect Samsung's present understanding of the potential scope of the claims that 10 Plaintiff appears to be advocating and should not be seen as Samsung's acquiescence to Plaintiff's interpretation of the patent claims. 11

12 Samsung also reserves the right to amend or supplement these contentions regarding 13 anticipation or obviousness of the asserted claims, in view of further information from Plaintiff, 14 information discovered during discovery, or a claim construction ruling by the Court. Plaintiff has 15 not identified what elements or combinations it alleges were not known to one of ordinary skill in 16 the art at the time. Therefore, for any claim limitation that Plaintiff alleges is not disclosed in a 17 particular prior art reference, Samsung reserves the right to assert that any such limitation is either 18 inherent in the disclosed reference or obvious to one of ordinary skill in the art at the time in light 19 of the same, or that the limitation is disclosed in another of the references disclosed above and in 20 combination would have rendered the asserted claim obvious.

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C. Local Patent Rule 3-3(c): Charts Identifying where Specifically in each Alleged item of Prior Art each Asserted Claim is Found

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Pursuant to Local Patent Rule 3-3(c), charts identifying where specifically in each alleged item of prior art each limitation of each asserted claim is found, including for each limitation that 24 Apple contends is governed by 35 U.S.C. § 112(6), the identity of the structure(s), act(s), or 25 material(s) in each item of prior art that performs the claimed function is attached in Exhibits V 26 and X. 27

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Local Patent Rule 3-3(d): Other Grounds for Invalidity

2	Samsung identifies the following grounds for invalidity of the asserted claims of the '129
3	Patent based on 35 U.S.C. §§ 101 and/or 112. Samsung reserves the right to supplement these
4	disclosures based on further investigation and discovery. Invalidity Based on Enablement or
5	Written Description Under 35 U.S.C. § 112(1) and/or Indefiniteness Under 35 U.S.C. § 112(2)
6	Based on Samsung's present understanding of Plaintiff's infringement contentions,
7	Samsung asserts that claims 1-3, 5, 7, 9-12, 14, 16-19, 21-22, 24-26, and 28 of the '129 Patent are
8	invalid for reciting at least the following claim terms/phrases:
9	• "one or more widths including a maximum width"
10	• "one or more widths including a minimum width"
11	• "the minimum width"
12	
13	• "substantially greater"
14	• "maximum width"
15	• "substantially electrically isolate"
16	• "substantially cover"
17	• "substantially constant width"
18	These claim terms/phrases as apparently construed by Apple violate the written description,
19	enablement, and/or definiteness requirements of 35 U.S.C. § 112.
20	Based on Samsung's present understanding of Plaintiff's infringement contentions, at least
21	one or more of these claim terms/phrases are indefinite because they are inconsistent with and
22	broader than the alleged invention disclosed in the specification and given Plaintiff's apparent
23	constructions of the claims, any person of ordinary skill in the art at the time of the invention
24 25	would not understand what is claimed, even when the claims are read in light of the specification.
23 26	Moreover, based on Samsung's present understanding of Plaintiff's infringement contentions, each
20	of the asserted claims in which these claim terms/phrases appear lack written description because
27	the specification of the '129 Patent demonstrates that the patentee neither conceived of nor
20	
	-59- Case No. 11-cv-01846-LHK SAMSUNG'S PATENT LOCAL RULE 3-3 AND 3-4 DISCLOSURES

demonstrated possession of all that Apple now contends the claims cover. In addition, based on
Samsung's present understanding of Plaintiff's infringement contentions, each of the asserted
claims in which these claim terms/phrases appear are invalid because the specification fails to
provide sufficient disclosure to enable any person of ordinary skill in the art to which it pertains,
or with which it is most nearly connected, to implement the invention without undue
experimentation. Therefore, the claims fail to satisfy the requirements of § 112 ¶¶ 1 and 2.

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PATENT LOCAL RULE 3-4 DISCLOSURES

Pursuant to Patent Rule 3-4(a), Defendants will produce, make available for inspection, or
identify publicly available information sufficient to show the operation of any specifically
identified aspects or elements of an Accused Instrumentality identified by Plaintiff in its Patent
L.R. 3-1(c) chart to the extent such information is in Defendants' possession, custody or control.
If such information comprises source code, Defendants will make such source code available for
inspection pursuant to the entry of a suitable protective order in this action. Documents produced
pursuant to Patent Local Rule 3-4(a) include the following: 43983-44537.

Pursuant to Patent Rule 3-4(b), Defendants are producing or making available for
inspection copies of each item of prior art identified pursuant to Patent Rule 3-3(a) which does not
appear in the file history of the Asserted Patent to the extent such prior art is in Samsung's
possession, custody or control. Documents produced pursuant to Patent Local Rule 3-4(a) include
the following: SAMNDCA00028457-36167; 36833-43982; and 44538-44674.

20 Defendants reserve the right to identify and produce additional documents pursuant to the 21 Patent Rules and the orders of the Court.

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1	DATED: October 7, 2011	QUINN EMANUEL URQUHART & SULLIVAN, LLP
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3		
4		By <u>/s/ Victoria F. Maroulis</u> Charles K. Verhoeven
5		Kevin P.B. Johnson Victoria F. Maroulis
6		Michael T. Zeller
7		Attorneys for SAMSUNG ELECTRONICS CO., LTD., SAMSUNG ELECTRONICS AMERICA,
8		INC., and SAMSUNG TELECOMMUNICATIONS AMERICA, LLC
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		-61- Case No. 11-cv-01846-LHK SAMSUNG'S PATENT LOCAL RULE 3-3 AND 3-4 DISCLOSURES

1	CERTIFICATE OF SERVICE
2	I hereby certify that on October 7, 2011, I caused SAMSUNG'S PATENT LOCAL
3	RULE 3-3 AND 3-4 DISCLOSURES to be electronically served on the following via email:
4	ATTORNEYS FOR APPLE INC.
5	HAROLD J. MCELHINNY hmcelhinny@mofo.com
6	MICHAEL A. JACOBS mjacobs@mofo.com
7	JENNIFER LEE TAYLOR jtaylor@mofo.com
8	ALISON M. TUCHER atucher@mofo.com
9	RICHARD S.J. HUNG rhung@mofo.com
10	JASÓN R. BARTLETT jasonbartlett@mofo.com
11	MORRISON & FOERSTER LLP 425 Market Street
12	San Francisco, California 94105-2482 Telephone: (415) 268-7000
13	Facsimile: (415) 268-7522
14	WILLIAM F. LEE william.lee@wilmerhale.com
15	WILMER CUTLER PICKERING HALE AND DORR LLP
16	60 State Street Boston, Massachusetts 02109
17	Telephone: (617) 526-6000 Facsimile: (617) 526-5000
18	MARK D. SELWYN
19	mark.selwyn@wilmerhale.com WILMER CUTLER PICKERING HALE
20	AND DORR LLP 950 Page Mill Road
21	Palo Alto, California 94304 Telephone: (650) 858-6000
22	Facsimile: (650) 858-6100
23	
24	I declare under penalty of perjury that the foregoing is true and correct. Executed in Redwoo
25	Shores, California on October 7, 2011.
26	/s/ Mark Tung
27	
28	
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	SAMSUNG'S PATENT LOCAL RULE 3-3 AND 3-4 DISCLOSURES