

# EXHIBIT 1

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**From:** McElhinny, Harold J. [<mailto:HMElhinny@mofo.com>]  
**Sent:** Monday, November 07, 2011 1:39 PM  
**To:** Charles K Verhoeven  
**Subject:** Re: Meet and Confer

Charlie:

As we expressly discussed on the phone, you and I are both busy trial lawyers and that needed to be taken into account when we were working together. I literally just walked out of a hearing in NYC and am rushing to catch the last plane back to SF. I am not going to be able to meet your 2 pm deadline.

I will be back in SF tomorrow. I will discuss this with Mike and then you and I can talk if you like.

As I also told you, I hoped that you and I could operate under a "not for the record" communication basis. Let me know how you have come out on that suggestion.

Harold

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**From:** Charles K Verhoeven <[charlesverhoeven@quinnemanuel.com](mailto:charlesverhoeven@quinnemanuel.com)>  
**To:** McElhinny, Harold J.  
**Cc:** Jacobs, Michael A.; Kevin Johnson <[kevinjohnson@quinnemanuel.com](mailto:kevinjohnson@quinnemanuel.com)>  
**Sent:** Mon Nov 07 11:41:02 2011  
**Subject:** Meet and Confer

Harold,

Last week after the hearing, I was pleased with the progress you and I appeared to have made toward resolving the deposition conduct issue between our firms without the need for further assistance from the Court. Based on that progress, I agreed with your suggestion that we have Kevin Johnson and Mike Jacobs finalize the details. I have been keeping in touch with Mr. Johnson during the weekend regarding those further negotiations.

I am disappointed by the contradictory positions that Mike Jacobs has taken with Kevin Johnson over the weekend. As I understand it, the parties are in agreement about resolving the deposition conduct issue, but Mr. Jacobs won't agree to withdraw the PO motion because he is linking it to the withdrawal by Samsung of the motion to compel. On Saturday,

Mr. Jacobs expressly agreed with Mr. Johnson that these two issues would not be linked. But now he has apparently reneged on that representation.

Holding up an agreement on the PO / deposition conduct issue in an effort to force Samsung to abandon its motion to compel is, plainly, an improper negotiating tactic – especially when your side had previously agreed that the two motions would not be linked and would be negotiated separately. I also saw that Apple filed a self-serving and inaccurate “Statement” with the court early this morning after Mr. Jacobs first provided notice that Apple may file such a paper at 10:30 pm Sunday night. Pretending to negotiate in good faith, while instead preparing a brief to file with the court ahead of the other party, is also a well known sharp practice, which I would have assumed your team would avoid.

Please let me know by 2:00 pm today whether Apple and Mr. Jacobs will adhere to Mr. Jacob’s prior commitment to Mr. Johnson that Apple would not be coupling the negotiation of the two motions -- and that Apple will be withdrawing the PO motion based on the parties’ agreement reached over the weekend.

-Charlie

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