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11 Attorneys for Plaintiff and  
 12 Counterclaim-Defendant APPLE INC.

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

17 APPLE INC.,  
 18 Plaintiff,  
 19 v.  
 20 SAMSUNG ELECTRONICS CO., LTD., A  
 Korean business entity; SAMSUNG  
 21 ELECTRONICS AMERICA, INC., a New York  
 corporation; SAMSUNG  
 22 TELECOMMUNICATIONS AMERICA, LLC, a  
 Delaware limited liability company.,  
 23 Defendants.  
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Case No. 11-cv-01846-LHK

**DECLARATION OF HAROLD J.  
 MCELHINNY IN SUPPORT OF  
 APPLE'S MOTION FOR ENTRY  
 OF PROTECTIVE ORDER  
 REGARDING DISCLOSURE AND  
 USE OF DISCOVERY  
 MATERIALS**

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1 I, HAROLD J. McELHINNY, declare as follows:

2 1. I am partner in the law firm of Morrison & Foerster LLP, counsel for Apple Inc.  
3 (“Apple”). I am licensed to practice law in the State of California. I have personal knowledge of  
4 the matters stated herein or understand them to be true from members of my litigation team. I  
5 make this declaration in support of Apple’s Motion for Entry of Protective Order Regarding  
6 Disclosure and Use of Discovery Materials.

7 2. I am co-lead trial counsel for Apple in this action.

8 3. On January 5, 2012, I met in person with Charles Verhoeven of Quinn, Emanuel,  
9 Urquhart & Sullivan, lead trial counsel for Samsung in this matter. We, along with several others  
10 from each firm, met for approximately three hours to discuss outstanding discovery items. The  
11 parties exchanged agendas in advance of the meeting. Attached hereto as Exhibit A is a true and  
12 correct copy of the agenda provided to Samsung by Apple on January 3, 2012. Attached hereto  
13 as Exhibit B is a true and correct copy of the agenda provided to Apple by Samsung on January 4,  
14 2012. During the three-hour meeting, the parties discussed all of the items on both parties’  
15 agendas.

16 4. During the January 5th meeting, the parties discussed the Protective Order  
17 Regarding Disclosure and Use of Discovery Materials that had been the subject of prior  
18 negotiations. The parties were in agreement with respect to all of the terms of the Protective  
19 Order except one: Samsung wanted to add a “Confidential” designation to the Protective Order,  
20 and to provide that “Confidential” documents could be shown to undisclosed experts without any  
21 opportunity for the producing party to object. Apple stated that it would agree to add a  
22 “Confidential” designation, but only if the Protective Order provided that “Confidential”  
23 documents could not be shown to experts without disclosure and an opportunity to object.  
24 Samsung did not agree to incorporate Apple’s expert-related protections into the Protective Order  
25 at the meeting. The parties could not resolve their dispute as to this one provision at the meeting.

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1           5.       Mr. Verhoeven and I concurred that the meet-and-confer requirement had been  
2 satisfied with respect to the Protective Order Regarding Disclosure and Use of Discovery  
3 Materials.

4           I declare under penalty of perjury that the foregoing is true and correct. Executed this  
5 10th day of January, 2012, at San Francisco, California.

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/s/ Harold J. McElhinny  
Harold J. McElhinny

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**ATTESTATION OF E-FILED SIGNATURE**

I, Michael A. Jacobs, am the ECF User whose ID and password are being used to file this Declaration. In compliance with General Order 45, X.B., I hereby attest that Harold J. McElhinny has concurred in this filing.

Dated: January 10, 2012

/s/ Michael A. Jacobs  
Michael A. Jacobs