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Attorneys for Plaintiff and  
 Counterclaim-Defendant Apple Inc.

**United States District Court  
 Northern District of California  
 San Jose Division**

14 APPLE INC., a California corporation,  
 Plaintiff,  
 15 vs.  
 16 SAMSUNG ELECTRONICS CO., LTD., a  
 Korean business entity, SAMSUNG  
 17 ELECTRONICS AMERICA, INC., a New  
 York corporation, and SAMSUNG  
 18 TELECOMMUNICATIONS AMERICA,  
 LLC, a Delaware limited liability company,  
 19 Defendants.  
 20 SAMSUNG ELECTRONICS CO., LTD., a  
 21 Korean business entity, SAMSUNG  
 ELECTRONICS AMERICA, INC., a New  
 22 York corporation, and SAMSUNG  
 23 TELECOMMUNICATIONS AMERICA,  
 LLC, a Delaware limited liability company,  
 24 Counterclaim-Plaintiffs,  
 25 v.  
 26 APPLE INC., a California corporation,  
 27 Counterclaim-Defendant.

Civil Action No. 11-CV-01846-LHK

**DECLARATION OF SAMUEL J.  
 MASELLI IN SUPPORT OF APPLE  
 INC.'S NOTICE OF MOTION AND  
 MOTION TO COMPEL DISCOVERY  
 RELATING TO APPLE'S AFFIRMATIVE  
 DEFENSES AND COUNTERCLAIMS**

Date: TBA  
 Time: TBA

**ORAL ARGUMENT REQUESTED**

**PUBLIC REDACTED VERSION**

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I, Samuel J. Maselli, hereby declare as follows:

1. I am an attorney at the law firm of Wilmer Cutler Pickering Hale and Dorr LLP, counsel for Apple Inc. (“Apple”) in the above-referenced litigation. I am licensed to practice law in the State of California, and am admitted to practice before the U.S. District Court for the Northern District of California. I am familiar with the facts set forth herein, and, if called as a witness, I could and would testify competently to those facts under oath.

2. Attached as Exhibit A is a true and correct copy of Apple’s Requests for Production of Documents and Things dated August 3, 2011.

3. Attached as Exhibit B is a true and correct copy of Samsung’s Objections and Responses to Apple’s Requests for Production of Documents and Things dated September 8, 2011.

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**I. Samsung Inventor Collection and Production**

4. The custodial metadata provided by Samsung indicates that the following numbers of documents were produced for the named inventors of Samsung’s patents-in-suit:

<b>Samsung Inventor</b>	<b>Number of Documents Produced from Inventor’s Files</b>
Youn-Hyoung Heo	0
Ju-Ho Lee	663
Joon-Young Cho	175
Young-Bum Kim	85
Yong-Jun Kwak	125
Soeng-Hun Kim	293
Gert-Jan Van Lieshout	129
Himke Van Der Velde	152
Jae-Yoel Kim	68
Hee-Won Kang	0
Hun-Kee Kim	38
Gin-Kyn Choi	0
Jae-Seung Yoon	5
Noh-Sun Kim	12
Jun-Sung Lee	0
Yong-Suk Moon	0
Hye-Young Lee	0
Se-Hyoung Kim	0
Min-Goo Kim	309
Beong-Jo Kim	0
Soon-Jae Choi	11
Chang-Soo Park	157
Joong-Ho Jeong	0
Hyeon-Woo Lee	91
Young-Hwan Lee	0
Pyung-soo Kim	0
Hyuk-soo Son	0
Sung-ho Eun	0
Jae-Min Kim	0
Jeong-Seok Oh	0

<b>Samsung Inventor</b>	<b>Number of Documents Produced from Inventor's Files</b>
Sang-Ryul Park	17
Moon-Sang Jeong	24
<b>TOTAL DOCUMENTS</b>	<b>2354</b>

5. In their depositions, several Samsung inventors, including Joon Young Cho, Jae-Seung Yoon, Juho Lee, Gert-Jan Van Lieshout, and Jeong-Seok Oh, described the manner in which they searched for documents in connection with this case. Attached as Exhibit C is a true and correct copy of excerpts from the transcript of the deposition of Joon Young Cho. Attached as Exhibit D is a true and correct copy of excerpts from the transcript of the deposition of Jae-Seung Yoon. Attached as Exhibit E is a true and correct copy of an excerpt from the transcript of the deposition of Juho Lee. Attached as Exhibit F is a true and correct copy of excerpts from the transcript of the deposition of Gert-Jan Van Lieshout. Attached as Exhibit G is a true and correct copy of excerpts from the transcript of the deposition of Jeong-Seok Oh.

6. In discovery correspondence, Apple detailed what it believes to be deficiencies in Samsung's inventor collection, and asked for more information about the manner in which Samsung conducted its searches. Attached as Exhibit H is a true and correct copy of a letter sent from me to Rachel H. Kassabian dated December 2, 2011 discussing inventor collection. Attached as Exhibit I is a true and correct copy of a letter sent from me to Rachel H. Kassabian dated December 6, 2011 also discussing inventor collection.

7. Samsung did not provide the specific information requested in my December 2 and December 6, 2011 letters when it responded on December 6 and December 20, 2011. Attached as Exhibit J is a true and correct copy of a letter sent from Sara Jenkins to Sam Maselli

1 dated December 6, 2011. Attached as Exhibit K is a true and correct copy of a letter sent from  
2 Sara Jenkins to Sam Maselli dated December 20, 2011.

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4 8. Attached as Exhibit L is a true and correct copy of Samsung's First Amended and  
5 Supplemental Identification of Custodians, Litigation Hold Notices, and Search Terms, which  
6 was served on Apple on December 1, 2011. This document provides the search terms that were  
7 employed to search the files of Samsung's named inventors.

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9 9. On December 13, 2011, Apple identified deficiencies in the search terms  
10 employed by Samsung's inventors, and included a set of supplemental search terms which Apple  
11 believes would remedy these deficiencies. Attached as Exhibit M is a true and correct copy of a  
12 letter sent from Peter Kolovos to Victoria Maroulis and Rachel Kassabian dated December 13,  
13 2011.

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15 10. Samsung took more than three weeks to respond to Mr. Kolovos' December 13,  
16 2011 letter, and in its response, Samsung did not agree to conduct any additional searches  
17 employing any of the search terms suggested by Apple. Attached as Exhibit N is a true and  
18 correct copy of a letter sent from Sara Jenkins to Peter Kolovos dated January 6, 2012  
19 responding to Mr. Kolovos' December 13, 2011 letter.

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21 11. Ms. Jenkins' January 6, 2012 letter asserted (for the first time) that "Korean  
22 equivalents of the search terms [were] applied to the inventors' files whenever it was necessary  
23 or appropriate." (Exhibit L.) Attached as Exhibit O is a true and correct copy of an email sent  
24 from Peter Kolovos to Sara Jenkins dated January 7, 2012 seeking clarification on the issue of  
25 which Korean equivalents of search terms were applied by Samsung.  
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1           **II. Samsung Production of Documents Relating to Standards Setting**  
2           **Organizations**

3           12. Apple has asserted counterclaims in this action that pertain to Samsung's  
4 activities before the European Telecommunications Standards Institute ("ETSI") and the Third  
5 Generation Partnership Project ("3GPP").

6           13. Information about the number and types of 3GPP meetings that took place  
7 previously, and technology proposals made by Samsung and other companies at those meetings,  
8 can be found at, among other places, the following two IP addresses:

9  
10 <http://www.3gpp.org/ftp/Specs/html-info/Meetings-R1.htm>;

11 [http://ftp.3gpp.org/tsg\\_ran/WG1\\_RL1/](http://ftp.3gpp.org/tsg_ran/WG1_RL1/)

12           14. Several Samsung inventors testified about Samsung's participation in standards  
13 setting organizations, ETSI, and the 3GPP, as well as the types of documents generated at  
14 Samsung relating to its participation. Attached as Exhibit P is a true and correct copy of excerpts  
15 from the transcript of the deposition of Soeng-Hun Kim. Attached as Exhibit Q is a true and  
16 correct copy of excerpts from the transcript of the deposition of Hyeon Woo Lee. Attached as  
17 Exhibit R is a true and correct copy of excerpts from the transcript of the deposition of Himke  
18 Van Der Velde. Attached as Exhibit S is a true and correct copy of excerpts from the transcript  
19 of the deposition of Young Bum Kim. Attached as Exhibit T is a true and correct copy of  
20 excerpts from the transcript of the deposition of Yong-Jun Kwak. Attached as Exhibit C is a true  
21 and correct copy of excerpts from the transcript of the deposition of Joon Young Cho. Attached  
22 as Exhibit E is a true and correct copy of an excerpt from the transcript of the deposition of Juho  
23 Lee. Attached as Exhibit F is a true and correct copy of excerpts from the transcript of the  
24 deposition of Gert-Jan Van Lieshout.  
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1           15.     In discovery correspondence, Apple detailed deficiencies in Samsung’s SSO  
2 production. Letters discussing deficiencies in Samsung’s SSO production include the following:  
3 Exhibit U, a true and correct copy of letter from Calvin Walden to Victoria Maroulis dated  
4 October 13, 2011; Exhibit V, a true and correct copy of a letter from me to Ms. Kassabian dated  
5 November 8, 2011; Exhibit W, a true and correct copy of a letter from Calvin Walden to Ms.  
6 Chan dated November 15, 2011; Exhibit X, a true and correct copy of a letter from Jason Bartlett  
7 to Ms. Kassabian dated November 20, 2011; Exhibit Y, a true and correct copy of a letter from  
8 Mia Mazza to Ms. Kassabian dated November 23, 2011 Exhibit Z, a true and correct copy of a  
9 letter from Ms. Mazza to Ms. Kassabian dated December 5, 2011; Exhibit AA, a true and correct  
10 copy of a letter from Ms. Mazza to Ms. Hutnyan dated December 24, 2011.  
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13           16.     In its responses, Samsung has not agreed to make a substantially complete  
14 production of SSO documents, including ETSI and 3GPP documents. *See* Exhibit BB, a true and  
15 correct copy of a letter from Ms. Chan to Mr. Walden dated October 21, 2011; Exhibit CC, a true  
16 and correct copy of a letter from Ms. Kassabian to Ms. Mazza and myself dated November 20,  
17 2011.  
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19           17.     In a letter dated December 6, 2011, Samsung noted that it “views these [SSO]  
20 documents as largely within the scope of the reciprocal agreement currently being negotiated  
21 between the parties...the scope of Samsung’s production of these documents will depend on the  
22 parties’ agreement.” *See* Exhibit DD, a true and correct copy of a letter from Ms. Chan to Mr.  
23 Walden dated December 6, 2011.  
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25           18.     On November 10, 2011, Apple sent Samsung a letter with an attachment  
26 containing proposed “reciprocal” production obligations. Samsung responded to those proposed  
27 reciprocal production obligations, as well as to additional categories of reciprocal production  
28

1 obligations proposed by Apple, on December 13, 2011. *See* Exhibit FF, a true and correct copy  
2 of an email from Ms. Chan to Ms. Mazza, with attachments. In its December 13, 2011 response,  
3 Samsung proposed a reciprocal production obligation covering public SSO documents only.  
4

5 19. On November 16, 30, and December 7, and 21, 2011, the parties met and  
6 conferred by telephone. During these telephone conferences, Samsung was unwilling to commit  
7 to any production of licensing-related documents other than executed licenses.

### 8 **III. Samsung's Production of License Negotiation Documents**

9 20. During negotiations concerning Samsung's production of licenses and license  
10 negotiation documents, Apple has offered that Samsung can satisfy its production obligations by  
11 producing (1) executed licenses agreements (only) for those licenses to the relevant technologies  
12 and that cover only patents that have not been declared "essential" to a standards body; and (2)  
13 license agreements and license negotiation documents relating to patents that Samsung has  
14 declared essential to the ETSI and/or 3GPP standards. (*See, e.g.*, Exhibit FF, Dec. 13 Email  
15 Chan to Mazza and attached redline of Apple's Exhibit A; *see also* Exhibit GG, Walden E-Mail  
16 to Kassabian dated January 8, 2012).  
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19 21. In response to Apple's proposals to narrow its requests, Samsung has counter-  
20 offered reciprocal production obligations on the parties that would require production of  
21 executed licenses only. (*See* Exhibit FF, Chan e-mail to Mazza with attachments.) Similarly,  
22 during the parties' meet-and-confer teleconferences held November 16 and 20, and December 7  
23 and 21, 2011, Samsung has been unwilling to commit to producing anything other than executed  
24 licenses.  
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**4. The Lead Counsel In-Person Meeting**

22. On January 5, 2012, lead counsel for the parties met and conferred in person on Samsung’s production of documents from its inventors’ files, Samsung production of standards-related documents, and Samsung’s production of licensing-related documents. The parties reached an impasse on which documents Samsung would produce, but agreed that the meet and confer requirement was satisfied with respect to the issues that are the subject of this motion.

23. On the afternoon of January 10, 2012, as Apple was finalizing this Motion, Samsung indicated for the first time in an e-mail that it would agree to supplement its productions relating to SSO's and patent licensing negotiations, and stated that it would send a letter later in the day with further details. At 7:45 pm Pacific on January 10, 2012, Samsung sent Apple [REDACTED]

[REDACTED] A copy of this letter is attached as Exhibit EE.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed on this 10th day of January, 2012, in Palo Alto, California.

Dated: January 10, 2012

/s/ Samuel J. Maselli  
Samuel J. Maselli

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on January 10, 2012 to all counsel of record who are deemed to have consented to electronic service per Civil Local Rule 5.4.

/s/ Samuel J. Maselli  
Samuel J. Maselli