

1 HAROLD J. MCELHINNY (CA SBN 66781)  
 hmcclhinny@mofo.com  
 2 MICHAEL A. JACOBS (CA SBN 111664)  
 mjacobs@mofo.com  
 3 JENNIFER LEE TAYLOR (CA SBN 161368)  
 jtaylor@mofo.com  
 4 ALISON M. TUCHER (CA SBN 171363)  
 atucher@mofo.com  
 5 RICHARD S.J. HUNG (CA SBN 197425)  
 rhung@mofo.com  
 6 JASON R. BARTLETT (CA SBN 214530)  
 jasonbartlett@mofo.com  
 7 MORRISON & FOERSTER LLP  
 425 Market Street  
 8 San Francisco, California 94105-2482  
 Telephone: (415) 268-7000  
 9 Facsimile: (415) 268-7522

WILLIAM F. LEE  
 william.lee@wilmerhale.com  
 WILMER CUTLER PICKERING  
 HALE AND DORR LLP  
 60 State Street  
 Boston, MA 02109  
 Telephone: (617) 526-6000  
 Facsimile: (617) 526-5000

MARK D. SELWYN (SBN 244180)  
 mark.selwyn@wilmerhale.com  
 WILMER CUTLER PICKERING  
 HALE AND DORR LLP  
 950 Page Mill Road  
 Palo Alto, California 94304  
 Telephone: (650) 858-6000  
 Facsimile: (650) 858-6100

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 11 Attorneys for Plaintiff and  
 Counterclaim-Defendant APPLE INC.

12  
 13 UNITED STATES DISTRICT COURT  
 14 NORTHERN DISTRICT OF CALIFORNIA  
 15 SAN JOSE DIVISION

16  
 17 APPLE INC., a California corporation,  
 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 (PSG)

**APPLE'S OPPOSITION TO  
 SAMSUNG'S RENEWED  
 MOTION TO COMPEL  
 DISCOVERY RELATING TO  
 MAC OS 10.0**

Date: January 19, 2012  
 Time: 10:00 a.m.  
 Place: Courtroom 5, 4th Floor  
 Judge: Hon. Paul S. Grewal

1 Samsung's motion warrants only the following brief response.

2 First, the motion is moot. Apple has already produced to Samsung the relief sought by its  
3 motion. Samsung moves for production of a functioning computer that is capable of running Mac  
4 OS version 10.0 and producing a "brightness adjustment window" that Samsung contends is a  
5 feature of that operating system. Apple made such a computer, with the specified "brightness  
6 adjustment window" capability, available to Samsung on January 12, 2012. (Declaration of Jason  
7 R. Bartlett in Support of Apple's Opposition to Samsung's Renewed Motion to Compel  
8 Discovery Relating to Mac OS 10 ¶ 2 and Ex. A.) Samsung inspected that computer shortly  
9 thereafter. (*Id.* ¶ 2 and Ex. B.)

10 Second, Samsung failed to comply with Judge Koh's meet and confer requirement. (Dkt.  
11 No. 187.) Samsung contends that it has been "excused" from that requirement, citing an order by  
12 Judge Koh dated December 13, 2011, but that order only relieved Samsung from the meet and  
13 confer requirement for the motion to compel filed by Samsung that same day. (*See* Dkt. No. 498;  
14 *see also* Dkt. No. 480 (seeking relief from meet and confer requirement "for Samsung's  
15 concurrently filed motions to compel"). Indeed, Judge Koh explicitly advised that "[i]n the  
16 future, the parties must adhere to the in person meet and confer requirement set forth in the  
17 August 25, 2011 case management order." (Dkt. No. 498.)

18 The parties conducted a lead-counsel conference on January 5. (Declaration of Mia  
19 Mazza in Support of Apple's Opposition to Samsung's Renewed Motion to Compel Discovery  
20 Relating to Mac OS 10 ("Mazza Decl.") ¶ 2.) The night before the conference, Apple advised  
21 Samsung that technicians were working on resolving the brightness window problem on the  
22 computer made available to Samsung. (Mazza Decl. ¶ 2; *see also* Declaration of Jason R. Bartlett  
23 in Support of Apple's Opposition to Samsung's Motion to Enforce Various Court Orders, filed  
24 herewith, Ex. B at 1.) Samsung did not raise the issue the next day during the lead counsel  
25 conference. (Mazza Decl. ¶ 3.) Nor did Samsung communicate further on this issue before filing  
26 its motion. (*Id.*) If it had done so, Samsung would have learned that the computer was already  
27 waiting for it at Morrison & Foerster's offices in Palo Alto.

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Samsung's motion should be denied.

Dated: January 17, 2012

MORRISON & FOERSTER LLP

By:           /s/ Michael A. Jacobs            
MICHAEL A. JACOBS

Attorneys for Plaintiff  
APPLE INC.