

1 QUINN EMANUEL URQUHART & SULLIVAN, LLP
 Charles K. Verhoeven (Bar No. 170151)
 2 charlesverhoeven@quinnemanuel.com
 50 California Street, 22nd Floor
 3 San Francisco, California 94111
 Telephone: (415) 875-6600
 4 Facsimile: (415) 875-6700

5 Kevin P.B. Johnson (Bar No. 177129)
 kevinjohnson@quinnemanuel.com
 6 Victoria F. Maroulis (Bar No. 202603)
 victoriamaroulis@quinnemanuel.com
 7 555 Twin Dolphin Drive, 5th Floor
 Redwood Shores, California 94065-2139
 8 Telephone: (650) 801-5000
 Facsimile: (650) 801-5100

9 Michael T. Zeller (Bar No. 196417)
 10 michaelzeller@quinnemanuel.com
 865 S. Figueroa St., 10th Floor
 11 Los Angeles, California 90017
 Telephone: (213) 443-3000
 12 Facsimile: (213) 443-3100

13 Attorneys for SAMSUNG ELECTRONICS CO.,
 LTD., SAMSUNG ELECTRONICS AMERICA,
 14 INC. and SAMSUNG
 TELECOMMUNICATIONS AMERICA, LLC
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16 UNITED STATES DISTRICT COURT
 17 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION
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19 APPLE INC., a California corporation,
 20 Plaintiff,
 21 vs.
 22 SAMSUNG ELECTRONICS CO., LTD., a
 Korean business entity; SAMSUNG
 23 ELECTRONICS AMERICA, INC., a New
 York corporation; SAMSUNG
 24 TELECOMMUNICATIONS AMERICA,
 LLC, a Delaware limited liability company,
 25 Defendant.
 26

CASE NO. 11-cv-01846-LHK

DECLARATION OF ROSA KIM

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

PROPOSED PUBLIC REDACTED
 VERSION

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1 I, Rosa Kim, do hereby declare as follows:

2 1. I am Senior Legal Counsel at Samsung Electronics Co., Ltd. I submit this
3 Declaration in support of Samsung's Opposition to Apple's Motion to Compel Discovery Relating
4 to Apple's Affirmative Defenses and Counterclaims (~~Motion to Compel~~). I have personal
5 knowledge of the facts set forth in this declaration or I have obtained such information through my
6 investigation with other Samsung employees personally involved in such matters, and, if called as
7 a witness, could and would competently testify to them.

8 2. I have reviewed Apple's Motion to Compel and the accompanying proposed order.

9 **Apple's Requests Relating to Standard Setting Organizations**

10 3. Samsung manufactures a broad range of products that extend far beyond the
11 products at issue in this lawsuit, and continually launches new products that meet and anticipate
12 consumer demand. In addition to mobile phones, Samsung also manufactures and sells
13 televisions, DVD and Blu-Ray players, speaker systems, satellite and cable receivers, laptops,
14 desktops, printers, keyboards, monitor, DVRs, image scanners, cameras, camcorders,
15 photocopiers, memory and storage devices, washing machines, microwaves, refrigerators,
16 dishwashers, and semiconductors, among other things. These businesses are described in
17 Samsung's Annual Report which can be viewed at
18 [http://www.samsung.com/us/aboutsamsung/ir/financialinformation/annualreport/downloads/2010/
19 SECAR2010_Eng_Final.pdf](http://www.samsung.com/us/aboutsamsung/ir/financialinformation/annualreport/downloads/2010/SECAR2010_Eng_Final.pdf).

20 4. I understand that in developing these products, Samsung also has obtained
21 thousands of patents—registering more than 4,500 in 2010 in the United States alone—many of
22 which have been declared essential to a particular technological standard. For example, Samsung
23 has notified the European Telecommunications Standards Institute (ETSI), in two dozen publicly
24 available Information Statement and Licensing Declarations (ISLD), that at least 3,500 Samsung
25 patents or patent applications cover technology that may be considered essential to parts of the
26 ETSI Standards.

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1 5. ***Standards Setting Organization Documents.*** I understand that Apple requests in
2 its motion to compel that Samsung produce ~~all~~ documents related to Samsung’s participation in
3 ETSI and/or 3GPP.” According to its motion, Apple seeks this information because it wishes to
4 find evidence that Samsung failed to disclose to ETSI or 3GPP (short for ~~Third~~ Generation
5 Partnership Project”) its intellectual property rights that are essential to the UMTS standard. (*See*
6 *Motion to Compel* at 10.) 3GPP is a collaboration project that united a number of
7 telecommunications standards bodies including ETSI and others. One of 3GPP’s goals was to
8 produce globally applicable Technical Specifications and Technical Reports for a 3rd Generation
9 Mobile System based on evolved GSM core networks and the radio access technologies that they
10 support, and to maintain and develop the Global System for Mobile communication (GSMTM)
11 Technical Specifications and Technical Reports.

12 6. I believe that it will be effectively impossible to satisfy Apple’s sweeping demands,
13 and even our greatest efforts would not yield the broad set of documents Apple seeks. This far-
14 reaching request asks that Samsung produce every single document that is even ~~related to~~”
15 Samsung’s participation in ETSI and/or 3GPP, and thus imposes such a massive and undue burden
16 that would significantly disrupt Samsung’s business operations.

17 7. ETSI and 3GPP cover a broad array of telecommunications standards and
18 technologies. According to ETSI’s website at <http://ipr.etsi.org> and
19 <http://www.etsi.org/WebSite/Technologies/Technologies.aspx>, ETSI has promulgated 4,948
20 standards relating to 33 broadly defined technological subject areas. I am informed that Samsung
21 became a member of ETSI in 1994, and is involved in many other covered technologies besides
22 Mobile, *e.g.*, Broadband Wireless Access, Broadcast, M2M, Next Generation Networks,
23 Regulation & Legislation, Testing, etc. Similarly, according to the 3GPP website at
24 <http://www.3gpp.org/3GPP-scope> and <http://www.3gpp.org/Technologies>, at least six other
25 technologies are built into the 3GPP specifications—only one of which is ~~UMTS~~,” and the
26 WCDMA/HSPA technology that is a part of UMTS. I am informed that Samsung became a
27 member of 3GPP in 1998, the year it was formed, and is involved in many other covered
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1 technologies besides UMTS, such as GERAN, MBMS, DVB (digital video broadcasting),
2 SECURITY, ADSL, VDSL, ISDN, SAE, HSPA+, and LTE.

3 8. If Samsung is compelled to search for every document relating to Samsung's
4 participation in ETSI and/or 3GPP, Samsung would have to search virtually all of its multiple
5 business units (e.g., Digital Media & Communications R&D Center, Modem Team,
6 Telecommunication Systems Business, Samsung Advanced Institute of Technology, SERI, SISO,
7 DTL, BST), going back to at least 1998, the date of Samsung's first IPR disclosure to ETSI. This
8 includes business units that offer products which have not been accused in this lawsuit and/or have
9 no bearing on this lawsuit. For example, Samsung has numerous standards regarding MBMS and
10 DVB-H, which are mobile television formats having nothing to do with this case.

11 9. Moreover, based on publicly available records of Samsung's Intellectual Property
12 Rights ("IPR") disclosures to ETSI, I understand that Samsung has submitted approximately 24
13 ISLDs disclosing the IPR that Samsung believes are relevant to the ETSI standards. These
14 ISLDs disclose over 3,500 patents and patent applications as potentially essential to an ETSI
15 standard. I believe it would be unduly burdensome for Samsung to search all of the thousands of
16 patents and/or applications listed in these ISLDs, identify and interview all the personnel involved
17 in working with the technologies covered by all of the thousands of patents and/or applications,
18 and collect and review documents relating to SSO involvement.

19 10. In order to narrow this request to a more reasonable subset of standards setting
20 organization documents that are directly relevant to Apple's investigation of Samsung's UMTS-
21 essential patents, I am informed that during the meet and confer process Samsung agreed to
22 produce nonpublic communications between Samsung and the working groups that developed the
23 UMTS specifications identified in Apple's counterclaims, and internal communications regarding
24 Samsung's participation in these working groups relating to the patents-in-suit. Apple filed its
25 motion despite Samsung's agreement.

26 11. I understand from Apple's motion to compel that it believes that the production of
27 such documents would satisfy its requests (*see* Motion to Compel at 13-14), but that Apple further
28 wants documents in and beyond the files of the inventors of the Samsung patents-in-suit:

1 a. that show Samsung’s general policies with regard to the disclosure of
2 purportedly essential IPR to ETSI and 3GPP;

3 b. that show the structure of the departments or teams at Samsung that work
4 on SSO-related issues, so that Apple may identify pertinent fact witnesses to depose;

5 c. documents related to Samsung’s decision to disclose (or not to disclose) the
6 patents-in-suit to ETSI and 3GPP.

7 12. I am informed and believe that only documents related to Samsung’s decision to
8 disclose (or not to disclose) the patents-in-suit to ETSI and 3GPP exist or are within Samsung’s
9 possession, custody or control. Samsung is willing to produce these documents that it has in its
10 possession, custody or control relating to Samsung’s general policies with regard to the disclosure
11 of purportedly essential IPR and internal documents relating to Samsung’s decision to disclose the
12 patents-in-suit to the relevant ETSI or 3GPP working groups, if any exist. Samsung will also
13 provide names of the relevant individuals at Samsung that work on SSO-related issues relevant to
14 Apple’s counterclaims, such that Apple may identify the pertinent fact witnesses to depose.

15 13. In order to identify internal documents relating to Samsung’s practices with regard
16 to the disclosure of IPR or the departments that work on “SSO-related issues,” Samsung would
17 have to identify and interview potentially hundreds of Samsung’s employees in different business
18 units to determine their involvement in the various ETSI or 3GPP standards. I understand that
19 finding the right custodians would also be very difficult. While there are groups that do work on
20 technology related to standardization or in standards groups, Samsung’s employees working in
21 multiple business units also address the issues relevant to SSOs even though they might not
22 necessarily be in a group called a “standards group.”

23 14. Accordingly, I believe that the documents Apple requests in its motion to compel
24 and its proposed order—requests which lack any time limit or limits to technology or specific
25 sections of the ETSI or 3GPP standards—seek an unduly burdensome volume of documents such
26 that Samsung will be unable to meaningfully comply with any order compelling such production
27 on the timetable set by the governing Case Management Order.

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1 15. I am informed and believe that there are no nonpublic communications between
2 Samsung and the working groups, since such information is publicly accessible from the standards
3 websites. However, Samsung remains agreeable to producing relevant materials that may exist –
4 i.e., non-privileged, nonpublic communications between Samsung and other companies that were
5 members of the working groups that developed the UMTS specifications identified in Apple’s
6 counterclaims, and internal communications regarding Samsung’s participation in these working
7 groups relating to the patents-in-suit, which necessarily would include documents related to
8 Samsung’s decision to disclose (or not to disclose) the patents-in-suit, if any.

9 **Licensing Documents**

10 16. ***Licensing Documents.*** I understand that Apple has demanded that Samsung
11 produce ~~all~~ license agreements and documents reflecting license negotiations (whether resulting
12 in a contract or not) relating to patents that Samsung has declared essential to the ETSI and/or
13 3GPP standards; and all license agreements to relevant technologies that cover only patents that
14 have not been declared essential to a standards body.” As far as I can tell from Apple’s motion,
15 Apple does not identify what those ~~relevant technologies~~” are. I am informed that Apple seeks
16 this information because it wishes to find evidence regarding the ~~breadth~~ of the licenses granted
17 to the patents-in-suit” and what would be an appropriate fair, reasonable, and non-discriminatory
18 (FRAND) rate. (*See* Motion to Compel at 17.)

19 17. Apple seeks licenses and license negotiation documents that extend far beyond the
20 scope of reasonable discovery for the purposes of calculating a reasonable royalty or a FRAND
21 rate. As described above, Samsung makes products and technologies in multiple industries,
22 including mobile phones, televisions, DVD and Blu-Ray players, speaker systems, satellite and
23 cable receivers, laptops, desktops, printers, keyboards, monitor, DVRs, image scanners, cameras,
24 camcorders, photocopiers, memory and storage devices, washing machines, microwaves,
25 refrigerators, dishwashers, and semiconductors. I believe Samsung also has patents in most, if
26 not all, of these industries, and has licensed its patents and patent portfolio to numerous licensees
27 for a variety of product or technology areas not limited to mobile phones or tablet products.

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█ I am informed and believe that Samsung has conducted a thorough search for
relevant documents from its inventor custodians. █

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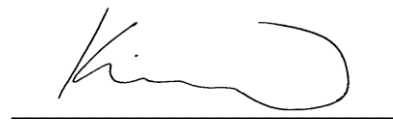
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I declare under the penalty of perjury under the laws of the United States of America that the forgoing is true and correct to the best of my knowledge.

Executed this 17th day of January, 2012, at Suwon, South Korea.



Rosa Kim

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General Order 45 Attestation

I, Victoria F. Maroulis, 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 Rosa Kim has concurred in this filing.

/s/ Victoria Maroulis