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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

18 APPLE INC., a California corporation,
 19 Plaintiff,
 20 v.
 21 SAMSUNG ELECTRONICS CO., LTD., a
 22 Korean business entity; SAMSUNG
 23 ELECTRONICS AMERICA, INC., a New York
 corporation; SAMSUNG
 24 TELECOMMUNICATIONS AMERICA, LLC, a
 Delaware limited liability company,
 25 Defendants.

Case No. 11-cv-01846-LHK

**DECLARATION OF
 CYNDI WHEELER IN SUPPORT
 OF SAMSUNG'S
 ADMINISTRATIVE MOTION TO
 FILE DOCUMENTS UNDER
 SEAL**

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1 I, Cyndi Wheeler, do hereby declare as follows:

2 1. I am an attorney for Apple Inc. (“Apple”). I submit this declaration in support of
3 Samsung’s Administrative Motion to File Documents Under Seal. [Dkt. No. 602.] Unless
4 otherwise indicated, I have personal knowledge of the matters set forth below. If called as a
5 witness I could and would testify competently as follows.

6 2. Samsung’s Motion to Compel, the Declaration of Diane C. Hutnyan in Support of
7 Samsung’s Motion to Compel (“Hutnyan Declaration ISO MtC”), and exhibits attached to the
8 Hutnyan Declaration ISO MtC contain Apple-confidential material. (See Declaration of Bill Trac
9 in Support of Samsung’s Administrative Motion to File Documents Under Seal [Dkt. No. 602-1])
10 (“Trac Declaration.”) Specifically:

- 11 • Exhibit A to the Hutnyan Declaration ISO MtC consists of a letter with
12 references to mechanical outlines (MCOs), the number of physical design
13 models that Apple possesses, a license relationship with a third party, and
14 internal Apple code names for its products. A proposed redacted version is
15 attached hereto as **Exhibit 1**.
- 16 • Exhibit D to the Hutnyan Declaration ISO MtC consists of Apple’s Objections
17 and Responses to Samsung’s First Set of Requests for Admission and was
18 designated CONFIDENTIAL under the interim protective order as certain of
19 Apple’s responses and objections contain technical information regarding the
20 functionality of Apple’s products relating to baseband processors. This
21 information is not publicly available and could be used by Apple’s competitors
22 to its disadvantage. A proposed redacted version is attached hereto as **Exhibit**
23 **2**.
- 24 • Exhibits K and L to the Hutnyan Declaration ISO MtC consist of, respectively,
25 a large selection from the deposition of a senior design executive at Apple, and
26 a letter discussing statements made at the executive’s deposition. The
27 deposition and letter contain discussions of Apple’s product development
28 processes for iPhone and iPad across industrial design and engineering

1 disciplines, Apple internal structure and workflow, and alternate designs
2 created and considered during the development of the iPhone and iPad. These
3 topics reveal confidential information about Apple's product development and
4 design strategy. With the exception of lines 62:7-10 and 69:19-25, the entirety
5 of Exhibit K should be filed under seal. The entirety of Exhibit L should be
6 filed under seal. A proposed redacted version of Exhibit K is attached hereto
7 as **Exhibit 3**.

- 8 • Exhibit M to the Hutnyan Declaration ISO MtC consists of excerpts from the
9 deposition of an Apple designer. The excerpts contain discussion of Apple's
10 internal product development process for the iPhone graphical user interface.
11 This discussion reveals confidential information about Apple's product
12 development and design strategy. The entirety of Exhibit M should be filed
13 under seal.
- 14 • Exhibit N to the Hutnyan Declaration ISO MtC consists of a letter that names a
15 specific server on which an Apple custodian stores documents and selections
16 from a deposition discussing manufacturing information, schematics, and code
17 possessed by Apple and an entity that was acquired by Apple. This
18 confidential information reveals Apple's business practices, development
19 strategy, manufacturing details, and information about Apple's data storage. A
20 proposed redacted version of Exhibit N is attached hereto as **Exhibit 4**.
- 21 • Exhibits P and Y to the Hutnyan Declaration ISO MtC consist of letters
22 discussing the confidential work of Apple's Industrial Design group and
23 internal code names. This information reveals confidential information about
24 Apple's business practices and design group. Proposed redacted versions are
25 attached hereto as **Exhibits 5 and 6**.
- 26 • Exhibit Q to the Hutnyan Declaration ISO MtC consists of a letter discussing
27 information regarding Apple's advertising decisions that Samsung obtained
28 from a deposition. The details reveal Apple's business practices, in particular

1 Apple's advertising strategies. A proposed redacted version of Exhibit Q is
2 attached hereto as **Exhibit 7**.

- 3 • Exhibits S and T to the Hutnyan Declaration ISO MtC consist of excerpts from
4 depositions containing discussions of Apple's internal product development
5 processes for iPhone and iPod. These discussions reveal confidential
6 information about Apple's product development and design strategy. The
7 entirety of Exhibits S and T should be filed under seal.
- 8 • Exhibits U, W, and Z to the Hutnyan Declaration ISO MtC consist of letters
9 that contain references to internal Apple code names for its products. In
10 addition, Exhibit W contains a number of search terms for internal Apple
11 documents that were devised from confidential business, product development,
12 and design information to collect responsive documents, many of which will
13 themselves be confidential. These terms are non-public and were revealed to
14 Samsung's counsel under a confidentiality designation in the interest of
15 discovery transparency. Proposed redacted versions of Exhibits U, W, and Z
16 are attached as **Exhibits 8, 9, and 10**, respectively.
- 17 • Samsung's Motion to Compel and the Hutnyan Declaration ISO MtC should
18 be filed under seal to the extent they refer to the above-referenced confidential
19 information.

20 3. Apple does not maintain a claim of confidentiality on Exhibits B, J, O, P, R, V, X,
21 Y, AA, BB, or CC to the Hutnyan Declaration ISO MtC.

22 4. Exhibit C to the Declaration of Diane C. Hutnyan in Support of Samsung's
23 Renewed Motion to Compel ("Hutnyan Declaration ISO RMtC") contains Apple-confidential
24 information. (See Trac Declaration.) Specifically, it consists of a letter that contains references
25 to internal Apple code names for its products and a reference to the confidential work of Apple's
26 Industrial Design group. A proposed redacted version of Exhibit C is attached as **Exhibit 11**.

1 5. Apple does not maintain a claim of confidentiality on Samsung’s Renewed Motion
2 to Compel, the Hutnyan Declaration ISO RMtC, or Exhibits A or B to the Hutnyan Declaration
3 ISO RMtC.

4 6. Samsung’s Motion to Enforce Various Court Orders, the Declaration of Diane C.
5 Hutnyan in Support of Samsung’s Motion to Enforce Various Court Orders (“Hutnyan
6 Declaration ISO MtE”), and exhibits attached to the Hutnyan Declaration ISO MtE contain
7 Apple-confidential information. (*See* Trac Declaration.) Specifically:

- 8 • Exhibit C to the Hutnyan Declaration ISO MtE consists of an excerpt from the
9 deposition of a senior design executive at Apple. The deposition contains a
10 discussion of Apple’s product development processes for iPhone and iPad
11 across both industrial design and engineering disciplines and Apple internal
12 structure and workflow. These topics reveal confidential information about
13 Apple’s product development and design strategy. The entirety of Exhibit C
14 should be filed under seal.
- 15 • Exhibit D to the Hutnyan Declaration ISO MtE is identical to Exhibit A to the
16 Hutnyan Declaration ISO MtC. As discussed above, this exhibit consists of a
17 letter with references to Apple’s design practices, the specific number of
18 physical design models that Apple possesses, a license relationship with a third
19 party, and internal Apple code names for its products. The proposed redacted
20 version attached as **Exhibit 1** also covers the portions of this exhibit that
21 should be filed under seal.
- 22 • Samsung’s Motion to Enforce Various Court Orders should be filed under seal
23 to the extent it refers to the above-referenced confidential information.

24 7. Apple does not maintain a claim of confidentiality on Exhibits F or I to the
25 Hutnyan Declaration ISO MtE.

26 8. Samsung’s Motion for Clarification, the Declaration of Brett Arnold in Support of
27 Samsung’s Motion for Clarification (“Arnold Declaration”), and exhibits attached to the Arnold
28 Declaration contain Apple-confidential information. (*See* Trac Declaration.) Specifically:

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- Exhibits A-D to the Arnold Declaration consist of internal Apple documents discussing Apple designs and testing, project specifications, code names, and potential project specifications. These documents include e-mails and reports. The confidential information in these documents reveals Apple’s business practices, design and development practices, and strategy discussions and decisions. These exhibits should be sealed in their entirety.
- Exhibits E and F to the Arnold Declaration consist of photographs of Apple Model 035. The photographs of Apple Model 035 have been the subject of considerable briefing before the Court and a Court Order. (*See* Order Granting in Part Samsung’s Motion to Compel [Dkt. No. 536.] at 3) (“December 22, 2011 Order.”) As the Court noted in its December 22, 2011 Order, Apple may maintain its confidentiality designations on those photos that display details that were not disclosed in earlier patent filings. (*Id.*) The Court suggested in a footnote that photographs “taken close-up and at an angle” were an example of such “additional detail” by commenting that it did not see “additional” details but for those taken close-up and at an angle (*Id.* n.3.) Exhibit E consists solely of photographs taken close-up and at an angle. These photographs reveal significant details of one of Apple’s unreleased design models and, consistent with the Court’s Order, should be filed entirely under seal. Moreover, as Apple set forth in its Opposition to Samsung’s Motion to Enforce Various Court Orders, filed January 17, 2011, size and scale information are not present in any photographs that have been publicly filed, and thus reveal additional details in one of Apple’s unreleased design models that should not be released to the public. A proposed public redacted version of Exhibit F with this additional size and scale information removed is attached as **Exhibit 12**.
- Exhibit G to the Arnold Declaration consists of a confidential declaration submitted to the Court by a Senior Director of Industrial Design at Apple. This declaration describes Apple’s design process, discusses specifics of the design

1 and development process behind iPhone and a design patent, and includes a
2 number of CAD files as exhibits. CAD files are the most heavily protected
3 type of design document at Apple, as they reveal Apple's designs and design
4 decisions in great detail with multiple views and a high degree of specificity.
5 These files are so confidential that they are produced for inspection at a third
6 party escrow facility, rather than directly to Samsung. Exhibit G should be
7 filed under seal in its entirety.

- 8 • Exhibit H to the Arnold Declaration consists of a design patent with
9 handwriting from a member of Apple's Industrial Design team. The Apple
10 employee's written commentary reveals Apple's confidential internal views on
11 and interpretation of the patent at issue. A proposed redacted version of
12 Exhibit H is attached as **Exhibit 13**.
- 13 • Samsung's Motion for Clarification and the Arnold Declaration should be filed
14 under seal to the extent they refer to the above-referenced confidential
15 information. In particular, the Arnold Declaration refers to the number of
16 design models that Apple possesses, a fact that is also addressed in connection
17 with Exhibit A to the Hutnyan Declaration ISO MtC as discussed above, which
18 provides information on Apple's design strategies and product development.

19 9. Apple does not maintain a claim of confidentiality on Exhibits I or J to the Arnold
20 Declaration.

21 10. Samsung's Motion for a Protective Order and exhibits attached to the Declaration
22 of Diane C. Hutnyan in Support of Samsung's Motion for a Protective Order ("Hutnyan
23 Declaration ISO MPO") contain Apple-confidential information. (See Trac Declaration.)

24 Specifically:

- 25 • Exhibits B, C, D, and K to the Hutnyan Declaration ISO MPO contain internal
26 Apple e-mail discussions between high-level Apple executives forwarding
27 third-party articles for discussion and, in the case of Exhibits D and K, adding
28 commentary. The identities of Apple executives who chose to forward certain

1 pieces of material for discussion, their e-mail addresses, and their commentary
2 are all highly confidential. This information reveals Apple's strategic
3 discussions at the highest levels and contact information for the highest Apple
4 personnel. Proposed redacted versions of Exhibits B, C, D, and K to the
5 Hutnyan Declaration ISO MPO are attached as **Exhibits 14, 15, 16, and 17,**
6 respectively.

- 7 • Exhibits E-J to the Hutnyan Declaration ISO MPO consist of internal
8 documents revealing design, development, and testing decisions and
9 discussions. Exhibit E is an internal slide deck with discussion points on iPad
10 2. Exhibit F is an internal talking points list for a senior design executive
11 regarding iPad 2. Exhibit G is an internal Apple report summarizing a
12 potential project specification. Exhibit H and I are an internal slide deck for
13 presentation to senior Apple executives and an internal project specification
14 discussing a then pre-release project and concept model. Exhibit J is an
15 internal e-mail discussing design and testing. Each of these exhibits reveals
16 confidential information regarding Apple's confidential designs and product
17 development practices. These exhibits should be sealed in their entirety.
- 18 • Samsung's Motion for a Protective Order should be filed under seal to the
19 extent it incorporates confidential information from the above documents,
20 including for example Apple's confidential internal code names.

21 11. Apple does not maintain a claim of confidentiality on the Hutnyan Declaration
22 ISO MPO.

23 12. It is Apple's policy not to disclose or describe its confidential design, trade secrets,
24 product development, or business practices to third parties. The above information is confidential
25 to Apple. It is indicative of the way that Apple manages its business affairs, designs its products
26 and conducts product development. The above documents that contain internal Apple code
27 names reveal information that Apple uses to maintain confidentiality with respect to its entire
28 design and development process. If disclosed, the information in the materials described above

1 could be used by Apple's competitors to Apple's disadvantage. The requested relief is necessary
2 and narrowly tailored to protect the confidentiality of this information.

3 I declare under the penalty of perjury under the laws of the United States of America that
4 the forgoing is true and correct to the best of my knowledge and that this Declaration was
5 executed this 18th day of January, 2012, at Cupertino, California.

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Dated: January 18, 2012

By: /s/ Cyndi Wheeler
Cyndi Wheeler

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ATTESTATION OF E-FILED SIGNATURE

I, Richard S.J. Hung, 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 Cyndi Wheeler has concurred in this filing.

Dated: January 18, 2012 By: /s/ Richard S.J. Hung
Richard S.J. Hung