

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

10
 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.

Case No. 11-cv-01846-LHK (PSG)

**DECLARATION OF MIA MAZZA
 IN SUPPORT OF APPLE'S
 MOTION TO COMPEL TIMELY
 PRODUCTION OF FOREIGN-
 LANGUAGE AND OTHER
 DOCUMENTS IN ADVANCE OF
 RELATED DEPOSITIONS**

Date: February 1, 2012
 Time: 10:00 a.m.
 Place: Courtroom 5, 4th Floor
 Judge: Hon. Paul S. Grewal

1 I, Mia Mazza, declare as follows:

2 1. I am a 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. Unless otherwise indicated,
4 I have personal knowledge of the matters stated herein or understand them to be true from
5 members of my litigation team. I make this Declaration in support of Apple’s Motion to Compel
6 Timely Production of Foreign-Language and Other Documents in Advance of Related
7 Depositions.

8 2. Samsung deposed all of Apple’s inventors and patent prosecutors in October
9 2011. For purposes of those depositions the parties had agreed to produce relevant, responsive,
10 non-privileged documents from each inventor’s or prosecutor’s files no later than five days before
11 his or her deposition. With a few isolated exceptions of a small number of late-discovered
12 documents produced three or four days in advance, Apple abided by this “five-day rule.” All of
13 Apple’s documents were in English.

14 3. Apple typically finished producing documents on the fifth day before the
15 deposition was to take place, no fewer than 105 hours before the deposition began.

16 4. After purportedly finishing its preliminary injunction production on October 12,
17 2011, Samsung stopped producing documents relevant to Apple’s offensive case until
18 December 7, 2011.

19 5. The chart below summarizes recent document productions by Samsung for its
20 witnesses whose depositions were taken by Apple in the past two weeks. The chart shows the
21 name of each witness, the scheduled deposition start time, date(s) that Samsung produced
22 documents from the witness’s files, the volume of the production, and the approximate time in
23 advance of the deposition that the production was received by Apple.

24

25 [Continued on next page]

26

27

28

Witness	N.D. Cal. Depo Date (9 a.m.)	Production Date(s)	No. Docs	No. Pgs	Comments (Language)
Ahyoung Kim	Wednesday, January 11, 2012	January 9 (1:11 a.m.)	251	1,610	56 hours in advance (Korean)
Ahyoung Kim	Wednesday, January 11, 2012	January 9 (6:49 p.m.)	4,158	30,720	39 hours in advance (Korean)
Ahyoung Kim	Wednesday, January 11, 2012	January 10 (12:23 a.m.)	837	9,513	9 hours in advance (Korean)
Ahyoung Kim	Wednesday, January 11, 2012	January 11 (9:42 a.m.)	476	3,069	40 minutes after depo started (Korean)
Bo-ra Kim	Wednesday, January 11, 2012	January 7 7:41 p.m.	161	4,607	86 hours in advance (Korean)
Woogyun Kho	Thursday, January 12, 2012	January 7 7:41 p.m.	31	844	110 hours in advance (Korean)
Junho Park	Saturday, January 14, 2012	January 11 6:40 p.m.	5,284	32,469	63 hours in advance (Korean)
Junho Park	Saturday, January 14, 2012	January 12 11 a.m.	2,163	20,135	46 hours in advance (Korean)
Nara Cho	Saturday, January 14, 2012	January 10 11:49 a.m.	488	10,046	94 hours in advance (Korean)
Tim Sheppard	Tuesday, January 24, 2012	January 18 5:24 p.m. PST	74	2,428	6 days in advance (English)
Tim Sheppard	Tuesday, January 24, 2012	January 20 9:48 p.m. PST	5,256	35,011	4 days in advance (English)
Justin Denison	Wednesday, January 25, 2012	January 20 9:14 p.m. PST	11,862	66,829	5 days in advance (English)
Justin Denison	Wednesday, January 25, 2012	January 21 12:04 a.m. PST	440	18,892	4 days in advance (English)
Brian Rosenberg	Thursday, January 26, 2012	January 21 12:04 a.m. PST	70	2,597	5 days in advance (English)
Brian Rosenberg	Thursday, January 26, 2012	January 22 10:25 p.m. PST	6,262	36,783	4 days in advance (English)

1 6. As noted in the chart above, Samsung produced 4,409 Korean-language
2 documents sourced to Ah Young Kim just two days before her January 11, 2012 deposition.
3 Because these documents needed to be translated before they could be analyzed and culled for use
4 at deposition, only a small percentage of them were reviewed by Apple's outside counsel before
5 the deposition. Samsung produced an additional 9,513 pages of Korean-language documents
6 sourced to Ms. Kim just 9 hours in advance of her deposition. Apple was barely able to process
7 and upload these documents into a repository where they could begin to be reviewed and
8 translated before the deposition began. Apple did not complete the review of these documents.
9 Finally, on the morning of January 11 Samsung produced another 3,069 pages of Korean-
10 language documents from Ms. Kim's files. Apple's outside counsel had no chance even to access
11 these untranslated documents until the day after the deposition was over.

12 7. Samsung produced 5,256 English-language documents sourced to Tim Sheppard,
13 totaling 35,011 pages, just 84 hours before his January 24, 2012 deposition. Apple's outside
14 counsel did what it could to review as many documents as possible before the deposition began,
15 but it was unable to complete its review. In that process, Apple determined that the production
16 contained numerous PowerPoint files that were printed illegibly or produced in black and white
17 although created in color. Legible documents were not received by Apple until the night before
18 the deposition began. Similar problems with a witness's production are often identified in the
19 course of reviewing both English-language and foreign-language documents, and it typically
20 takes Samsung several more days to turn around corrected documents (if it is willing to do so).

21 8. In all, Samsung has produced 13,169 Korean-language documents (97,516 pages)
22 less than 3 days in advance of its witnesses' depositions, and an additional 15,497 pages of
23 Korean-language materials less than 5 days in advance. Samsung has also produced 11,958
24 English-language documents, totaling 90,686 pages, less than 108 hours in advance of related
25 depositions. The large majority of these documents could not be reviewed by Apple's outside
26 counsel before deposition.

27 9. When Apple receives an average-sized foreign-language document production
28 from Samsung, it takes about 24 hours to download the data to a secure repository and process the

1 data into a review tool that will allow Apple's Korean-fluent attorneys to access and review the
2 information. Thus, a production received at 10 p.m. one evening cannot be accessed for review
3 until 10 p.m. the next evening.

4 10. Once Apple's Korean-fluent attorneys are able to access the data, they review each
5 document and flag those that are potentially most useful for the upcoming deposition of the
6 custodian of the documents. On a rush basis, each Korean-fluent attorney is able to review and
7 analyze approximately 250 documents per eight-hour day. Ten Korean-fluent attorneys thus
8 could review roughly 2,500 documents in a full work day.

9 11. On average, about one-tenth of the documents produced by Samsung are sourced
10 to a given custodian flagged by Apple's Korean-language attorneys as potentially useful for the
11 custodian's upcoming deposition. Before Apple's outside counsel can review and understand the
12 flagged documents and cull them down for use in deposition, however, each document must be
13 translated into English. On average, each document produced by Samsung contains about
14 12 pages of text. Through Apple's current process, an informal translation of 12 pages of text
15 suitable for internal use can be prepared in about 45 minutes. It typically takes five full-time
16 Korean-language translators three to five work days to informally translate 250 documents into
17 English for use by attorneys preparing for depositions.

18 12. Considering paragraphs 9 through 11 above and paragraph 13 below, even if
19 Apple were to employ 10 full-time Korean-language attorneys and 5 full-time Korean-language
20 translators, it would take roughly 10 to 12 days for an average sized Korean-language document
21 production to be taken from production to use at deposition.

22 13. For English-language documents, it takes at least five days for a typical-size
23 production to be reviewed and analyzed by attorneys sufficient to prepare for depositions and
24 identify exhibits to be used at depositions. For designers, developers, and marketing custodians,
25 Apple must piece together from the custodian's files what precise role (among the multitude of
26 possible roles) he or she played in the design, development, and/or commercialization of products
27 that took several months and sometimes years to plan, design, develop, and launch.
28 Understanding the development of the allegedly-infringing features involves reviewing e-mails

1 and documents containing source code and other technical information. The review of
2 Samsung's financial information is equally complicated, as data must be stitched together from
3 several documents before the relevance of financial materials can be determined.

4 14. The overwhelming majority of the 45-plus remaining depositions of Samsung
5 witnesses will be taken in Seoul, Korea. Therefore, after Apple's outside counsel cull the
6 translated Samsung documents down into a set that will be used for deposition purposes, the
7 documents must be transferred to Korea. On a rush basis, it takes at least two days for documents
8 that were printed in the United States to be transferred to Seoul for final culling and preparation
9 for use as exhibits in depositions.

10 15. When it was Apple's turn to produce its English-language documents in
11 October 2011, the parties agreed upon a "five-day" rule, acknowledging that five days is the
12 minimum amount of time outside counsel needs to be able to competently process, review, cull,
13 and prepare documents produced by the other side for relevant depositions. Apple continues to
14 follow the five-day rule that the parties agreed upon months ago.

15 16. The parties have agreed that, with respect to the calculation of deposition time for
16 Korean-language depositions, two hours of translated deposition time will be counted as one hour
17 of non-translated deposition time.

18 17. On and before January 13, 2012, counsel for Apple sent multiple letters to counsel
19 for Samsung identifying the problems with Samsung's tardy productions. The January 13 letter
20 advised Samsung that it would be seeking an order requiring Samsung to produce foreign-
21 language documents ten days before depositions. The parties' lead trial counsel met and
22 conferred regarding this issue on January 16, 2012. Harold McElhinny asked Charles Verhoeven
23 whether Samsung would agree to produce foreign-language documents ten days in advance of
24 custodians' depositions. Mr. Verhoeven said that Samsung would not so agree.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 Mia Mazza has concurred in this filing.

Dated: January 27, 2012

/s/ Michael A. Jacobs
Michael A. Jacobs