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8 Attorneys for Plaintiff  
 APPLE INC.

10 UNITED STATES DISTRICT COURT  
 11 NORTHERN DISTRICT OF CALIFORNIA  
 12 SAN JOSE DIVISION

14 APPLE INC., a California corporation,  
 15 Plaintiff,

16 v.

17 SAMSUNG ELECTRONICS CO., LTD., A  
 18 Korean business entity; SAMSUNG  
 ELECTRONICS AMERICA, INC., a New York  
 19 corporation; SAMSUNG  
 TELECOMMUNICATIONS AMERICA, LLC, a  
 20 Delaware limited liability company,

21 Defendants.

Case No. 4:11-cv-01846-LHK

**DECLARATION OF RICHARD J.  
 LUTTON IN SUPPORT OF  
 APPLE'S OPPOSITION TO  
 SAMSUNG'S MOTION TO  
 COMPEL EXPEDITED  
 DISCOVERY**

Date: June 17, 2011  
 Time: 1:30 p.m.  
 Place: Courtroom 4, 5th Floor  
 Judge: The Honorable Lucy H. Koh

**PUBLIC REDACTED VERSION**

22  
 23 I, Richard J. Lutton, do hereby declare as follows:

24 1. I am Senior Director and Chief Patent Counsel at Apple Inc. ("Apple"). I submit  
 25 this declaration in support of Apple's Opposition to Defendants' Motion to Compel Apple to  
 26 Produce Reciprocal Expedited Discovery, based on my personal knowledge. If called as a  
 27 witness, I could and would testify competently as follows.

1 Produce Reciprocal Expedited Discovery, based on my personal knowledge. If called as a  
2 witness, I could and would testify competently as follows.

3 2. Apple is widely recognized as one of the most innovative companies in the world.  
4 In addition to the wildly successful iPod line of media devices, Apple created the iPhone, viewed  
5 by many as a “game changer” in the mobile phone space. Apple also pioneered an entirely new  
6 category of consumer electronics when it introduced the revolutionary iPad product. Apple’s  
7 creative achievements are at the heart of the broad intellectual property rights it has obtained over  
8 the years, including utility and design patents, trademarks, and trade dress protection.

9 3. Apple invests tremendous resources in creating distinctive and innovative designs  
10 for its iPhone and iPad products. While different versions of the iPhone and iPad products reflect  
11 some changes in features and design, the products also have a consistent and distinctive “look,”  
12 and the different versions of the iPhone and iPad devices are immediately recognizable as  
13 “Apple” products belonging to the same family of products.

14 4. Apple currently sells products embodying the iPhone and iPad trade dress.  
15 Specifically, Apple currently sells the iPhone 3GS smartphone, released in 2009, and the iPhone  
16 4, released in 2010, through its online store, and previous models are available through other  
17 retailers. Apple also currently sells the iPad 2 through its online store, and the original iPad,  
18 released in 2010, is available through retailers.

19 5. Apple has not announced or unveiled any new successor products to either the  
20 iPhone 4 smartphone or the iPad 2. Internet reports regarding an “iPhone 5” or “iPad 3” are  
21 based entirely on speculation.

22 6. Apple is widely recognized as one of the most secretive companies in the world.

23 [REDACTED]  
24 [REDACTED] Apple’s new product  
25 announcements are major events in the technology industry. [REDACTED]  
26 [REDACTED]  
27 [REDACTED]  
28 [REDACTED]

1           7.       Apple’s new product announcements generate an enormous amount of publicity  
2 and a high level of interest among consumers and product developers alike. They generate  
3 headlines in major media both domestically and abroad. Internet websites provide live minute-  
4 by-minute accounts of product announcement presentations. [REDACTED]

5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8           8.       [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]

12           9.       To implement Apple’s strict, long-standing policy of protecting unreleased product  
13 information, Apple takes extraordinary measures to safeguard this highly confidential  
14 information. Apple’s policies stand in stark contrast to many other companies in the consumer  
15 electronics industry, including Samsung, who announce products, and distribute prototypes, long  
16 before those products are released for sale. Many companies in the consumer electronics industry  
17 even announce future products while they are still in early development stages.

18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

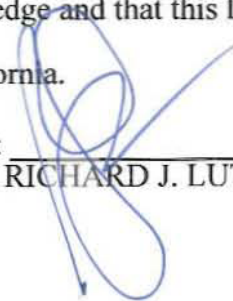
23           11.       [REDACTED]  
24 [REDACTED]  
25 [REDACTED]  
26 [REDACTED]  
27 [REDACTED]

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[REDACTED]

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 and that this Declaration was executed this 7th day of June, 2011, at Cupertino, California.

Dated: June 7, 2011

By:   
RICHARD J. LUTTON