

EXHIBIT 4

EXHIBIT W

FILED UNDER SEAL

**SUBJECT TO PROTECTIVE ORDER; CONTAINS HIGHLY CONFIDENTIAL –
OUTSIDE ATTORNEY’S EYES ONLY INFORMATION**

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Attorneys for Plaintiff and Counterclaim-
defendant APPLE INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

16 APPLE INC., a California corporation,

17 Plaintiff,

18 v.

19 SAMSUNG ELECTRONICS CO., LTD., a
Korean corporation; SAMSUNG ELECTRONICS
20 AMERICA, INC., a New York corporation; and
SAMSUNG TELECOMMUNICATIONS
21 AMERICA, LLC, a Delaware limited liability
company,

22 Defendants.
23

Case No. 11-cv-01846-LHK

**APPLE INC.’S OBJECTIONS AND
RESPONSES TO SAMSUNG
ELECTRONICS CO. LTD.’S FIRST
SET OF INTERROGATORIES TO
APPLE INC.**

1 Under Rules 26 and 33 of the Federal Rules of Civil Procedure and Local Rule 33, Apple
2 Inc. (“Apple”) hereby objects and responds to Samsung Electronics Co. Ltd.’s First Set of
3 Interrogatories to Apple Inc. (Nos. 1-18) served by Samsung Electronics Co., Ltd. (“Samsung”)
4 on August 3, 2011.

5 **GENERAL OBJECTIONS**

6 Apple makes the following general responses and objections (“General Objections”) to
7 each definition, instruction, and interrogatory propounded in Samsung Electronics Co. Ltd.’s First
8 Set of Interrogatories to Apple Inc. These General Objections are hereby incorporated into each
9 specific response. The assertion of the same, similar or additional objections or partial responses
10 to individual interrogatories does not waive any of Apple’s General Objections.

11 1. Apple objects to Samsung’s definitions of “APPLE,” “PLAINTIFF,” “YOU,” and
12 “YOUR” to the extent they purport to include persons or entities that are separate and distinct
13 from Apple and are not under Apple’s control. “Apple” refers only to Apple Inc.

14 2. Apple objects to Samsung’s definition of “PRIOR ART” as inaccurate, overly
15 broad, vague, ambiguous, and unduly burdensome. Samsung’s definition is particularly vague
16 and ambiguous in its use of the phrase “relevant to the validity,” and overly broad in attempting
17 to include information other than that cited to the Patent Office during the prosecutions of the
18 patents that are the subject of this litigation.

19 3. Apple objects to Samsung’s definitions of each term incorporating the word
20 “PATENT,” “PATENTS,” and “PATENTS-IN-SUIT,” including definitions 4 through 34,
21 because they are inaccurate, overly broad, vague, ambiguous, and unduly burdensome.

22 4. Apple objects to Samsung’s definitions of “APPLE TRADE DRESS” because it is
23 inaccurate, overly broad, vague, ambiguous, and unduly burdensome. For the purposes of these
24 responses and objections, Apple uses the following defined terms:

- 25 • “Original iPhone Trade Dress” means the following elements of Apple’s product
26 designs: a rectangular product with four evenly rounded corners; a flat clear surface
27 covering the front of the product; the appearance of a metallic bezel around the flat clear
28 surface; a display screen under the clear surface; under the clear surface, substantial black

1 borders above and below the display screen and narrower black borders on either side of
2 the screen; when the device is on, a matrix of colorful square icons with evenly rounded
3 corners within the display screen; and when the device is on, a bottom dock of colorful
4 square icons with evenly rounded corners set off from the other icons on the display,
5 which does not change as other pages of the user interface are viewed;

6 • “iPhone 3G Trade Dress” means the following elements of Apple’s product designs: a
7 rectangular product with four evenly rounded corners; a flat clear surface covering the
8 front of the product; the appearance of a metallic bezel around the flat clear surface; a
9 display screen under the clear surface; under the clear surface, substantial black borders
10 above and below the display screen and narrower black borders on either side of the
11 screen; when the device is on, a row of small dots on the display screen; when the device
12 is on, a matrix of colorful square icons with evenly rounded corners within the display
13 screen; and when the device is on, a bottom dock of colorful square icons with evenly
14 rounded corners set off from the other icons on the display, which does not change as
15 other pages of the user interface are viewed;

16 • “iPhone 4 Trade Dress” means the following elements of Apple’s product designs: a
17 rectangular product with four evenly rounded corners; a flat clear surface covering the
18 front of the product; a display screen under the clear surface; under the clear surface,
19 substantial neutral (black or white) borders above and below the display screen and
20 narrower black borders on either side of the screen; a thin metallic band around the
21 outside edge of the phone; when the device is on, a row of small dots on the display
22 screen; when the device is on, a matrix of colorful square icons with evenly rounded
23 corners within the display screen; and when the device is on, a bottom dock of colorful
24 square icons with evenly rounded corners set off from the other icons on the display,
25 which does not change as other pages of the user interface are viewed;

26 • “iPhone Trade Dress” means the following elements of Apple’s product designs: a
27 rectangular product with four evenly rounded corners; a flat clear surface covering the
28 front of the product; a display screen under the clear surface; under the clear surface,

1 substantial neutral (black or white) borders above and below the display screen and
2 narrower neutral borders on either side of the screen; when the device is on, a matrix of
3 colorful square icons with evenly rounded corners within the display screen; and when the
4 device is on, a bottom dock of colorful square icons with evenly rounded corners set off
5 from the other icons on the display, which does not change as other pages of the user
6 interface are viewed;

7 • “iPad Trade Dress” means the following elements of Apple’s product designs: a
8 rectangular product with four evenly rounded corners; a flat clear surface covering the
9 front of the product; the appearance of a metallic rim around the flat clear surface; a
10 display screen under the clear surface; under the clear surface, substantial neutral (black or
11 white) borders on all sides of the display screen; and when the device is on, a matrix of
12 colorful square icons with evenly rounded corners within the display screen;

13 • “iPad 2 Trade Dress” means the following elements of Apple’s product designs: a
14 rectangular product with four evenly rounded corners; a flat clear surface covering the
15 front of the product; the appearance of a metallic rim around the clear flat surface; a
16 display screen under the clear surface; under the clear surface, substantial neutral (black or
17 white) borders on all sides of the display screen; and when the device is on, a matrix of
18 colorful square icons with evenly rounded corners within the display screen;

19 • “Trade Dress Registrations” means U.S. Registration Nos. 3,470,983; 3,457,218; and
20 3,475,327; and

21 • “Trade Dress Applications” means U.S. Application Serial Nos. 77/921,838;
22 77/921,829; 77/921,869; and 85/299,118.

23 5. Apple objects to Samsung’s definitions of “APPLE TRADEMARKS” because it is
24 inaccurate, overly broad, vague, ambiguous, and unduly burdensome. For the purposes of these
25 responses and objections, Apple uses the following defined terms:

26 • “Registered Icon Trademarks” means the marks shown in U.S. Registration Nos.
27 3,886,196; 3,889,642; 3,886,200; 3,889,685; 3,886,169; and 3,886,197;

- 1 • “Purple iTunes Store Trademark” means the mark shown in U.S. Application Serial
2 No. 85/041,463; and
- 3 • “iTunes Eighth Note and CD Design Trademark” means the mark shown in U.S.
4 Registration No. 2,935,038.

5 6. Apple objects to Samsung’s definition of “IDENTIFY” because it is overly broad
6 and unduly burdensome because it purports to impose requirements and obligations on Apple
7 other than as set forth in the Federal Rules of Civil Procedure. Samsung’s definition is overbroad
8 and unduly burdensome because it would require Apple to include in its responses, for example,
9 the addresses, employer names, and job titles of every individual identified, regardless of their
10 employment at Apple; documents and testimony supporting every fact in Apple’s responses;
11 model names/numbers, manufacturers, announcement/release/sales dates, sellers, and descriptions
12 for any product identified in Apple’s responses, regardless of whether the product is an Apple
13 product; production numbers, document type, a description of the general nature and subject
14 matter, date of creation, and all authors, addressees, and recipients for every document; and
15 country, patent or application number, filing/publication/grant dates, patentees, and applicants for
16 every patent document.

17 7. Apple objects to Samsung’s Instruction No. 1 because it is vague, ambiguous,
18 overly broad, and unduly burdensome, especially in its purported requirement that Apple furnish
19 information from entities that are not Apple, and from persons with “the best knowledge.” Apple
20 further objects to this instruction because it calls for the disclosure of information that is
21 privileged and protected by the work product doctrine.

22 8. Apple objects to Samsung’s Instruction No. 2 because it purports to impose
23 requirements and obligations on Apple other than as set forth in the Federal Rules of Civil
24 Procedure.

25 9. Apple provides these objections and responses to the best of its current knowledge.
26 Discovery or further investigation may reveal additional or different information warranting
27 amendment of these objections and responses. Apple reserves the right to produce at trial and
28 make reference to any evidence, facts, documents, or information not discovered at this time,

1 omitted through good-faith error, mistake, or oversight, or the relevance of which Apple has not
2 presently identified.

3 10. By responding to these interrogatories, Apple does not concede the relevance or
4 materiality of any of the interrogatories or of the subjects to which it refers. Apple's responses
5 are made subject to, and without waiving any objections as to the competency, relevancy,
6 materiality, privilege, or admissibility of any of the responses, or of the subject matter to which
7 they concern, in any proceeding in this action or in any other proceeding.

8 11. Apple objects to any interrogatory to the extent that it seeks information that is
9 protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the
10 joint defense or common interest privilege, or any other applicable privilege, doctrine, or
11 discovery immunity. The inadvertent production by Apple of information protected from
12 disclosure by any such privilege, doctrine, or immunity shall not be deemed a waiver by Apple of
13 such privileges or protections. Pursuant to the parties' agreement, to the extent any interrogatory
14 calls for the identification of information dated after April 15, 2011 that is protected by such
15 privilege, doctrine, or immunity, such information will not be included on Apple's privilege log.

16 12. Apple objects generally to the Interrogatories to the extent they seek confidential,
17 proprietary, or trade secret information of third parties. Apple will endeavor to work with third
18 parties in order to obtain their consent, if necessary, before providing such information. To the
19 extent an interrogatory seeks information of a confidential or proprietary nature to Apple, or to
20 others to whom Apple is under an obligation of confidentiality, Apple will respond pursuant to
21 the terms of the protective order to be entered in this case and subject to notice to third parties, as
22 necessary.

23 13. Apple objects to Samsung's definition of "Apple Accused Products" to the extent
24 it is overly broad and unduly burdensome and to the extent it seeks information that is neither
25 relevant nor reasonably calculated to lead to the discovery of admissible evidence. Apple further
26 objects to Samsung's definition of "Apple Accused Products" to the extent that it requires a legal
27 conclusion. Apple further objects to the definition of "Apple Accused Products" to the extent it
28 includes products that are not made, used, offered for sale, or sold in the United States. For

1 purposes of responding to the Interrogatories, Apple interprets the term “Apple Accused
2 Products” to mean Apple iPhone 3G, Apple iPhone 3GS, Apple iPhone 4, iPod touch, iPad, iPad
3 3G, iPad 2, iPad 2 3G.

4 14. Apple objects to any interrogatory to the extent it is premature and/or to the extent
5 that it: (a) conflicts with the schedule entered by the Court; (b) conflicts with obligations that are
6 imposed by the Federal Rules of Civil Procedure, the Civil Local Rules and/or the Patent Local
7 Rules of this Court, and/or any other applicable rule; (c) seeks information that is the subject of
8 expert testimony; (d) seeks information and/or responses that are dependent on the Court’s
9 construction of the asserted claims of the patents-in-suit; and/or (e) seeks information and/or
10 responses that are dependent on depositions and documents that have not been taken or produced.

11 15. Apple objects to each interrogatory as overbroad and unduly burdensome to the
12 extent that it calls for information that is neither relevant to the claims or defenses of the parties
13 nor reasonably calculated to lead to the discovery of admissible evidence.

14 16. Apple objects to each interrogatory and to Samsung’s “Definitions” and
15 “Instructions” to the extent they are vague, ambiguous, overbroad, or unduly burdensome, or
16 purport to impose upon Apple any duty or obligation that is inconsistent with or in excess of
17 those obligations that are imposed by the Federal Rules of Civil Procedure, the Civil Local Rules
18 and/or the Patent Local Rules of this Court, or any other applicable rule.

19 17. Apple objects to any Interrogatory to the extent it seeks irrelevant information
20 about Apple’s products or business operations. Such requests are overbroad and unduly
21 burdensome. Apple will only produce information that is relevant to the patents-in-suit, or that is
22 otherwise related to the claims or defenses of the parties asserted by the parties in this litigation.

23 18. Apple objects to each Interrogatory to the extent that it would impose a duty on
24 Apple to undertake a search for or an evaluation of information, documents, or things for which
25 Samsung is equally able to search for and evaluate. In particular, Apple objects to each
26 Interrogatory to the extent that it seeks information or documents that are publicly available.

1 21. Apple objects to each Interrogatory to the extent that it seeks information that can
2 be derived or ascertained from documents that will be produced in discovery or that are uniquely
3 in Samsung's possession, custody, and control.

4 20. Apple objects to the Interrogatories to the extent they would require Apple to draw
5 a legal conclusion or contention to make a proper response.

6 21. Apple objects to any Definition, Instruction or Interrogatory to the extent that it
7 purports to require identification of oral communications. Such Definition, Instruction or
8 Interrogatory is overbroad, vague, ambiguous, and unduly burdensome.

9 22. Apple objects to the definition of the terms "referring to," "relating to,"
10 "concerning," or "regarding" as vague, ambiguous, overbroad, and unduly burdensome to the
11 extent that they depart from Apple's own definitions of these terms, as defined in Apple's Third
12 Set of Interrogatories, dated August 3, 2011.

13 23. Apple objects to the Interrogatories to the extent that they purport to define words
14 or phrases to have a meaning different from their commonly understood meaning, or to include
15 more than their commonly understood definitions.

16 24. In Apple's objections, the terms "and" and "or" are intended to be construed
17 conjunctively or disjunctively as necessary to make the objections inclusive rather than exclusive.

18 25. Apple objects to the Interrogatories to the extent they purport to require Apple to
19 identify or describe or identify "every," "each," "any," or other similarly expansive, infinite, or
20 all-inclusive terms to the extent that such Interrogatories are overly broad and unduly
21 burdensome.

22 26. Apple objects to the Interrogatories to the extent they seek information that is not
23 in the possession, custody, or control of Apple, purport to require Apple to speculate about the
24 identity of persons who might have responsive documents, and/or purport to call for any
25 description of documents that Apple no longer possesses and/or was under no obligation to
26 maintain.

27 27. Apple objects to the Interrogatories to the extent they are not limited in time and
28 seek information for periods of time that are not relevant to any claim or defense.

1 28. Apple incorporates by reference its objections to the Definitions and Instructions
2 in Samsung's First Set of Requests for Production to Apple Inc. To the extent that a response is
3 provided, in whole or in part, by reference to documents that will be produced, Apple
4 incorporates by reference herein its objections to Samsung's First Set of Requests for Production
5 to Apple Inc.

6 29. Apple's objections as set forth herein are made without prejudice to Apple's right
7 to assert any additional or supplemental objections pursuant to Rule 26(e).

8 30. Apple will make, and has made, reasonable efforts to respond to Samsung's First
9 Set of Interrogatories, to the extent that no objection is made, as Apple reasonably understands
10 and interprets each Interrogatory. If Samsung subsequently asserts any interpretation of any
11 Interrogatory that differs from the interpretation of Apple, then Apple reserves the right to
12 supplement and amend its objections and responses.

13 **OBJECTIONS AND RESPONSES TO INTERROGATORIES**

14 Subject to the foregoing qualifications and General Objections and the specific objections
15 made below, Apple objects and responds to Samsung Electronics Co. Ltd.'s First Set of
16 Interrogatories to Apple Inc. as follows:

17 **INTERROGATORY NO. 1:**

18 Separately for each claim of the APPLE PATENTS-IN-SUIT, describe the circumstances
19 surrounding the invention of the claims, including the precise date of conception, the persons
20 involved, the date of actual or constructive reduction to practice, and the steps constituting
21 diligence from conception to actual or constructive reduction to practice.

22 **OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 1:**

23 Apple objects to the term "circumstances" as vague and ambiguous. Apple objects to the
24 phrase "steps constituting diligence" as vague and ambiguous. Apple objects that this
25 Interrogatory is composed of fourteen separate interrogatories. Apple objects to this Interrogatory
26 to the extent it seeks information that: (i) requires the disclosure of information, documents, and
27 things protected from disclosure by the attorney-client privilege, work product doctrine, common
28 interest doctrine, joint defense privilege, or any other applicable privilege, doctrine, or immunity;

1 (ii) would require Apple to draw a legal conclusion to respond; (iii) is outside of Apple's
2 possession; (iv) can be obtained as easily by Samsung, is already in Samsung's possession, or is
3 publicly available; or (v) is not relevant to the claims or defenses at issue in this case because it
4 requests information about the conception and reduction to practice of claims of the Apple patents
5 in suit that have not been asserted.

6 Subject to and incorporating its General Objections and its specific objections, Apple
7 responds as follows:

8 In accordance with Federal Rule of Civil Procedure 33(d), Apple refers to the following
9 documents because the burden of deriving or ascertaining the answer to this Interrogatory from
10 the produced business records is substantially the same for Apple as for Samsung:

11 APLNDC00020222 - APLNDC00032478.

12 Apple further responds:

13 U.S. Patent No. 6,493,002

14 Apple is informed and believes that the inventions recited in claims 1-4, 6, 7, 9-20, 25-29
15 31, 32, 34-45, and 50 of the '002 patent were conceived of by REDACTED

16
17 U.S. Patent No. 7,469,381

18 Apple is informed and believes that the inventions recited in claims 1, 2-5, 7, 9-10, 13, 14,
19 16, 19 and 20 of the '381 patent were conceived of by REDACTED

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26 In accordance with
27 Federal Rule of Civil Procedure 33(d), Apple will produce documents and make available for
28 inspection prototype products and/or source code.

1 U.S. Patent No. 7,853,891

2 Apple is informed and believes that the inventions recited in claims 1-3, 5-7, 14-21, 23,
3 24, 26-28, 30-32, 39-46, 48, 49, 51-53, 55-57, 64-71, 73, and 74 of the '891 patent were
4 conceived of by REDACTED

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7 U.S. Patent No. 7,864,163

8 Apple is informed and believes that the inventions recited in claims 2, 4-13, 17-18, 27-42,
9 and 47-52 of the '163 patent were conceived of by REDACTED

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11 In accordance with Federal Rule of
12 Civil Procedure 33(d), Apple will produce documents and make available for inspection
13 prototype products and/or source code.

14 U.S. Patent No. 7,844,915

15 Apple is informed and believes that the inventions recited in claims 1-21 of the '915
16 patent were conceived of by REDACTED

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19 In accordance with Federal Rule of Civil Procedure 33(d), Apple will make
20 available for inspection prototype products and/or source code.

21 U.S. Patent No. 7,812,828

22 Apple is informed and believes that the inventions recited in claims 1-3, 6, 9-13, 15, 16,
23 and 20-31 of the '828 patent were conceived of by REDACTED

24
25 In accordance with Federal Rule of Civil Procedure 33(d), Apple will produce documents
26 and make available for inspection prototype products.

1 U.S. Patent No. 7,663,607

2 Apple is informed and believes that the inventions recited in claims 1-3, 6-8, 10, and 11 of
3 the '607 patent were conceived of by REDACTED

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6 In accordance with Federal Rule of Civil
7 Procedure 33(d), Apple will produce documents.

8 U.S. Patent No. 7,920,129

9 Apple is informed and believes that the inventions recited in claims 1-3, 5, 7, 9-12, 14, 16-
10 19, 21, 22, 24-26, and 28 of the '129 patent were conceived of by REDACTED

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12 In accordance with Federal Rule of Civil Procedure
13 33(d), Apple will produce documents.

14 U.S. Design Patent No. D504,889

15 Apple is informed and believes that the invention recited in the asserted claim of the
16 D'889 patent were conceived of by REDACTED

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20 In accordance with
21 Federal Rule of Civil Procedure 33(d), Apple refers to the following documents because the
22 burden of deriving or ascertaining the answer to this Interrogatory from the produced business
23 records is substantially the same for Apple as for Samsung: APLNDC00014225-228.

24 U.S. Design Patent No. D593,087

25 Apple is informed and believes that the invention recited in the asserted claim of the
26 D'087 patent were conceived of by REDACTED

1 REDACTED

2 [REDACTED] In accordance with Federal
3 Rule of Civil Procedure 33(d), Apple refers to the following documents because the burden of
4 deriving or ascertaining the answer to this Interrogatory from the produced business records is
5 substantially the same for Apple as for Samsung: APLNDC00014230-231; APLNDC00014237-
6 244.

7 U.S. Design Patent No. D618,677

8 Apple is informed and believes that the invention recited in the asserted claim of the
9 D'677 patent were conceived of by [REDACTED]

10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED] In accordance with
14 Federal Rule of Civil Procedure 33(d), Apple refers to the following documents because the
15 burden of deriving or ascertaining the answer to this Interrogatory from the produced business
16 records is substantially the same for Apple as for Samsung: APLNDC00014230-231;
17 APLNDC00014237-244.

18 U.S. Design Patent No. D622,270

19 Apple is informed and believes that the invention recited in the asserted claim of the
20 D'270 patent were conceived of by [REDACTED]

21 [REDACTED]
22 [REDACTED]
23 [REDACTED] In
24 accordance with Federal Rule of Civil Procedure 33(d), Apple will make available for inspection
25 native CAD files because the burden of deriving or ascertaining the answer to this Interrogatory
26 from the produced business records is substantially the same for Apple as for Samsung.
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1 U.S. Design Patent No. D627,790

2 Apple is informed and believes that the invention recited in the asserted claim of the
3 D'790 patent was conceived of by REDACTED

4 [REDACTED] In accordance with Federal Rule of Civil Procedure 33(d), Apple will
5 produce documents in response to this Interrogatory because the burden of deriving or
6 ascertaining the answer to this Interrogatory from the produced business records is substantially
7 the same for Apple as for Samsung.

8 U.S. Design Patent No. D604,305

9 Apple is informed and believes that the invention recited in the asserted claim of the
10 D'305 patent was conceived of by REDACTED

11 [REDACTED] In accordance with Federal Rule of Civil
12 Procedure 33(d), Apple will produce documents in response to this Interrogatory because the
13 burden of deriving or ascertaining the answer to this Interrogatory from the produced business
14 records is substantially the same for Apple as for Samsung.

15 U.S. Design Patent No. D617,334

16 Apple is informed and believes that the invention recited in the asserted claim of the
17 D'334 patent was conceived of by REDACTED

18 [REDACTED] In accordance with Federal Rule of Civil Procedure 33(d), Apple will
19 produce documents in response to this Interrogatory because the burden of deriving or
20 ascertaining the answer to this Interrogatory from the produced business records is substantially
21 the same for Apple as for Samsung.

22 **INTERROGATORY NO. 2:**

23 Separately for each claim of the APPLE PATENTS-IN-SUIT, APPLE TRADE DRESS
24 and APPLE TRADEMARKS, describe all investigations made by or on behalf of APPLE prior to
25 the filing of the Complaint regarding whether any claim of the APPLE PATENTS-IN-SUIT,
26 APPLE TRADE DRESS or APPLE TRADEMARKS is infringed by any SAMSUNG product,
27 including identifying the persons involved in the investigations, the persons to whom reports were
28 made, the persons involved in the approval of the action, the date of the investigation, the items

1 considered, when and where such items were obtained, the conclusion reached in the
2 investigations, and all documents referring to or describing such investigations.

3 **OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 2:**

4 Apple objects to the phrases “investigations,” “reports,” “approval of the action,” and
5 “items considered,” as vague and ambiguous. Apple objects to this Interrogatory as vague and
6 ambiguous with respect to the phrase “any claim of the . . . APPLE TRADE DRESS or APPLE
7 TRADEMARKS” because trade dress and trademarks do not consist of claims. Apple objects to
8 this Interrogatory to the extent it seeks information that: (i) requires the disclosure of
9 information, documents, and things protected from disclosure by the attorney-client privilege,
10 work product doctrine, common interest doctrine, joint defense privilege, or any other applicable
11 privilege, doctrine, or immunity; or (ii) would require Apple to draw a legal conclusion to
12 respond.

13 Subject to and incorporating its General Objections and its specific objections, Apple
14 responds as follows: Apple is unaware of any information responsive to this Interrogatory that is
15 not subject to the attorney-client privilege and/or the work product doctrine.

16 **INTERROGATORY NO. 3:**

17 Separately for each of the APPLE PATENTS-IN-SUIT, APPLE TRADE DRESS and
18 APPLE TRADEMARKS, identify every instance where APPLE has contacted any third party
19 regarding each patent, trade dress and/or trademark, including the name and address of each third
20 party and the circumstances surrounding the contact, including specifically identifying any
21 instances where APPLE attempted to enforce the APPLE PATENTS-IN-SUIT, APPLE TRADE
22 DRESS and APPLE TRADEMARKS.

23 **OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 3:**

24 Apple objects to this Interrogatory as overbroad, unduly burdensome, and not reasonably
25 calculated to lead to the discovery of admissible evidence to the extent that it is not limited to
26 enforcement of the patents, trade dress, and trademarks at issue in this lawsuit. Moreover, Apple
27 objects to the terms “circumstances” and “attempted to enforce” as vague and ambiguous. In
28 response, Apple will identify companies or individuals it has contacted regarding the enforcement

1 of the patents, trade dress, and trademarks at issue in this lawsuit. Apple objects to this
2 Interrogatory to the extent it seeks information that: (i) is subject to a confidentiality or non-
3 disclosure agreement or governed by a protective order preventing its production; (ii) is outside of
4 Apple's possession, custody, or control; (iii) or can be obtained as easily by Samsung, is already
5 in Samsung's possession, or is publicly available.

6 Subject to and incorporating its General Objections and its specific objections, Apple
7 responds as follows:

8 REDACTED
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22 The contact information for the entities listed above is a matter of public record.

23 REDACTED
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27 The contact information for the entities listed above is a matter of
28 public record.

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11 [REDACTED]

12 [REDACTED]

13 **INTERROGATORY NO. 4:**

14 Separately for each of the APPLE PATENTS-IN-SUIT, identify each PATENTED
15 PRODUCT, which Apple patent(s) is/are embodied in the PATENTED PRODUCT, the date each
16 PATENTED PRODUCT was first sold in the United States, and whether each PATENTED
17 PRODUCT was marked pursuant to 35 U.S.C. § 287 or otherwise, how each product was marked
18 including the location and manner of the marking, the individuals or entities that marked each
19 product, and any interruptions to or other changes in the practice of marking the PATENTED
20 PRODUCT since it was first marked.

21 **OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 4:**

22 Apple objects to this Interrogatory as overbroad, unduly burdensome, and not reasonably
23 calculated to lead to the discovery of admissible evidence.

24 Subject to and incorporating its General Objections and its specific objections, Apple
25 responds as follows:

26 All generations of the iPad (iPad and iPad 2), the iPhone (original iPhone, iPhone 3G,
27 iPhone 3GS and iPhone 4), and the iPod touch practice claims of the '381, '891, '163, '915, '828,
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1 '607, and '129 patents. The iPad, iPad 2, iPhone 3GS, iPhone 4, and iPod touch practice claims
2 of the '002 patent when operating on the iOS 5 platform.

3 The original iPhone was first sold in the United States on or around June 29, 2007. The
4 iPhone 3G was first sold in the United States on or around July 11, 2008. The iPhone 3GS was
5 first sold in the United States on or around June 19, 2009. The iPhone 4 was first sold in the
6 United States on or around June 24, 2010. The iPad was first sold in the United States on or
7 around April 3, 2010. The iPad 2 was first sold in the United States on or around March 11,
8 2011. The iPod touch was first sold in the United States on or around September 8, 2007.

9 Apple has not marked the original iPhone, the iPhone 3G, the iPhone 3GS, the iPad, the
10 iPad 2, or the iPod touch with any of the Apple patents-in-suit pursuant to 35 U.S.C. § 287 or
11 otherwise.

12 **INTERROGATORY NO. 5:**

13 Separately for each of the APPLE PATENTS-IN-SUIT, APPLE TRADE DRESS and
14 APPLE TRADEMARKS, IDENTIFY every product manufactured, used, sold, offered for sale, or
15 imported into the United States since 2005 that YOU believe uses or may use any protected
16 design, trademark, trade dress, or invention of the APPLE PATENTS-IN-SUIT, APPLE TRADE
17 DRESS, and APPLE TRADEMARKS and the date(s) on which you believe that use occurred.
18 The products shall be identified by product name, product manufacturer, telecommunications
19 carrier (if applicable), date of product announcement, date of product release, and appearance of
20 product – including front, back, and side images.

21 **OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 5:**

22 Apple objects to the phrase “appearance of product” as vague and ambiguous. Apple
23 objects to this Interrogatory as overbroad, unduly burdensome, and not reasonably calculated to
24 lead to the discovery of admissible evidence, especially to the extent it requests: (i) “every
25 product,” including products not at issue in this litigation; (ii) the production of objects or images
26 in response to an Interrogatory; (iii) information concerning the “appearance of product –
27 including front, back, and side images”; and (iv) Samsung products released outside of the United
28 States. Apple further objects to this Interrogatory to the extent it seeks information that: (i)

1 requires the disclosure of information, documents, and things protected from disclosure by the
2 attorney-client privilege, work product doctrine, common interest doctrine, joint defense
3 privilege, or any other applicable privilege, doctrine, or immunity; (ii) would require Apple to
4 draw a legal conclusion to respond; (iii) is outside of Apple's possession, custody, or control; (iv)
5 can be obtained as easily by Samsung, is already in Samsung's possession, or is publicly
6 available; (v) concerns use of any asserted trademark or trade dress before 2007; (vi) would
7 require Apple to draw a legal conclusion to respond; or (vii) is subject to a confidentiality or non-
8 disclosure agreement or governed by a protective order preventing its production.

9 Subject to and incorporating its General Objections and its specific objections, Apple
10 responds as follows:

11 At least the following Samsung devices use or may use inventions claimed by the '002,
12 '891, '163, '915, and '828 patents: Acclaim, Captivate, Continuum, Captivate, Continuum, Droid
13 Charge, Epic 4G, Exhibit 4G, Fascinate, Galaxy Ace, Galaxy Prevail, Galaxy S (i9000), Galaxy S
14 4G, Gem, Gravity, Indulge, Infuse 4G, Intercept, Mesmerize, Nexus S, Nexus S 4G, Replenish,
15 Showcase Galaxy S, Sidekick, Transform, Vibrant, Galaxy Tab, and Galaxy Tab 10.1.

16 At least the following Samsung devices use or may use inventions claimed by the '381
17 patent: Captivate, Continuum, Captivate, Continuum, Droid Charge, Epic 4G, Exhibit 4G,
18 Fascinate, Galaxy Ace, Galaxy Prevail, Galaxy S (i9000), Galaxy S 4G, Gravity, Indulge, Infuse
19 4G, Intercept, Mesmerize, Nexus S, Nexus S 4G, Replenish, Showcase Galaxy S, Sidekick,
20 Vibrant, Galaxy Tab, and Galaxy Tab 10.1.

21 At least the following Samsung devices use or may use inventions claimed by the '607
22 and '129 patents: Galaxy Tab and Galaxy Tab 10.1.

23 At least the following Samsung devices use or may use the invention claimed by the
24 D'889 patent: Galaxy Tab 10.1.

25 At least the following Samsung devices use or may use the inventions claimed by the
26 D'087, D'677, and D'270 patents: Fascinate, Galaxy Ace, Galaxy Prevail, Galaxy S i9000,
27 Galaxy S 4G, Infuse 4G, Mesmerize, Showcase i500, Showcase Galaxy S, Vibrant.
28

1 At least the following Samsung devices use or may use the inventions claimed by the
2 D'790, D'305, and D'334 patents: Captivate, Continuum, Droid Charge, Epic 4G, Exhibit 4G,
3 Fascinate, Gem, Galaxy Ace, Galaxy S i9000, Galaxy S 4G, Gravity Smart, Indulge, Infuse 4G,
4 Mesmerize, Showcase Galaxy S, Showcase i500, and Vibrant.

5 At least the U.S. versions of the Samsung Vibrant (T-Mobile), Showcase (Cellular South),
6 Mesmerize (U.S. Cellular), Infuse 4G (AT&T), Galaxy S 4G (T-Mobile), Galaxy Prevail (Boost
7 Mobile), and Fascinate (Verizon) products use Apple's Original iPhone Trade Dress, iPhone 3G
8 Trade Dress, iPhone 4 Trade Dress, iPhone Trade Dress; the trade dress shown in the Trade Dress
9 Registrations; the trade dress shown in U.S. Application Serial No. 85/299,118; and the
10 Registered Icon Trademarks, the Purple iTunes Store Trademark, and the iTunes Eighth Note and
11 CD Design Trademark. Apple alleges that Samsung Vibrant (T-Mobile), Showcase (Cellular
12 South), Mesmerize (U.S. Cellular), Infuse 4G (AT&T), Galaxy S 4G (T-Mobile), Galaxy Prevail
13 (Boost Mobile), Fascinate (Verizon), Gem (Verizon), Gravity Smart (T-Mobile), Epic 4G
14 (Sprint), Exhibit 4G (T-Mobile), Droid Charge (Verizon), Continuum (Verizon), and Captivate
15 (AT&T) products use the Registered Icon Trademarks, the Purple iTunes Store Trademark, and
16 the iTunes Eighth Note and CD Design Trademark. Apple alleges that the Galaxy Tab 10.1 and
17 Galaxy Tab 7.0 use the iPad Trade Dress and the iPad 2 Trade Dress; the trade dress shown in
18 U.S. Application Serial Nos. 77/921,838, 77/921,829, and 77/921,869; and the Registered Icon
19 Trademarks, the Purple iTunes Store Trademark, and the iTunes Eighth Note and CD Design
20 Trademark. Apple believes that the use or possible use of its patented inventions, trade dress, and
21 trademarks occurred, for each product listed above, no later than the date of each product's
22 release in the United States.

23 **INTERROGATORY NO. 6:**

24 Separately for each of the APPLE PATENTS-IN-SUIT, APPLE TRADE DRESS, and
25 APPLE TRADEMARKS, IDENTIFY any and all persons to whom YOU have ever licensed or
26 offered to license, or persons who have requested to license, or to whom YOU have granted or
27 offered to grant any other rights under the patent, trade dress, or trademark, including the status of
28 those requests and offers, whether continuing, successful, or terminated, and identify (by Bates

1 number) all DOCUMENTS RELATED to any such license, offer, request, or other grant of
2 rights.

3 **OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 6:**

4 Apple objects to the terms “any other rights,” “successful,” “RELATED,” and “other
5 grant of rights” as vague and ambiguous. Apple objects to this Interrogatory as overbroad,
6 unduly burdensome, and not reasonably calculated to lead to the discovery of admissible
7 evidence, especially with regards to its request for identification of “any and all persons . . . who
8 have requested to license,” and “all DOCUMENTS RELATED to any such license, offer, request,
9 or other grant of rights.”

10 Subject to and incorporating its General Objections and its specific objections, Apple
11 responds as follows:

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3 Apple further responds that in accordance with Federal Rule of Civil Procedure 33(d),
4 Apple will produce documents in response to this Interrogatory because the burden of deriving or
5 ascertaining the answer to this Interrogatory from the produced business records is substantially
6 the same for Apple as for Samsung.

7 **INTERROGATORY NO. 7:**

8 Separately for each of the APPLE PATENTS-IN-SUIT, APPLE TRADE DRESS and
9 APPLE TRADEMARKS state all facts supporting any contention by APPLE that Samsung has
10 willfully infringed, diluted, or falsely designated the origin of its products for each patent, trade
11 dress, and trademark, including when and how APPLE asserts Samsung had actual notice of the
12 APPLE PATENTS-IN-SUIT, APPLE TRADE DRESS, and APPLE TRADEMARKS.

13 **OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 7:**

14 Apple objects to this Interrogatory as overbroad, unduly burdensome, and not reasonably
15 calculated to lead to the discovery of admissible evidence. Apple objects to this Interrogatory as
16 premature to the extent that it: (a) conflicts with the schedule entered by the Court, (b) conflicts
17 with the obligations imposed by the Federal Rules of Civil Procedure, the Civil Local Rules
18 and/or the Patent Local Rules of this Court, and/or any other applicable rule; (c) seeks
19 information that is the subject of expert testimony; (d) seeks information and/or responses that are
20 dependent on the Court's construction of the asserted claims of the patents-in-suit; or (e) seeks
21 information and/or responses that are dependent on depositions and documents that have not been
22 taken or produced. Apple further objects to this Interrogatory to the extent it seeks information
23 that: (i) requires the disclosure of information, documents, and things protected from disclosure
24 by the attorney-client privilege, work product doctrine, common interest doctrine, joint defense
25 privilege, or any other applicable privilege, doctrine, or immunity; (ii) would require Apple to
26 draw a legal conclusion to respond; (iii) is outside of Apple's possession, custody, or control; or
27 (iv) can be obtained as easily by Samsung, is already in Samsung's possession, or is publicly
28 available.

1 Subject to and incorporating its General Objections and its specific objections, Apple
2 responds as follows:

3 Samsung manufactured, distributed, imported into the United States, used in the United
4 States, offered for sale in the United States, and sold in the United States products that infringed
5 the Apple patents, trade dress, and trademarks at issue in this lawsuit despite an objectively high
6 likelihood that its actions constituted infringement of valid patents. Moreover, this objectively
7 high likelihood of infringement was known to Samsung, or so obvious that it should have been
8 known to Samsung. Samsung's objectively reckless infringement of the Apple patents, trade
9 dress, and trademarks at issue in this lawsuit began before Apple commenced this action and
10 continues to this day. There is no objectively reasonable non-infringement argument with respect
11 to the accused products; nor is there any objectively reasonable argument that the Apple patents,
12 trade dress, and trademarks at issue in this lawsuit are invalid.

13 For instance, starting in July 2010, Apple representatives provided notice to Samsung that
14 it infringed Apple's patents and designs. On or about August 4, 2010, Apple representatives met
15 with Samsung in Korea and showed a presentation titled "Samsung's Use of Apple Patents in
16 Smartphones." This presentation emphasized Samsung's copying of the iPhone and identified
17 two of the patents-in-suit (the '002 and '381 patents), giving Samsung actual notice of at least
18 these patents, and many more.

19 On or about August 26, 2010, Apple sent Samsung an electronic archive file containing
20 claim charts further illustrating Samsung's infringement of Apple patents. A presentation
21 document that accompanied these claim charts identified the '002 and '381 patents as two patents
22 that Samsung products infringed, and it substantiated these allegations with text from the patents
23 and photographs of Samsung devices illustrating infringing functionality. Apple later presented
24 these slides to Samsung at a meeting in Cupertino, California on or about September 9, 2010.

25 Moreover, even after Samsung indisputably had actual notice of its infringement of all of
26 the Apple patents-in-suit as a result of the filing of this lawsuit, it continued the development,
27 manufacture, importation, distribution and sale of electronic devices as to which there was no
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1 objectively reasonable theory of non-infringement. Samsung continues its willful infringing
2 activities to the present.

3 During the August 4, 2010 presentation mentioned above, Apple also informed Samsung
4 that Samsung's smart phones were infringing Apple's designs.

5 Moreover, with respect to the design patents-in-suit, and specifically with respect to
6 D'889, Samsung was aware of this patent at least as early as April 14, 2008 when it was cited
7 during the prosecution of U.S. Design Patents Nos. D578,983 and D583,342, which are assigned
8 to Samsung. The D'889 was also cited during the prosecution of U.S. Design Patents Nos.
9 D632,688 and D635,976. Specifically with respect to the D'790 patent, Samsung was aware of
10 this patent at least as early as February 3, 2011 when it was cited during the prosecution of U.S.
11 Design Patent No. D634,734, which is assigned to Samsung. Specifically with respect to the
12 D'305 patent, Samsung was aware of this patent at least as early as November 27, 2009 when it
13 was cited during the prosecution of U.S. Design Patent No. D618,700, which is assigned to
14 Samsung. Moreover, there is substantial evidence of Samsung's copying of Apple's iPhone and
15 iPad products, as shown by the numerous design similarities between Apple's and Samsung's
16 phone and tablet products.

17 Furthermore, with respect to the trade dress and trademarks asserted in the lawsuit, Apple
18 announced the original iPhone on January 9, 2007 and released the product on June 29, 2007;
19 Apple announced the iPhone 3G on June 9, 2008 and released the product on July 11, 2008;
20 Apple announced the iPhone 3GS on June 8, 2009 and released the product on June 19, 2009; and
21 Apple announced the iPhone 4 on June 7, 2010 and released the product on June 24, 2010.
22 Samsung was put on notice of Apple's distinctive Original iPhone Trade Dress, iPhone 3G Trade
23 Dress, iPhone 4 Trade Dress, and iPhone Trade Dress upon the announcements of these
24 respective products. Samsung was put on notice of the trade dress shown in the Trade Dress
25 Registrations upon the announcement of the original iPhone. Samsung was put on notice of the
26 trade dress shown in U.S. Application Serial No. 85/299,118 upon the announcement of the
27 iPhone 4. Apple announced the iPad on January 27, 2010 and released the product on April 3,
28 2010, and Apple announced the iPad 2 on March 2, 2011 and released the product on March 11,

1 2011. Samsung was put on notice of Apple's distinctive iPad Trade Dress and the trade dress
2 shown in U.S. Application Serial Nos. 77/921,838, 77/921,829, and 77/921,869 upon the
3 announcement of the iPad, and it was put on notice of Apple's distinctive iPad 2 Trade Dress
4 upon the announcement of the iPad 2. Samsung was put on notice of the marks shown in U.S.
5 Registration Nos. 3,886,196; 3,889,642; 3,886,200; 3,889,685; and 3,886,169 upon the
6 announcement of the original iPhone. Samsung was put on notice of the mark shown in U.S.
7 Registration No. 3,886,197 for at least as early as June 19, 2009. Samsung was put on notice of
8 the Purple iTunes Store Trademark at least as early as June 2008. Samsung was put on notice of
9 the iTunes Eighth Note and CD Design Trademark at least as early as January 9, 2001.

10 **INTERROGATORY NO. 8:**

11 Separately for each claim or counterclaim APPLE has asserted or will assert, identify and
12 fully describe any and all damages that APPLE is claiming in This Lawsuit and the detailed basis
13 for any such damages claim, including whether APPLE is seeking lost profits or a reasonable
14 royalty and the periods of time over which APPLE claims it has suffered damages. If APPLE is
15 seeking lost profits, identify the amount of the alleged lost profits, the computation of the alleged
16 lost profits including all revenues, income, costs, unit costs, and quantity associated with the
17 manufacture, sales and offers for sale by APPLE or any other entity of any product APPLE
18 contends is covered by the APPLE PATENTS-IN-SUIT, each purported lost sale or other item
19 which forms any part of APPLE's alleged lost profits, and the time period over which APPLE
20 claims it is entitled to lost profits. If APPLE is seeking a reasonable royalty, identify the amount
21 of the reasonable royalty, including any royalty rate expressed in per unit or percentage of
22 revenues terms and the basis for the per unit or percentage used, the computation of the alleged
23 reasonable royalty, and the time period over which APPLE claims it is entitled to lost profits.

24 **OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 8:**

25 Apple objects to this Interrogatory as overbroad, unduly burdensome, and not reasonably
26 calculated to lead to the discovery of admissible evidence. Apple objects to this Interrogatory as
27 premature to the extent that it: (a) conflicts with the schedule entered by the Court, (b) conflicts
28 with the obligations imposed by the Federal Rules of Civil Procedure, the Civil Local Rules

1 and/or the Patent Local Rules of this Court, and/or any other applicable rule; (c) seeks
2 information that is the subject of expert testimony; (d) seeks information and/or responses that are
3 dependent on the Court's construction of the asserted claims of the patents-in-suit; (e) seeks
4 information and/or responses that are dependent on depositions and documents that have not been
5 taken or produced; or (f) requires access to data and information in Samsung's sole possession.
6 Apple objects to this Interrogatory to the extent it seeks information that: (i) requires the
7 disclosure of information, documents, and things protected from disclosure by the attorney-client
8 privilege, work product doctrine, common interest doctrine, joint defense privilege, or any other
9 applicable privilege, doctrine, or immunity; or (ii) can be obtained as easily by Samsung, is
10 already in Samsung's possession, or is publicly available.

11 Subject to and without waiving the foregoing General and Specific Objections, Apple
12 responds as follows:

13 Apple claims a monetary award as a result of Samsung's infringement of Apple's patents.
14 Pursuant to 35 U.S.C. § 289, Apple claims Samsung's total profits from all sales that infringe
15 Apple's design patents, together with prejudgment interest. These shall include Samsung's total
16 profits based on sales of each of the infringing products and any profits resulting from associated
17 or reasonably foreseeable sales of other items in connection with or resulting from the sales of
18 each of the infringing products. Pursuant to 35 U.S.C. § 284, Apple claims damages adequate to
19 compensate for Samsung's infringement of Apple's design and utility patents, which shall in no
20 event be less than a reasonable royalty for Samsung's infringement. Apple has lost profits on
21 sales of its products as well as other revenues due to the presence of Samsung's infringement and
22 the competition by Samsung using Apple's intellectual property. These lost profits shall include
23 lost profits due to lost sales of iPhone and iPad products. Further, they include lost profits due to
24 price erosion with respect to Apple products and profits lost because Apple did not receive
25 foreseeable downstream sales of additional products and services. A reasonable royalty shall
26 apply to any sales of infringing products that are not proved to have resulted in lost profits. Apple
27 seeks prejudgment interest on any monetary award provided pursuant to section 284. Further,
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1 Apples seeks enhanced damages of three times the amount assessed based on Samsung's
2 misconduct and willful infringement of Apple's patents.

3 Pursuant to 15 U.S.C. § 1117, Apple claims a monetary award for Samsung's
4 misappropriation of Apple's trademarks and trade dress, and the dilution of the foregoing. Apple
5 further claims an award based on Samsung's common law trademark infringement. Samsung has
6 wrongly obtained profits by virtue of its infringement and misappropriation and this amount shall
7 be calculated initially on Samsung's revenues from sales of all products obtained through and as a
8 foreseeable result of Samsung's infringement, dilution, and misappropriation. Apple separately
9 claims an award for the damages that it sustained due to Samsung's infringement, dilution, and
10 misappropriation. These include lost sales of Apple products as well as foreseeable downstream
11 sales of products and services and the expense of remedial, corrective or other steps that Apple
12 has had to take in light of Samsung's infringement. Further, Apple seeks a monetary award for
13 purposes of future corrective advertising. Pursuant to section 1117, Apple seeks an award
14 trebling the damages assessed.

15 Apple has and will have expended costs and reasonable attorneys fees, which it will seek
16 to recover pursuant to 15 U.S.C. § 1117 and 35 U.S.C. § 285 because Samsung's infringement
17 and misconduct presents an exceptional case.

18 Based on Samsung's unfair business practices in violation of California Business and
19 Professions Code § 17200 and Samsung's unjust enrichment of itself due to misappropriation of
20 Apple's intellectual property, Apple claims an award restoring to Apple all profits earned as a
21 result of Samsung's unlawful actions. Apple further claims restitution based on other revenues or
22 benefits wrongly obtained by Samsung due to its violations.

23 Apple also claims damages as a result of Samsung's anticompetitive conduct and unlawful
24 business acts and practices, including its failure to offer Apple a license on fair, reasonable and
25 non-discriminatory (FRAND) terms to Samsung's claimed standards-essential patents. These
26 damages include the expenditure of resources and costs to resolve its licensing dispute with
27 Samsung and defending against Samsung's patent infringement claims, notwithstanding Apple's
28 license to those patents by virtue of Samsung's FRAND commitments. Apple also is threatened

1 by loss of profits, loss of customers and potential customers, loss of goodwill and product image,
2 uncertainty in business planning and uncertainty among customers and potential customers. Such
3 damages may be determined by methods including, but not limited to, litigation expenditures
4 incurred in the defense of Samsung's patent infringement claims, lost profits, and lost sales. In
5 addition, pursuant to Section 4 of the Clayton Act and/or Section 16750 of the California
6 Business and Professions Code, Apple is entitled to treble the amount of its actual damages
7 suffered as a result of Samsung's conduct and all reasonable attorneys' fees and costs. Moreover,
8 Apple is seeking all reasonable attorneys' fees and costs as a result of Samsung's violations of the
9 California Unfair Competition Law, and in connection with its defense against Samsung's
10 infringement claims.

11 Apple reserves the right to supplement its damages theory as additional information
12 becomes available. In addition, Apple will provide information responsive to this Interrogatory
13 consistent with the Court's Scheduling Order for the disclosure of damages experts.

14 **INTERROGATORY NO. 9:**

15 Separately for each of the APPLE PATENTS-IN-SUIT, APPLE TRADE DRESS and
16 APPLE TRADEMARKS, identify each claim which APPLE asserts is subject to a FRAND
17 royalty obligation (if any), and describe in detail the basis for such assertion, including but not
18 limited to the source of the obligation, the scope of the obligation including specific patents
19 and/or subject area, the time period of the obligation, the terms of the license to be offered under
20 the obligation, and the royalty rate(s) APPLE asserts Samsung is obligated to offer.

21 **OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 9:**

22 Apple objects to this Interrogatory to the extent it seeks information that: (i) requires the
23 disclosure of information, documents, and things protected from disclosure by the attorney-client
24 privilege, work product doctrine, common interest doctrine, joint defense privilege, or any other
25 applicable privilege, doctrine, or immunity; (ii) would require Apple to draw a legal conclusion to
26 respond; or (iii) can be obtained as easily by Samsung, is already in Samsung's possession, or is
27 publicly available. Apple further objects to this Interrogatory as unintelligible to the extent that it
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1 seeks information regarding trade dress and trademarks that are “subject to FRAND royalty
2 obligations” because FRAND has no application to trade dress or trademark rights.

3 Subject to and incorporating its General Objections and its specific objections, Apple
4 responds as follows: none of the APPLE PATENTS-IN-SUIT is subject to a FRAND royalty
5 obligation.

6 **INTERROGATORY NO. 10:**

7 Separately for each of the APPLE PATENTS-IN-SUIT, APPLE TRADE DRESS and
8 APPLE TRADEMARKS, identify each patent, trade dress, or trademark which APPLE asserts is
9 licensed (if any), and describe in detail the basis for such assertion, including but not limited to
10 the source of the license, the scope of the license including specific patents and/or subject area,
11 the time period of the license, whether the license is exclusive or non-exclusive, any geographic
12 limitations of the license, any limitations of the license to certain products, any limitations on the
13 ability to sublicense, and any other limitations on the license.

14 **OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 10:**

15 Apple objects to this Interrogatory as duplicative of Interrogatory No. 6. Apple objects to
16 the term “source of the license” as vague and ambiguous. Apple objects to this Interrogatory as
17 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
18 admissible evidence. Apple objects to this Interrogatory to the extent it seeks information that is
19 subject to a confidentiality or non-disclosure agreement or governed by a protective order
20 preventing its production.

21 In addition, Apple has received thousands and thousands of requests for permission to use
22 the trademarks and trade dress associated with the iPhone, iPod touch, or iPad in connection with
23 marketing, promotions, advertising, product placement, third-party publications, etc. Apple
24 regularly grants such requests, as explained more fully in its response to Interrogatory No. 6 and
25 Apple hereby incorporates its response to Interrogatory No. 6 as if fully set forth herein.

26 Apple further responds that in accordance with Federal Rule of Civil Procedure 33(d),
27 Apple will produce documents in response to this Interrogatory because the burden of deriving or
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1 ascertaining the answer to this Interrogatory from the produced business records is substantially
2 the same for Apple as for Samsung.

3 **INTERROGATORY NO. 11:**

4 For each APPLE ACCUSED PRODUCT, identify each person involved in the design,
5 development, marketing and/or sales of the product and the nature of the person's involvement in
6 such activities, and identify the starting and completion dates for the design and development of
7 the product and the date of first sale of the product.

8 **OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 11:**

9 Apple objects to this Interrogatory on the grounds that it is overbroad, unduly
10 burdensome, and not reasonably calculated to lead to the discovery of admissible evidence,
11 especially to the extent it seeks information about the accused Apple products beyond the
12 components or technologies of those products that may be relevant to Samsung's patents-in-suit,
13 and/or that Samsung has placed at issue in this case in its Patent Rule 3-1 Disclosures. Apple
14 objects to the terms "involved in," and "nature of the person's involvement" as vague and
15 ambiguous. Apple objects to this Interrogatory to the extent it seeks information that is subject to
16 a confidentiality or non-disclosure agreement or governed by a protective order preventing its
17 production, or otherwise seeks confidential, proprietary or trade secret information of third
18 parties. Apple further objects to this Interrogatory because it contains multiple subparts that each
19 should count as a separate interrogatory.

20 Subject to and without waiving the foregoing General and Specific Objections, Apple
21 responds as follows: As of September 25, 2010, Apple had approximately 46,600 full-time
22 equivalent employees and an additional 2,800 full-time equivalent temporary employees and
23 contractors. A large number of Apple employees have some responsibility that is related in some
24 way to the "the design, development, marketing and/or sales" of the Apple Accused Products.
25 Further responding, Apple incorporates by reference the information set forth in its responses to
26 Interrogatory Nos. 4 and 7 regarding dates of first sale. Apple is willing to meet and confer
27 regarding the scope of this Interrogatory.

1 **INTERROGATORY NO. 12:**

2 If APPLE contends that it does not infringe any claim of the SAMSUNG PATENTS-IN-
3 SUIT, identify in detail on a claim-by-claim and limitation-by-limitation basis in a claim chart
4 format all bases for any allegation that APPLE does not infringe the claim(s), including an
5 identification of each limitation of each claim which APPLE contends is not practiced by any of
6 its products, and state in detail the reasons why APPLE's products do not practice those
7 limitations.

8 **OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 12:**

9 Apple objects to this Interrogatory as premature to the extent that it: (a) conflicts with the
10 schedule entered by the Court, (b) conflicts with the obligations imposed by the Federal Rules of
11 Civil Procedure, the Civil Local Rules and/or the Patent Local Rules of this Court, and/or any
12 other applicable rule; (c) seeks information that is the subject of expert testimony; (d) seeks
13 information and/or responses that are dependent on the Court's construction of the asserted claims
14 of the patents-in-suit; or (e) seeks information and/or responses that are dependent on depositions
15 and documents that have not been taken or produced. Moreover, the Court's Local Rules and the
16 schedule entered by the Court do not contemplate the disclosure of claim construction positions at
17 this time. Apple also objects to this Interrogatory on the grounds that it is overbroad, unduly
18 burdensome, and not reasonably calculated to lead to the discovery of admissible evidence,
19 especially to the extent it seeks information about the accused Apple products beyond the
20 components or technologies of those products that may be relevant to Samsung's patents-in-suit,
21 and/or that Samsung has placed at issue in this case in its Patent Rule 3-1 Disclosures. Apple
22 further objects to this Interrogatory to the extent it requires information outside Apple's
23 possession, custody, and control, including, for example, information concerning components that
24 Apple has purchased from third parties.

25 **INTERROGATORY NO. 13:**

26 Separately for each of the SAMSUNG PATENTS-IN-SUIT, identify the date(s) APPLE
27 first became aware of each patent, the persons at APPLE who first became aware of each patent
28 and the detailed circumstances by which each such person became aware of each patent.

1 **OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 13:**

2 Apple objects to this Interrogatory as overbroad, unduly burdensome, and not reasonably
3 calculated to lead to the discovery of admissible evidence, especially to the extent it calls for the
4 identification of the “detailed circumstances” by which Apple became aware of each patent.
5 Apple also objects to this Interrogatory to the extent it requires the disclosure of information,
6 documents and things protected from disclosure by the attorney-client privilege, work product
7 doctrine, common interest doctrine, joint defense privilege, or any other applicable privilege,
8 doctrine, or immunity.

9 Subject to and without waiving the foregoing General and Specific Objections, Apple
10 responds as follows: Apple became aware of U.S. Patent No. 7,675,941 and U.S. Patent No.
11 7,447,516 on or before April 21, 2011, when Samsung first asserted the respective foreign
12 counterparts of these patents against Apple in Japan and Korea. Apple became aware of the
13 following Samsung Patents-in-Suit on or before April 27, 2011, when Samsung filed its initial
14 Complaint in Case No. 11-CV-02079: U.S. Patent Nos. 7,362,867, 7,200,792, 7,386,001,
15 7,050,410, 6,928,604, and 7,069,055. Apple became aware of the remaining Samsung Patents-in-
16 Suit on or before June 30, 2011, when Samsung filed its Answer and Counterclaims in this action.

17 Apple’s investigation is ongoing and Apple reserves the right to supplement this response
18 as this litigation progresses.

19 **INTERROGATORY NO. 14:**

20 Describe in detail the factual basis for every claim, affirmative defense and every
21 counterclaim APPLE has asserted or will assert in this lawsuit.

22 **OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 14:**

23 Apple objects to this Interrogatory on the grounds that it is overbroad, unduly
24 burdensome, and not reasonably calculated to lead to this discovery of admissible evidence.
25 Apple objects to this Interrogatory as it contains subparts that each should count as a separate
26 Interrogatory. Apple further objects to this Interrogatory, to the extent it requests a complete
27 articulation of the factual basis for all its claims in this case, on the grounds that it: (a) conflicts
28 with the schedule entered by the Court, (b) conflicts with the obligations imposed by the Federal

1 Rules of Civil Procedure, the Civil Local Rules and/or the Patent Local Rules of this Court,
2 and/or any other applicable rule; (c) seeks information that is the subject of expert testimony; (d)
3 seeks information and/or responses that are dependent on the Court's construction of the asserted
4 claims of the patents-in-suit; or (e) seeks information and/or responses that are dependent on
5 depositions and documents that have not been taken or produced. Moreover, the Court's Local
6 Rules and the schedule entered by the Court do not contemplate the disclosure of claim
7 construction positions or expert opinions at this time.

8 Apple further objects to this Interrogatory to the extent it requires information outside
9 Apple's possession, custody and control, including, for example, information concerning
10 components that Apple has purchased from third parties.

11 Subject to and without waiving the foregoing General and Specific Objections, Apple
12 responds as follows: Apple filed an amended complaint on June 16, 2011 which describes in
13 detail, based upon information then known to Apple, the factual bases for every claim that Apple
14 has asserted in this lawsuit. Apple also filed an Answer to Samsung's Counterclaims and
15 Counterclaims in Reply on July 21, 2011 which describes in detail, based upon information then
16 known to Apple, the factual bases for every affirmative defense and counterclaim that Apple has
17 asserted in this lawsuit.

18 Specifically, the factual bases for Apple's claims of Federal False Designation of Origin
19 and Unfair Competition, and for California Unfair Business Practices are described in paragraphs
20 21-25, 27, 48-56, 80-88, 90-92, 95-97, 99, and 106 of Apple's Amended Complaint.

21 The factual bases for Apple's claims of Federal Trade Dress Infringement and Federal
22 Trade Dress Dilution are described in paragraphs 14-16, 18-21, 23-24, 30-68, 80-84, 87, 95-97,
23 99-102 of Apple's Amended Complaint.

24 The factual bases for Apple's claims of Federal Trademark Infringement and Common
25 Law Trademark Infringement are described in paragraphs 13-16, 18-21, 23-24, 69-78, 104-105 of
26 Apple's Amended Complaint.

27 The factual bases for Apple's claims of infringement of the 'D790, 'D334, 'D305, 'D677,
28 'D889, 'D087, 'D270 patents are supported by paragraph 29 of Apple's Amended Complaint.

1 The factual bases for Apple's claims of infringement of the '002, '381, '607, '828, '915,
2 '891, '163, and '129 patents are described in paragraphs 26-28, and 94 of Apple's Amended
3 Complaint.

4 Additionally, in accordance with Federal Rule of Civil Procedure 33(d), Apple refers to
5 the following documents because the burden of deriving or ascertaining the answer to this
6 Interrogatory from the produced business records is substantially the same for Apple as for
7 Samsung: Apple's claim charts for the '002, '381, '607, '828, '915, '891, '163, and '129 patents
8 that Apple served on Samsung on August 26, 2011 pursuant to the Northern District of
9 California's Patent Local Rules.

10 To the extent this Interrogatory seeks the identification of the factual basis for Apple's
11 affirmative defenses and counterclaims that the Samsung Patents-in-Suit are invalid, Apple will
12 make those disclosures in accordance with the schedule set by the Court. To the extent this
13 Interrogatory seeks the identification of the factual basis for Apple's affirmative defenses and
14 counterclaims of non-infringement, Apple incorporates by reference its response to Interrogatory
15 No. 12. To the extent this Interrogatory seeks an identification of the factual basis for Apple's
16 remaining affirmative defenses and counterclaims, including its claims that Samsung has engaged
17 in anticompetitive conduct and unlawful business acts and practices as a result of, *inter alia*, its
18 failure to offer Apple a license to Samsung's claimed standards-essential patents on fair,
19 reasonable and non-discriminatory (FRAND) terms notwithstanding Samsung's FRAND
20 commitments, those facts are described at paragraphs 1-4 and 14-90 of Apple's Counterclaims in
21 Reply, which are incorporated herein by reference.

22 Apple's investigation is ongoing and Apple reserves the right to supplement this response
23 as this litigation progresses.

24 **INTERROGATORY NO. 15:**

25 IDENTIFY each person working for or on behalf of Apple who has ever analyzed use of
26 any APPLE PATENTS-IN-SUIT, APPLE TRADE DRESS or APPLE TRADEMARKS by
27 someone other than YOU, and the subject matter of their analysis.
28

1 **OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 15:**

2 Apple objects to the phrases “analyzed” and “analysis” as vague and ambiguous. Apple
3 objects to this Interrogatory as overbroad, unduly burdensome, and not reasonably calculated to
4 lead to the discovery of admissible evidence, especially to the extent that it seeks the
5 identification of every person who has ever performed an analysis of any of the patents,
6 trademarks, or trade dress at issue in this lawsuit without limitation to the products at issue in this
7 lawsuit. Apple objects to this Interrogatory as premature to the extent that it: (a) conflicts with
8 the schedule entered by the Court, (b) conflicts with the obligations imposed by the Federal Rules
9 of Civil Procedure, the Civil Local Rules and/or the Patent Local Rules of this Court, and/or any
10 other applicable rule; (c) seeks information that is the subject of expert testimony; (d) seeks
11 information and/or responses that are dependent on the Court’s construction of the asserted claims
12 of the patents-in-suit; or (e) seeks information and/or responses that are dependent on depositions
13 and documents that have not been taken or produced. Apple objects to this Interrogatory to the
14 extent it seeks information that requires the disclosure of information, documents, and things
15 protected from disclosure by the attorney-client privilege, work product doctrine, common
16 interest doctrine, joint defense privilege, or any other applicable privilege, doctrine, or immunity.

17 Subject to and incorporating its General Objections and its specific objections, Apple
18 responds as follows:

19 **REDACTED**
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1 **INTERROGATORY NO. 16:**

2 IDENTIFY all facts RELATING TO studies, including formal or informal analysis,
3 investigation, surveys, focus groups, consumer research, or other information or reports that relate
4 to, support, or refute YOUR claims in this action, including, for each such study, when it was
5 commissioned, conducted, and completed, by whom it was conducted, and its conclusions.

6 **OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 16:**

7 Apple objects to the phrases “all facts RELATING TO studies” and “formal or informal
8 analysis” as vague and ambiguous. Apple objects to this Interrogatory as overbroad, unduly
9 burdensome, and not reasonably calculated to lead to the discovery of admissible evidence,
10 especially because it requests the identification of “all facts RELATING TO . . . analysis,
11 investigation . . . or other information or reports that relate to . . . YOUR claims.” Apple objects
12 to this Interrogatory as premature to the extent that it: (a) conflicts with the schedule entered by
13 the Court, (b) conflicts with the obligations imposed by the Federal Rules of Civil Procedure, the
14 Civil Local Rules, and/or any other applicable rule; (c) seeks information that is the subject of
15 expert testimony; or (d) seeks information and/or responses that are dependent on depositions and
16 documents that have not been taken or produced. Apple objects to this Interrogatory to the extent
17 it seeks information that: (i) requires the disclosure of information, documents, and things
18 protected from disclosure by the attorney-client privilege, work product doctrine, common
19 interest doctrine, joint defense privilege, or any other applicable privilege, doctrine, or immunity;
20 (ii) is outside of Apple’s possession, custody, or control; or (iii) can be obtained as easily by
21 Samsung, is already in Samsung’s possession, or is publicly available.

22 Subject to and incorporating its General Objections and its specific objections, Apple
23 responds as follows: Apple will meet and confer with Samsung to determine the scope of this
24 Interrogatory.

25 **INTERROGATORY NO. 17:**

26 Describe all instances known to YOU of confusion, including mistake, or deception
27 RELATING TO any of the APPLE TRADE DRESS or APPLE TRADEMARKS. For each
28 instance described, your response should include when and how you became aware of the

1 instance, when the instance occurred, all persons with knowledge of such instance, the source of
2 their knowledge, the circumstances reflecting the confusion, the IDENTITY of the SAMSUNG
3 ACCUSED PRODUCT allegedly giving rise to the confusion, the IDENTITY of all confused
4 persons, and the IDENTITY of all DOCUMENTS and things supporting or refuting your
5 response to this Interrogatory.

6 **OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 17:**

7 Apple objects to this Interrogatory as overbroad, unduly burdensome, and not reasonably
8 calculated to lead to the discovery of admissible evidence, especially to the extent that it is
9 seeking information regarding confusion between Apple's trademarks and trade dress and third-
10 party products. Apple objects to this Interrogatory as premature to the extent that it: (a) conflicts
11 with the schedule entered by the Court, (b) conflicts with the obligations imposed by the Federal
12 Rules of Civil Procedure, the Civil Local Rules, and/or any other applicable rule; (c) seeks
13 information that is the subject of expert testimony; or (d) seeks information and/or responses that
14 are dependent on depositions and documents that have not been taken or produced. Apple objects
15 to this Interrogatory to the extent it seeks information that: (i) requires the disclosure of
16 information, documents, and things protected from disclosure by the attorney-client privilege,
17 work product doctrine, common interest doctrine, joint defense privilege, or any other applicable
18 privilege, doctrine, or immunity; (ii) would require Apple to draw a legal conclusion to respond;
19 or (iii) can be obtained as easily by Samsung, is already in Samsung's possession, or is publicly
20 available.

21 Subject to and incorporating its General Objections and its specific objections, Apple
22 responds as follows:

23 Apple has not yet completed an investigation of confusion, including mistake or
24 deception, relating to any Samsung's infringement of the Original iPhone Trade Dress; iPhone 3G
25 Trade Dress; iPhone 4 Trade Dress; iPhone Trade Dress; the trade dress shown in the Trade Dress
26 Registrations; the iPad Trade Dress; the iPad 2 Trade Dress; the trade dress shown in the Trade
27 Dress Applications; the Registered Icon Trademarks; the Purple iTunes Store Trademark; the
28 iTunes Eighth Note and CD Design Trademark. Apple will supplement its response once its

1 investigations are completed. Apply will also provide information on this topic during expert
2 discovery.

3 **INTERROGATORY NO. 18:**

4 IDENTIFY all facts supporting your contentions regarding the fame, distinctiveness,
5 secondary meaning, and/or strength of the APPLE TRADE DRESS and APPLE
6 TRADEMARKS.

7 **OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 18:**

8 Apple objects to this Interrogatory as overbroad, unduly burdensome, and not reasonably
9 calculated to lead to discovery of admissible evidence, especially because it requests the
10 identification of “all facts.” Apple objects to this Interrogatory as premature to the extent that it:
11 (a) conflicts with the schedule entered by the Court, (b) conflicts with the obligations imposed by
12 the Federal Rules of Civil Procedure, the Civil Local Rules, and/or any other applicable rule; (c)
13 seeks information that is the subject of expert testimony; or (d) seeks information and/or
14 responses that are dependent on depositions and documents that have not been taken or produced.
15 Apple objects to this Interrogatory to the extent it seeks information that: (i) is outside of Apple’s
16 possession, custody, or control; or (ii) can be obtained as easily by Samsung, is already in
17 Samsung’s possession, or is publicly available.

18 Subject to and incorporating its General Objections and its specific objections, Apple
19 responds as follows:

20 **REDACTED**
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27 Many of these advertisements feature the Registered Icon Trademarks, the Purple iTunes
28 Store Trademark, and the iTunes Eighth Note and CD Design as well. Apple’s advertisements for

1 its iPhone and iPad products appear in nationally circulated newspapers and magazines, on
2 national primetime television broadcasts, and on transit stops, billboards, and street media in
3 major cities across the United States.

4 Apple also owns its Trade Dress Registrations, the Registration Icon Trademarks, and the
5 iTunes Eighth Note and CD Design registration.

6 The Original iPhone Trade Dress, the trade dress shown in the Trade Dress Registrations,
7 and the trademarks shown in U.S. Registration Nos. 3,886,196, 3,889,642, 3,886,200, 3,889,685,
8 and 3,886,169 have been in use in commerce since June 29, 2007; the iPhone 3G Trade Dress has
9 been in use since July 11, 2008; the iPhone 4 Trade Dress has been in use since June 24, 2010;
10 and the iPhone Trade Dress has been in use since June 29, 2007. The iPad Trade Dress and the
11 trade dress shown in U.S. Application Serial Nos. 77/921,838, 77/921,829, and 77/921,869 have
12 been in use since April 3, 2010, and the iPad 2 Trade Dress has been in use since March 11, 2011.
13 The trade dress shown in the Trade Dress Registrations has been in use since June 29, 2007. The
14 trade dress shown in U.S. Application Serial No. 85/299,118 has been in use since June 24, 2010.
15 The trademark shown in U.S. Registration No. 3,886,197 has been in use since June 19, 2009.
16 The Purple iTunes Store Trademark has been in use since June 2008. The iTunes Eighth Note
17 and CD Design Trademark has been in use since January 9, 2001.

18 Dated: September 12, 2011

MORRISON & FOERSTER LLP

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21 By: /s/ Richard S.J. Hung
RICHARD S.J. HUNG

22 Attorneys for Plaintiff
23 APPLE INC.