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 14 Attorneys for SAMSUNG ELECTRONICS CO.,
 LTD., SAMSUNG ELECTRONICS AMERICA,
 15 INC. and SAMSUNG
 TELECOMMUNICATIONS AMERICA, LLC
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17 UNITED STATES DISTRICT COURT
 18 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION
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20 APPLE INC., a California corporation,

21 Plaintiff,

22 vs.

23 SAMSUNG ELECTRONICS CO., LTD., a
 Korean business entity; SAMSUNG
 24 ELECTRONICS AMERICA, INC., a New
 York corporation; SAMSUNG
 25 TELECOMMUNICATIONS AMERICA,
 LLC, a Delaware limited liability company,

26 Defendant.
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CASE NO. 11-cv-01846-LHK (PSG)

**DECLARATION OF JOBY MARTIN IN
 SUPPORT OF SAMSUNG'S OPPOSITION
 TO APPLE'S MOTION TO COMPEL**

Date: March 6, 2012
 Time: 10:00 a.m.
 Place: Courtroom 5, 4th Floor
 Judge: Hon. Paul S. Grewal

1 I, Joby Martin, declare as follows:

2 1. I am an associate in the law firm of Quinn Emanuel Urquhart & Sullivan, LLP,
3 counsel for Samsung Electronics Co., Ltd., Samsung Electronics America, Inc. and Samsung
4 Telecommunications America, LLC (collectively, “Samsung”). I submit this declaration in
5 support of Samsung’s Opposition to Apple’s Motion to Compel Timely Production of Foreign-
6 Language and Other Documents in Advance of Related Depositions (“Apple’s Motion to
7 Compel”). I have personal knowledge of the facts set forth in this declaration, except as
8 otherwise noted, and, if called upon as a witness, I could and would testify to such facts under
9 oath.

10 2. Apple has repeatedly failed to produce its deposition-related documents at least
11 five days – and in many cases not even three days – in advance of the corresponding depositions
12 of its employees.

13 3. For example, the deposition of Apple’s Brian Land occurred on October 20,
14 2011. After the deposition was over, Apple produced additional documents sourced to him that
15 were relevant to the ‘129 patent that had not been produced before the deposition.

16 4. Similarly, the deposition of Steven Christensen occurred on October 26, 2011,
17 but Apple produced documents sourced to him on October 24, just two days prior to the
18 deposition.

19 5. The deposition of Richard Williamson occurred on October 28, 2011, but Apple
20 produced documents sourced to him later that evening, after the conclusion of the deposition.

21 6. The deposition of Wayne Westerman occurred on October 31, 2011, but Apple
22 produced some documents pertaining to him on October 28, 2011.

23 7. Indeed, just today, Apple produced more than 17,000 pages of documents
24 sourced to Richard Dinh, who is scheduled to be deposed by Samsung *tomorrow*, February 16.
25 Samsung did not receive the hard copies of these documents until 9:50 p.m.

26 8. For Apple witness John Ternus, Apple produced just 36 documents less than four
27 days in advance of his February 10, 2012 deposition. Apple’s production was devoid of even a
28

1 single email sent to or from Mr. Ternus, and none of the documents produced by Apple appear
2 to be authored by Mr. Ternus.

3 9. In collecting documents from its inventors prior to their depositions in October
4 2011, Apple ran improperly narrow date restrictions. After numerous meet and confer efforts,
5 Apple finally agreed to correct this deficiency. Thereafter, Apple produced substantially more
6 relevant documents regarding its inventors, who had already been deposed.

7 10. More specifically, for 28 of the Apple witnesses who have been deposed thus far,
8 Apple has produced a substantial number of documents *after* the related deposition occurred. In
9 many instances, Apple did not complete its production for its deponent custodians until months
10 after the deposition. Apple's late productions are set forth in the chart below:

Deponent	Deposition Date	Date Samsung Received Apple's Late Productions	Number of Days <i>after</i> the deposition that Apple last produced custodial documents
John Elias	Oct. 13, 2011	Dec. 19, 2011	111
		Feb. 2, 2012	
Steven LeMay	Oct. 14, 2011	Dec. 16, 2011	111
		Dec. 20, 2011	
		Dec. 22, 2011	
		Feb. 3, 2012	
Imran Chaudhri	Oct. 14, 2011	Dec. 20, 2011	109
		Dec. 30, 2011	
		Jan. 12, 2012	
		Jan. 20, 2012	
		Jan. 31, 2012	
Chris Blumenberg	Oct. 14, 2011	Dec. 30, 2011	111
		Feb. 2, 2012	
Scott Herz	Oct. 14, 2011	Dec. 16, 2011	112
		Dec. 30, 2011	
		Feb. 2, 2012	
		Feb. 3, 2012	
Freddy Anzures	Oct. 18, 2011	Dec. 16, 2011	96
		Dec. 19, 2011	
		Dec. 22, 2011	
		Dec. 30, 2011	
		Jan. 22, 2012	
Greg Christie	Oct. 18, 2011	Feb. 3, 2012	107
Peter Russell-Clarke	Oct. 20, 2011	Dec. 30, 2011	105
		Feb. 2, 2012	
		Feb. 3, 2012	
Brian Land	Oct. 20, 2011	Oct. 21, 2011	84

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Deponent	Deposition Date	Date Samsung Received Apple's Late Productions	Number of Days after the deposition that Apple last produced custodial documents
		Dec. 16, 2011	
		Dec. 20, 2011	
		Jan. 12, 2012	
Joshua Strickon	Oct. 20, 2011	Dec. 30, 2011	71
Steve Hotelling	Oct. 21, 2011	Dec. 16, 2011	104
		Dec. 20, 2011	
		Dec. 22, 2011	
		Jan. 12, 2012	
		Jan. 20, 2012	
		Feb. 2, 2012	
		Feb. 3, 2012	
Rico Zorkendorfer	Oct. 21, 2011	Dec. 20, 2011	104
		Dec. 30, 2011	
		Feb. 3, 2011	
Daniele De Lullis	Oct. 21, 2011	Dec. 16, 2011	91
		Dec. 20, 2011	
		Dec. 30, 2011	
		Jan. 20, 2012	
Matt Rohrbach	Oct. 24, 2011	Dec. 30, 2011	101
		Feb. 2, 2012	
Bas Ording	Oct. 25, 2011	Dec. 16, 2011	101
		Dec. 19, 2011	
		Dec. 20, 2011	
		Dec. 30, 2011	
		Feb. 3, 2012	
Andre Boule	Oct. 26, 2011	Dec. 30, 2011	100
		Feb. 3, 2012	
Marcel Van Os	Oct. 26, 2011	Dec. 16, 2011	97
		Dec. 30, 2011	
		Jan. 31, 2012	
Duncan Kerr	Oct. 26, 2011	Dec. 16, 2011	100
		Dec. 20, 2011	
		Dec. 22, 2011	
		Dec. 30, 2011	
		Feb. 2, 2012	
		Feb. 3, 2012	
Bartley Andre	Oct. 26, 2011	Dec. 22, 2011	99
		Dec. 30, 2011	
		Jan. 9 2012	
		Feb. 2, 2012	
Scott Forstall	Oct. 27, 2011	Dec. 20, 2011	99
		Dec. 30, 2011	
		Jan. 31, 2012	
		Feb. 3, 2012	
Daniel Coster	Oct. 27, 2011	Dec. 30, 2011	98

Deponent	Deposition Date	Date Samsung Received Apple's Late Productions	Number of Days <i>after</i> the deposition that Apple last produced custodial documents
		Feb. 2, 2012	
Eugene Whang	Oct. 27, 2011	Dec. 16, 2011 Dec. 30, 2011	64
Richard Williamson	Oct. 28, 2011	Dec. 16, 2011 Dec. 19, 2011 Dec. 20, 2011 Dec. 30, 2011 Feb. 2, 2012 Feb. 3, 2012	98
Richard Howarth	Oct. 31, 2011	Dec. 16, 2011 Dec. 20, 2011 Dec. 30, 2011 Jan. 12, 2012 Jan. 20, 2012 Feb. 2, 2012 Feb. 3, 2012	95
Wayne Westerman	Oct. 31, 2011	Dec. 16, 2011 Dec. 19, 2011 Dec. 20, 2011 Dec. 30, 2011 Jan. 20, 2012	82
Chris Stringer	Nov. 4, 2011	Dec. 16, 2011 Dec. 22, 2011	48
Douglas Satzger	Nov. 8, 2011	Dec. 30, 2011	52
Sir Jonathan Paul Ive	Dec. 1, 2011	Dec. 16, 2011 Dec. 30, 2011	29

11. Apple has produced at least 74,000 pages of documents sourced to custodians whose depositions took place at least two weeks prior those productions.¹

12. For at least nine inventors —Scott Herz, Andre Boule, Imran Chaudhri, Bart Andre, Freddy Anzures, Duncan Kerr, Wayne Westerman, Daniel Coster, and Peter Russell-Clarke—Apple has produced more documents sourced to those inventors *after* their depositions than it produced *before* their depositions.

¹ By contrast, documents were produced from the custodial files of a Samsung deponent after the deposition took place in only three instances, two of which involved discovery disputes unrelated to depositions.

1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct.

3 Executed on February 15, 2012, at San Francisco, California.

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/s/ Joby Martin
Joby Martin