

1 Pursuant to Federal Rule of Civil Procedure 37 and 30, and this Court’s inherent authority,
2 Apple Inc. (“Apple”) has moved for an order compelling the depositions of Samsung Electronics
3 Co., Ltd.’s, Samsung Electronics America, Inc.’s, and Samsung Telecommunications America’s,
4 LLC (collectively, “Samsung’s”) witnesses listed below. Having considered the arguments of the
5 parties and the papers submitted, and GOOD CAUSE HAVING BEEN SHOWN, the Court
6 hereby GRANTS Apple’s Motion to Compel Depositions of 14 of Samsung’s Purported “Apex”
7 Witnesses.

8 Samsung originally objected to the depositions of 23 Samsung employees, contending that
9 these individuals were “apex” witnesses whose depositions would be improper. Apple
10 subsequently withdrew notices for six of those witnesses and Samsung withdrew its objections to
11 another three, leaving fourteen at issue. These witnesses were primarily vice presidents in charge
12 of various Samsung divisions, in addition to a few higher-level executives. The Court finds that
13 these witnesses have unique, firsthand, non-repetitive knowledge of facts and events relevant to
14 Apple’s case. Apple has produced for deposition numerous high-level employees at comparable
15 levels of the 14 witnesses at issue.

16 For the reasons detailed in Apple’s motion and supporting declarations and exhibits, the
17 “apex” deposition rule does not apply to these witnesses. There is substantial evidence that these
18 witnesses were actively involved in detailed, hands-on decision-making at Samsung concerning
19 key issues in this case. The same evidence also shows that these witnesses possess knowledge or
20 viewpoints unique, or at least better than, the witnesses previously deposed. Moreover, Apple has
21 exhausted other, less intrusive means of discovery. Samsung has not shown any legitimate basis
22 to prevent Apple from taking these depositions.

23 Although Apple gave timely notice of these depositions and sought to take them well in
24 advance of the discovery cut-off during times when its attorneys would be in Korea taking other
25 depositions, Samsung’s refusal to produce these witnesses cost Apple the chance to take these
26 depositions during those times. The Court finds that Apple would be prejudiced if it now had to
27 send teams of attorneys to Korea for perhaps multiple depositions per day, in a compressed
28 timetable due to the upcoming discovery cut-off on March 8.

1 Accordingly, the Court ORDERS Samsung to provide dates, earlier than the close of fact
2 discovery on March 8, 2012, for the depositions of the following 14 Samsung witnesses to take
3 place in the Bay Area:

- 4 1. Seungho Ahn
- 5 2. Dong Hoon Chang
- 6 3. Joseph (Joon Kyo) Cheong
- 7 4. Jaewan Chi
- 8 5. Seunghwan Cho
- 9 6. Gee Sung Choi
- 10 7. Minhyung Chung
- 11 8. Won-Pyo Hong
- 12 9. Heonbae Kim
- 13 10. Dong Jin Koh
- 14 11. Ken Korea
- 15 12. Seung Gun Park
- 16 13. Jong-Kyun Shin
- 17 14. Dale Sohn

18 **IT IS SO ORDERED.**

19
20 Dated: February _____, 2012

Honorable Paul S. Grewal
United States Magistrate Judge