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10 Attorneys for Plaintiff
 APPLE INC.

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

15 APPLE INC., a California corporation,
 16 Plaintiff,
 17 v.
 18 SAMSUNG ELECTRONICS CO., LTD., a
 Korean corporation; SAMSUNG
 19 ELECTRONICS AMERICA, INC., a New
 York corporation; and SAMSUNG
 20 TELECOMMUNICATIONS AMERICA,
 LLC, a Delaware limited liability company,
 21 Defendants.
 22

Case No. 11-cv-01846-LHK

JURY TRIAL DEMAND

**AMENDED COMPLAINT FOR
 FEDERAL FALSE DESIGNATION
 OF ORIGIN AND UNFAIR
 COMPETITION, FEDERAL
 TRADEMARK INFRINGEMENT,
 FEDERAL TRADE DRESS
 DILUTION, STATE UNFAIR
 BUSINESS PRACTICES,
 COMMON LAW TRADEMARK
 INFRINGEMENT, UNJUST
 ENRICHMENT, AND PATENT
 INFRINGEMENT**

1 Plaintiff Apple Inc. (“Apple”) complains and alleges as follows against Defendants
2 Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung
3 Telecommunications America, LLC (collectively “Samsung”).

4 **THE NATURE OF THE ACTION**

5 1. Apple revolutionized the telecommunications industry in 2007 when it introduced
6 the wildly popular iPhone, a product that dramatically changed the way people view mobile
7 phones. Reviewers, analysts and consumers immediately recognized the iPhone as a “game
8 changer.” Before the iPhone, cell phones were utilitarian devices with key pads for dialing and
9 small, passive display screens that did not allow for touch control. The iPhone was radically
10 different. In one small and lightweight handheld device, it offered sophisticated mobile phone
11 functions, a multi-touch screen allowing users to control the phone with their fingers, music
12 storage and playback, a mobile computing platform for handheld applications, and full access to
13 the Internet. These features were combined in an elegantly designed minimalist product with a
14 distinctive user interface, icons, and eye-catching displays that gave the iPhone an unmistakable
15 look.

16 2. Those design features were carried over to the iPod touch, another product that
17 Apple introduced in 2007. The iPod touch has a product configuration and physical appearance
18 that is a further iteration of the iPhone product design. Moreover, the iPod touch utilizes the same
19 user interface icons and screen layout as the iPhone, displaying the unmistakable iPhone
20 appearance.

21 3. Apple introduced another revolutionary product, the iPad, in 2010. The iPad is an
22 elegantly designed computer tablet with a color touch screen, a user interface reminiscent of the
23 iPhone’s user interface, and robust functionality that spans both mobile computing and media
24 storage and playback. Because of its innovative technology and distinctive design, the iPad
25 achieved instant success.

26 4. Apple’s creative achievements have resulted in broad intellectual property
27 protection for Apple’s innovations, including utility and design patents, trademarks, and trade
28 dress protection. Nevertheless, Apple’s innovations have been the subject of emulation by its

1 competitors, who have attempted to catch up with Apple's innovative products. Samsung has
2 been even bolder, creating products that blatantly imitate the appearance of Apple's products to
3 capitalize on Apple's success. For example, Samsung recently introduced the Galaxy line of
4 mobile phones and computer tablets, all of which use the Google Android software platform, to
5 compete with the iPhone and iPad. Instead of pursuing independent product development,
6 Samsung has chosen to slavishly copy Apple's innovative technology, distinctive user interfaces,
7 and elegant and distinctive product and packaging design, in violation of Apple's valuable
8 intellectual property rights. As alleged below in detail, Samsung has made its Galaxy phones and
9 computer tablets work and look like Apple's products through widespread patent, trademark, and
10 trade dress infringement. Samsung has even copied Apple's distinctive product packaging.

11 5. By this action, Apple seeks to put a stop to Samsung's illegal conduct and obtain
12 compensation for the violations that have occurred thus far.

13 **THE PARTIES**

14 6. Apple is a California corporation having its principal place of business at 1 Infinite
15 Loop, Cupertino, California 95014.

16 7. Samsung Electronics Co., Ltd. (referred to individually herein as "SEC") is a
17 Korean corporation with its principal offices at 250, 2-ga, Taepyong-ro, Jung-gu, Seoul, 100-742,
18 South Korea. On information and belief, SEC is South Korea's largest company and one of
19 Asia's largest electronics companies. SEC designs, manufactures, and provides to the U.S. and
20 world markets a wide range of products, including consumer electronics, computer components,
21 and myriad mobile and entertainment products.

22 8. Samsung Electronics America, Inc. (referred to individually herein as "SEA") is a
23 New York corporation with its principal place of business at 105 Challenger Road, Ridgefield
24 Park, New Jersey 07660. On information and belief, SEA was formed in 1977 as a subsidiary of
25 SEC and markets, sells, or offers for sale a variety of consumer electronics, including TVs,
26 VCRs, DVD and MP3 players, and video cameras, as well as memory chips and computer
27 accessories, such as printers, monitors, hard disk drives, and DVD/CD-ROM drives. On
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1 information and belief, SEA also manages the North American operations of Samsung
2 Telecommunications America, Samsung Electronics Canada, and Samsung Electronics Mexico.

3 9. Samsung Telecommunications America, LLC (referred to individually herein as
4 “STA”) is a Delaware limited liability company with its principal place of business at 1301 East
5 Lookout Drive, Richardson, Texas 75081. On information and belief, STA was founded in 1996
6 as a subsidiary of SEC and markets, sells, or offers for sale a variety of personal and business
7 communications devices in the United States, including cell phones.

8 **JURISDICTION**

9 10. This Court has subject matter jurisdiction under 15 U.S.C. § 1121 (action arising
10 under the Lanham Act); 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1338(a) (any Act of
11 Congress relating to patents or trademarks); 28 U.S.C. § 1338(b) (action asserting claim of unfair
12 competition joined with a substantial and related claim under the trademark laws); and 28 U.S.C.
13 § 1367 (supplemental jurisdiction).

14 11. This Court has personal jurisdiction over SEC, SEA, and STA because each of
15 these Samsung entities has committed and continues to commit acts of infringement in violation
16 of 35 U.S.C. § 271 and 15 U.S.C. §§ 1114, 1125, and places infringing products into the stream
17 of commerce, with the knowledge or understanding that such products are sold in the State of
18 California, including in this District. The acts by SEC, SEA, and STA cause injury to Apple
19 within this District. Upon information and belief, SEC, SEA, and STA derive substantial revenue
20 from the sale of infringing products within this District, expect their actions to have consequences
21 within this District, and derive substantial revenue from interstate and international commerce.

22 **VENUE AND INTRADISTRICT ASSIGNMENT**

23 12. Venue is proper within this District under 28 U.S.C. §§ 1391(b),(c) because
24 Samsung transacts business within this District and offers for sale in this District products that
25 infringe the Apple patents, trade dress, and trademarks. In addition, venue is proper because
26 Apple’s principal place of business is in this District and Apple suffered harm in this District.
27 Moreover, a substantial part of the events giving rise to the claim occurred in this District.
28 Pursuant to Local Rule 3-2(c), intellectual property actions are assigned on a district-wide basis.

1 **BACKGROUND**

2 **APPLE'S INNOVATIONS**

3 13. Apple is a leading designer and manufacturer of handheld mobile devices,
4 personal computers, and portable media players. As a result of its significant investment in
5 research and development, Apple has developed innovative technologies that have changed the
6 face of the computer and telecommunications industries. One such pioneering technology is
7 Apple's Multi-Touch™ user interface, which allows users to navigate their iPhone, iPod touch,
8 and iPad devices by tapping and swiping their fingers on the screen.

9 14. In 2007, Apple revolutionized the telecommunications industry when it introduced
10 the iPhone. The iPhone combined in one small and lightweight handheld device sophisticated
11 mobile phone functions, media storage and playback, the Multi-Touch user interface, mobile
12 computing power to run diverse pre-installed and downloadable applications, and functionality to
13 gain full access to the Internet. These features were combined in an elegant glass and metal case
14 with a distinctive user interface that gave the iPhone an immediately recognizable look.

15 15. As a direct result of its innovative and distinctive design and its cutting edge
16 technological features, the iPhone was an instant success, and its appearance immediately became
17 uniquely associated with Apple as its source. Reviewers and analysts universally praised the
18 iPhone for its “game changing” features. *Time* magazine listed the iPhone number one on its List
19 of Top Ten Gadgets for 2007, noting that “[t]he iPhone changed the way we think about how
20 mobile media devices should look, feel and perform.” *The New York Times* called it
21 “revolutionary.” Apple subsequently introduced the iPhone 3G, the iPhone 3GS, and iPhone 4.
22 As of March 2011, more than 108 million iPhones had been sold worldwide.

23 16. While the iPhone was an instant success, there was nothing instant about the
24 design process. Over the course of several years, Apple had teams of people working on
25 developing each aspect of the design of the phone itself — the shape of the phone, the materials
26 used, and the size and placement of the mask that frames the screen — as well as the Multi-Touch
27 user interface, to make a product that looked and felt entirely different from prior phones on the
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1 market. The end result was a very clean shape for the phone, with an entirely flat glass panel for
2 the front, gently rounded corners and integrated casing, and intuitive touch features.

3 17. Before Apple's introduction of the first iPhone product, no other company was
4 offering a phone with these features. Prior mobile phones were often bulkier and contained
5 physical keypads. Some had a rocker-style navigation button and sets of buttons for numbers and
6 calling features. Others had a front panel with a partial or full QWERTY keyboard and a screen.
7 None had the clean lines of the iPhone, which immediately caused it to stand apart from the
8 competition.

9 18. Also in 2007, Apple launched the iPod touch, a widescreen, touch-controlled iPod
10 that is great for playing video and running third-party software applications, among other things.
11 The iPod touch incorporated the distinct style of the iPhone and also became an immediate
12 success. By March 2011, Apple had sold over 60 million iPod touch units.

13 19. After introducing the iPhone mobile phone and iPod touch media player, Apple
14 continued to innovate and achieve success with a series of pioneering designs — more
15 sophisticated, advanced versions of the iPhone, and then, in 2010, the iPad. The iPad is a tablet
16 computer with a color 9.7-inch touch screen that allows users to manipulate icons and data with
17 their fingers in the same fashion as the iPhone and iPod touch screens. Reviewers and analysts
18 immediately recognized the iPad as a revolutionary product, describing it as a “winner” and a
19 “new category of device” that would “replace laptops for many people.” In its first 80 days on
20 the market, Apple sold 3 million iPads. By March 2011, Apple had sold over 19 million iPads.

21 20. No computer product that preceded the iPad looked like the iPad. Instead, the
22 iPad's design was built upon design elements in other Apple products — namely, the iPhone and
23 the iPod touch, thereby extending elements of the unique and innovative Apple design and trade
24 dress to a new product — tablet computers.

25 21. Apple's iPhone, iPad, and iPod touch products have been extensively advertised
26 throughout the United States in virtually every media outlet, including network and syndicated
27 television, the Internet, billboards, magazines, and newspapers — with the vast majority of the
28 advertisements featuring photographs of the distinctive design of these products. Apple's

1 advertising expenditures for these products for fiscal years 2007-2010 were in excess of \$2
2 billion.

3 22. In addition, Apple's iPhone, iPod touch, and iPad products have received
4 unsolicited comments and attention in print and broadcast media throughout the world. Each new
5 generation of these Apple products is the subject of positive commentary and receives unsolicited
6 praise from independent media commentators. Frequently, the unsolicited commentaries are
7 accompanied by images of the iPhone, iPad, and iPod touch products. For example, images of
8 the iPhone appeared on the front pages of *The New York Times* and *USA Today* when the product
9 was first announced in January 2007, and was prominently featured again in both publications
10 when the product went on sale in June 2007. Images of the iPad similarly appeared on the front
11 pages or lead sections of *The New York Times*, *The Wall Street Journal*, and *USA Today* when
12 Apple announced the product in January 2010, and also appeared on the front pages of *The New*
13 *York Times* and *USA Today* when the product went on sale in April 2010. The iPad product was
14 also the subject of cover stories in *Time* and *Newsweek*, with an image of the product appearing
15 on the cover of *Newsweek*.

16 23. The Apple iPhone, iPod touch, and iPad product designs have come to represent
17 and symbolize the superb quality of Apple's products and enjoys substantial goodwill among
18 consumers. The iPad, iPhone, and iPod touch products have garnered widespread acclaim for
19 their unique product designs and outstanding performance. *Time* magazine named the iPad one of
20 the 50 Best Inventions of the Year 2010, *Popular Science* heralded it as the Top Tablet in its Best
21 of What's New 2010 feature, and the popular technology blog Engadget selected the device as
22 both the 2010 Editors' Choice Gadget of the Year and Tablet of the Year. In addition, the iPad
23 received a 2010 Red Dot Award for Product Design and was nominated for the 2010 People's
24 Design Award.

25 24. In addition to the recognition described above, the iPhone products have received
26 many other awards, including a 2008 Design and Art Direction (D&AD) "Black Pencil" award, a
27 2008 International Forum (iF) Product Design Award, and the 2008 International Design
28 Excellence Award (IDEA) Best in Show. More recently, Engadget named the iPhone 4 the 2010

1 Editors' Choice Phone of the Year, and the device received the Best Mobile Device award at the
2 Mobile World Congress in February 2011. Engadget also included the iPhone in its feature on
3 the 10 Gadgets That Defined the Decade. The iPod touch won the 2008 D&AD "Yellow Pencil"
4 award as well as the 2008 iF Product Design Award.

5 25. On May 8, 2011, Apple topped the BrandZ Top 100 ranking of the most valuable
6 global brands, with an 84 percent year-over-year increase in brand value. The increase in brand
7 value was attributed to "successful iterations of existing products like the iPhone, creation of the
8 tablet category with iPad, and anticipation of a broadened strategy making the brand a trifecta of
9 cloud computing, software, and innovative, well-designed devices."

10 **APPLE'S INTELLECTUAL PROPERTY RIGHTS**

11 **Apple's Utility Patents**

12 26. Apple has protected its innovative designs and cutting-edge technologies through a
13 broad range of intellectual property rights. Among those rights are the utility patents listed
14 below. Apple's utility patents cover many of the elements that the world has come to associate
15 with Apple's mobile devices. These include patents covering fundamental features of the Multi-
16 Touch™ user interface that enable Apple's devices to understand user gestures and to respond by
17 performing a wide variety of functions, such as selecting, scrolling, pinching, and zooming.

18 27. In addition, Apple has patented many of the individual features that together add
19 up to the high-quality experience that users have come to associate with Apple products. Apple's
20 innovations — ranging from the arrangement of text messages on the screen, to the way images
21 and documents appear to "bounce back" when the user scrolls too far down, to movement of the
22 buttons — have been recognized by the United States Patent and Trademark Office as patent-
23 worthy contributions to the art.

24 28. Among the patents that Apple has been awarded are the patents listed below,
25 attached as Exhibits 1-8, to which Apple owns all rights, title, and interest.

| 27 Patent Number | Title |
|---------------------------------|--|
| 28 7,812,828 (the "828 Patent") | Ellipse Fitting for Multi-Touch Surfaces |

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| Patent Number | Title |
|------------------------------|---|
| 6,493,002 (the “002 Patent”) | Method and Apparatus for Displaying and Accessing Control and Status Information in a Computer System |
| 7,469,381 (the “381 Patent”) | List Scrolling and Document Translation, Scaling and Rotation on a Touch-Screen Display |
| 7,844,915 (the “915 Patent”) | Application Programming Interfaces for Scrolling Operations |
| 7,853,891 (the “891 Patent”) | Method and Apparatus for Displaying a Window for a User Interface |
| 7,663,607 (the “607 Patent”) | Multipoint Touchscreen |
| 7,864,163 (the “163 Patent”) | Portable Electronic Device, Method, and Graphical User Interface for Displaying Structured Electronic Documents |
| 7,920,129 (the “129 Patent”) | Double-Sided Touch-Sensitive Panel With Shield And Drive Combined Layer |

Apple’s Design Patents

29. Apple also has protected its innovative designs through design patents issued by the United States Patent and Trademark Office. The Apple design patents cover the unique and novel ornamental appearance of Apple’s devices, which include features such as the black face, bezel, the matrix of application icons, and a rim surrounding a flat screen. Apple owns all rights, title, and interest in and to each of the asserted design patents listed below, copies of which are attached as Exhibits 9-15.

| Patent Number | Title |
|------------------------------|--|
| D627,790 (the “D790 Patent”) | Graphical User Interface For a Display Screen or Portion Thereof |
| D617,334 (the “D334 Patent”) | Graphical User Interface For a Display Screen or Portion Thereof |
| D604,305 (the “D305 Patent”) | Graphical User Interface For a Display Screen or Portion Thereof |

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Patent Number

Title

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|------------------------------|-------------------|
| D593,087 (the “D087 Patent”) | Electronic Device |
| D618,677 (the “D677 Patent”) | Electronic Device |
| D622,270 (the “D270 Patent”) | Electronic Device |
| D504,889 (the “D889 Patent”) | Electronic Device |

Apple’s Trade Dress

30. Apple holds trade dress protection in the design, appearance, and distinctive user interfaces of the iPhone, the iPod touch, and the iPad products released to date.

iPhone Trade Dress

31. The iPhone design is radically different from the devices that preceded it. Many early phones had a rocker-style navigation button with sets of buttons for calling features and number dialing, while the first smart phones and PDA devices had a front panel with a partial or full QWERTY keyboard and a screen. The front panel typically was formed from the same material that was used for the back of the phone, or the phone may have had a clamshell design so that the screen could be closed over the keyboard.

32. In contrast, the iPhone had a distinctive shape and appearance — a rectangular product with four evenly rounded corners, a flat clear face covering the front of the product, a large display screen under the clear surface, substantial black borders above and below the display screen and narrower black borders on either side of the screen under the clear surface, a metallic bezel around the flat clear surface, and on the display when the device is turned on, a matrix of colorful square icons with evenly rounded corners and a bottom row (or “dock”) of colorful square icons set off from the other icons, which does not change as other pages of the user interface are viewed — which are the embodiment of Apple’s innovative iPhone user interface. The iPhone did not include a physical keyboard.

33. The combination of elements of the iPhone product design is distinctive and serves to identify Apple as the source of the iPhone products. These elements are not merely functional

1 and the overall product design is not required to achieve any particular function. Apple's
2 competitors have numerous options from which they can choose for their own product designs.

3 34. The end result is an elegant product that is more accessible, easier to use, and
4 much less technically intimidating than previously available smart phones and PDAs. The iPhone
5 product design immediately became closely associated with Apple.

6 **iPhone 3G Trade Dress**

7 35. The iPhone 3G product design included all of the elements of the iPhone trade
8 dress — a rectangular product with four evenly rounded corners, a flat clear face covering the
9 front of the product, a metallic bezel around the flat clear surface, a large display screen under the
10 clear surface, substantial black borders above and below the display screen and narrower black
11 borders on either side of the screen under the clear surface, and on the display when the device is
12 turned on, a matrix of colorful square icons with evenly rounded corners, and a bottom dock of
13 colorful square icons set off from the other icons, which does not change as other pages of the
14 user interface are viewed — and added a row of small dots on the display screen when the device
15 is turned on. The iPhone 3G product design, as shown below, immediately became closely
16 associated with Apple. Apple continues to use the design for its iPhone 3GS generation phone.



27 36. The combination of elements of the iPhone 3G product design is distinctive and
28 serves to identify Apple as the source of the iPhone 3G and iPhone 3GS products. Moreover,

1 these elements are not merely functional and the overall product design is not dictated by
2 function. Apple's competitors have many alternative product designs available to them.

3 **iPhone 4 Trade Dress**

4 37. The iPhone 4 product design also incorporates the elements of the iPhone and the
5 iPhone 3G trade dress — a rectangular product with four evenly rounded corners, a flat clear face
6 covering the front of the product, a large display screen under the clear surface, substantial neutral
7 (black or white) borders above and below the display screen and narrower neutral borders on
8 either side of the screen under the clear surface, and on the display when the device is turned on, a
9 row of small dots, a matrix of colorful square icons with evenly rounded corners, and a bottom
10 dock of colorful square icons with evenly rounded corners set off from the other icons, which
11 does not change as other pages of the user interface are viewed. The iPhone 4, however, has a
12 much flatter profile than previous versions of the iPhone. Moreover, there is a thin metallic band
13 around the outside edge of the phone, creating a thin rim adjacent to the face of the phone. The
14 result is a flatter-looking profile that is less rounded than previous iPhone products, as shown
15 below. The iPhone 4 product design immediately became closely associated with Apple.



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38. The combination of elements of the iPhone 4 product design is distinctive and serves to identify Apple as the source of the iPhone 4 products. These elements are not merely functional and the overall product design is not required to achieve any particular function. There are numerous alternatives available to Apple’s competitors for their product designs.

39. Extending its innovative style to its product packaging, Apple created an equally elegant and distinctive packaging for the iPhone products that have been available to date. The packaging features a compact black or black-and-white box with eye-catching metallic silver lettering on a matte black surface, and with the sides of the top of the box extending down to cover the bottom portion of the box completely. The outside of the box has a clean style — with minimal wording and a simple, prominent photograph of the iPhone product itself. The style carries over within the box — with the iPhone device cradled within a specially designed monochromatic display, so that the iPhone, and nothing else, is immediately visible when the box is opened. The accessories and instructional materials are hidden from view underneath the iPhone tray — emphasizing the accessible nature of the iPhone itself. The design entices purchasers to pick up the iPhone and try it out, without worrying that it is complicated.

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40. As with the product configuration itself, the combination of elements of the iPhone packaging is distinctive and serves to identify Apple as the source of the iPhone products. The overall packaging design is not required to achieve any particular function — and there are a plethora of alternative packaging options available to Apple’s competitors.

iPod touch Trade Dress

41. The iPod touch has a product configuration and physical appearance that builds upon the original iPhone design. It is a rectangular product with four evenly rounded corners, a flat clear face covering the front of the product, a large display screen under the clear surface, substantial black borders above and below the display screen and narrower black borders on either side of the screen under the clear surface, and on the display when the device is turned on, a row of small dots, a matrix of colorful square icons with evenly rounded corners within the display screen, and a bottom dock of colorful square icons with four evenly rounded corners set

1 off from the other icons, which does not change as other pages of the user interface are viewed —
2 a combination that is the embodiment of Apple’s innovative iPod touch user interface.

3 42. As shown below, the end result is a simple and elegant product that invites use.
4 Like the iPhone design, the iPod touch design immediately became closely associated with Apple.



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16 43. The combination of elements of the iPod touch product design is distinctive and
17 serves to identify Apple as the source of the iPod touch products. These elements are not merely
18 functional and the overall product design is not dictated by function. There are many alternative
19 product designs that Apple’s competitors can use.

20 **iPad Trade Dress**

21 44. Because it shares some trade dress elements with the iPhone products, the iPad
22 resembles a “grown-up iPhone.” It is a rectangular product with four evenly rounded corners, a
23 flat clear surface covering the front of the product, a metallic rim around the clear flat surface, a
24 large display screen under the clear surface, substantial neutral (black or white) borders on all
25 sides of the display screen under the clear surface, and when the device is turned on, a matrix of
26 colorful icons within the display screen. The overall iPad design has an extremely thin side
27 profile, which makes the product appear to be relatively flat when placed on a table. To highlight
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1 its distinctive shape of the back panel, Apple has featured the profile of the iPad 2 product in
2 thousands of advertisements.

3 **iPad**



13
14 **iPad 2**



1 **iPhone Trade Dress at Issue**

2 57. The following elements of Apple’s product designs comprise the “Apple iPhone
3 Trade Dress” at issue in this case:

- 4 • a rectangular product with four evenly rounded corners;
- 5 • a flat clear surface covering the front of the product;
- 6 • the appearance of a metallic bezel around the flat clear surface;
- 7 • a display screen under the clear surface;
- 8 • under the clear surface, substantial black borders above and below the display
9 screen and narrower black borders on either side of the screen;
- 10 • when the device is on, a matrix of colorful square icons with evenly rounded
11 corners within the display screen; and
- 12 • when the device is on, a bottom dock of colorful square icons with evenly rounded
13 corners set off from the other icons on the display, which does not change as other pages of the
14 user interface are viewed.

15 58. The Apple iPhone Trade Dress is embodied in the first generation iPhone product,
16 released in June 2007.

17 **iPhone 3G Trade Dress at Issue**

18 59. The following elements of Apple’s product designs comprise the “Apple iPhone
19 3G Trade Dress” at issue in this case:

- 20 • a rectangular product with four evenly rounded corners;
- 21 • a flat clear surface covering the front of the product;
- 22 • the appearance of a metallic bezel around the flat clear surface;
- 23 • a display screen under the clear surface;
- 24 • under the clear surface, substantial black borders above and below the display
25 screen and narrower black borders on either side of the screen;
- 26 • when the device is on, a row of small dots on the display screen;
- 27 • when the device is on, a matrix of colorful square icons with evenly rounded
28 corners within the display screen; and

1 • when the device is on, a bottom dock of colorful square icons with evenly rounded
2 corners set off from the other icons on the display, which does not change as other pages of the
3 user interface are viewed.

4 60. The Apple iPhone 3G Trade Dress is embodied in the iPhone 3G product, released
5 in July 2008, and the iPhone 3GS product, released in June 2009.

6 **iPhone 4 Trade Dress at Issue**

7 61. The following elements of Apple's product designs comprise the "Apple iPhone 4
8 Trade Dress" at issue in this case:

- 9 • a rectangular product with four evenly rounded corners;
- 10 • a flat clear surface covering the front of the product;
- 11 • a display screen under the clear surface;
- 12 • under the clear surface, substantial neutral (black or white) borders above and
13 below the display screen and narrower black borders on either side of the screen;
- 14 • a thin metallic band around the outside edge of the phone;
- 15 • when the device is on, a row of small dots on the display screen;
- 16 • when the device is on, a matrix of colorful square icons with evenly rounded
17 corners within the display screen; and
- 18 • when the device is on, a bottom dock of colorful square icons with evenly rounded
19 corners set off from the other icons on the display, which does not change as other pages of the
20 user interface are viewed.

21 62. The Apple iPhone 4 Trade Dress is embodied in the iPhone 4 product, released in
22 June 2010.

23 **iPhone/iPhone 3G/iPhone 4 Trade Dress at Issue**

24 63. The following elements of Apple's product designs comprise the "Apple iPhone
25 Trade Dress" at issue in this case:

- 26 • a rectangular product with four evenly rounded corners;
- 27 • a flat clear surface covering the front of the product;
- 28 • a display screen under the clear surface;

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

8 64. The Apple iPhone/iPhone 3G/iPhone 4 Trade Dress is embodied in the first
9 generation iPhone product (released in June 2007), the iPhone 3G product (released in July 2008),
10 the iPhone 3GS product (released in June 2009), and the iPhone 4 product (released in June
11 2010).

12 **iPad Trade Dress at Issue**

13 65. The following elements of Apple’s product designs comprise the “Apple iPad
14 Trade Dress” at issue in this case:

- 15 • a rectangular product with four evenly rounded corners;
- 16 • a flat clear surface covering the front of the product;
- 17 • the appearance of a metallic rim around the flat clear surface;
- 18 • a display screen under the clear surface;
- 19 • under the clear surface, substantial neutral (black or white) borders on all sides of
- 20 the display screen; and
- 21 • when the device is on, a matrix of colorful square icons with evenly rounded
- 22 corners within the display screen.

23 66. The Apple iPad Trade Dress is embodied in the first generation iPad product,
24 released in January 2010.

25 **iPad 2 Trade Dress at Issue**

26 67. The following elements of Apple’s product designs comprise the “Apple iPad 2
27 Trade Dress” at issue in this case:

- 28 • a rectangular product with four evenly rounded corners;

- 1 • a flat clear surface covering the front of the product;
- 2 • the appearance of a metallic rim around the clear flat surface;
- 3 • a display screen under the clear surface;
- 4 • under the clear surface, substantial neutral (black or white) borders on all sides of
- 5 the display screen; and
- 6 • when the device is on, a matrix of colorful square icons with evenly rounded
- 7 corners within the display screen.

8 68. The Apple iPad 2 Trade Dress is embodied in the iPad 2 product, released in

9 March 2011.

10 **Apple's Trademarks**

11 69. Apple has protectable trademark rights in various colorful square icons with

12 evenly rounded corners that have been used in the user interface in the iPhone, iPod touch, and

13 iPad products released to date.

14 70. U.S. Registration No. 3,886,196 covers an icon that is green in color with a white

15 silhouette of a phone handset arranged at a 45 degree angle and centered on the icon that

16 represents the application for making telephone calls:



22 Exhibit 23 is a true and correct copy of U.S. Registration No. 3,866,196.

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1 71. U.S. Registration No. 3,889,642 covers an icon that is green in color with a white
2 silhouette of a speech bubble centered on the icon that represents the application for messaging:



8 Exhibit 24 is a true and correct copy of U.S. Registration No. 3,889,642.

9 72. U.S. Registration No. 3,886,200 covers an icon featuring a yellow and green
10 sunflower against a light-blue background that represents the application for photos:



16 Exhibit 25 is a true and correct copy of U.S. Registration No. 3,866,200.

17 73. U.S. Registration No. 3,889,685 covers an icon that features gears against a gray
18 background that represents the application for settings:



24 Exhibit 26 is a true and correct copy of U.S. Registration No. 3,889,685.

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1 74. U.S. Registration No. 3,886,169 covers an icon that features a yellow notepad that
2 represents the application for notes:



8 Exhibit 27 is a true and correct copy of U.S. Registration No. 3,886,169.

9 75. U.S. Registration No. 3,886,197 is for the silhouette of a man on a spiral bound
10 address book that represents the icon for contacts:



16 Exhibit 28 is a true and correct copy of U.S. Registration No. 3,886,197.

17 76. Collectively, the application icons displayed in Paragraphs 70-75 represent
18 Apple's "Registered Icon Trademarks." Apple has used these Registered Icon Trademarks in
19 connection with its iPhone, iPod touch, and iPad products released to date.

20 77. To represent the iTunes application, Apple uses an icon w a purple background
21 color with a white circle and a silhouette of two white eighth notes within the white circle:



27 Pending U.S. Application Serial No. 85/041,463 covers this icon (the "Purple iTunes Store
28 Trademark"). Exhibit 29 is a true and correct copy of U.S. Application Serial No. 85/041,463.

1 corners, a flat clear face covering the front of the product, a large display screen under the clear
2 surface, substantial black borders above and below the display screen and narrower black borders
3 on either side of the screen under the clear surface, the appearance of a metallic bezel around the
4 flat clear surface, and on the display when the device is turned on, a row of small dots, a matrix of
5 colorful square icons with evenly rounded corners, and a bottom dock of colorful square icons
6 with evenly rounded corners set off from the other icons. The dock of icons does not change as
7 the other pages of the user interface are viewed.

8 82. In January 2010, Apple introduced its iPad with the distinctive Apple iPad Trade
9 Dress. In November 2010, Samsung copied the distinctive Apple iPad Trade Dress and
10 introduced the Samsung Galaxy Tab tablet computer, which is a rectangular product with four
11 evenly rounded corners, a flat clear face covering the front of the product, a large display screen
12 under the clear surface, substantial black borders on all sides of the display screen under the clear
13 surface, and when the device is turned on, a matrix of colorful square icons with evenly rounded
14 corners within the display screen.

15 83. In June 2010, Apple announced and released the iPhone 4 device with the clean
16 and distinctive Apple iPhone 4 Trade Dress. In February 2011, reporters and bloggers on the
17 Internet published photographs of a Samsung Galaxy S 2 phone that copies the Apple
18 iPhone/iPhone 3G/iPhone 4 Trade Dress, including being a rectangular product with four evenly
19 rounded corners, having a flat clear face covering the front of the product, a large display screen
20 under the clear surface, substantial black borders above and below the display screen and
21 narrower black borders on either side of the screen under the clear surface, and on the display
22 when the device is turned on, a row of small dots, a matrix of colorful icons, and a bottom dock of
23 colorful icons set off from the other icons. The dock of icons does not change as the other pages
24 of the user interface are viewed. The profile of the Samsung Galaxy S 2 is much flatter than the
25 first generation of Samsung Galaxy phones, copying the extremely flat and source-identifying
26 clean profile of the Apple iPhone 4 device and the Apple iPhone 4 Trade Dress. From the front,
27 the Galaxy S 2 also has the appearance of a thin rim similar to the thin rim that is created by the
28 metallic band around the outside edge of the iPhone 4.

1 84. In March 2011, Apple announced and released the iPad 2 tablet computer with the
2 distinctive Apple iPad 2 Trade Dress. On June 8, 2011, Samsung commenced U.S. sales of its
3 Galaxy Tab 10.1 at a “world premiere” event held at Best Buy in New York City. On
4 information and belief, the original Galaxy Tab 10.1 was overhauled to copy the iPad 2 after the
5 iPad 2 tablet was released in March 2011. The Vice President of Samsung’s mobile division, Lee
6 Don-Joo, is quoted: “We will have to improve the parts [of the Galaxy Tab 10.1] that are
7 inadequate. Apple made [the iPad 2] very thin.” The Galaxy Tab 10.1 products that Samsung
8 has sold in the U.S. copy the minimalist and distinctive Apple iPad Trade Dress and Apple iPad 2
9 Trade Dress: a rectangular product with four evenly rounded corners, a flat clear surface
10 covering the front of the product, the appearance of a metallic rim around the flat clear surface, a
11 large display screen under the clear surface, substantial black borders on all sides of the display
12 screen under the clear surface, and when the device is turned on, a matrix of colorful icons within
13 the display screen. The Galaxy Tab 10.1 also features a glossy white minimalist back and a thin
14 side profile that makes it appear just like an iPad when it sits on a table.

15 85. The copying is so pervasive and consistent that the Samsung Galaxy products
16 appear to be actual Apple products — with the same rectangular shape, four evenly rounded
17 corners, a flat clear surface with substantial black borders underneath, and when the devices are
18 turned on, a matrix of colorful icons. When a Samsung Galaxy phone or Galaxy Tab 10.1 is used
19 in public, there can be little doubt that it would be viewed as an Apple product based upon the
20 design alone.

21 86. The copying has been widely observed in the industry and has been mentioned in
22 multiple articles reviewing Samsung products. For example, a writer for *Wired* wrote that
23 Samsung’s “Vibrant’s industrial design is shockingly similar to the iPhone 3G.” Exhibit 31 is a
24 true and correct copy of a July 15, 2010 article on www.wired.com by Priva Ganapati, entitled
25 “First Look: Samsung Vibrant Rips Off iPhone 3G Design.” Another *Wired* writer wrote,
26 “[L]et’s settle one of the biggest arguments surrounding this phone. Yes, the Vibrant closely
27 resembles a certain best-selling smartphone.” Exhibit 32 is a true and correct copy of an
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1 August 16, 2010 article on www.wired.com by Terrence Russell, entitled “Samsung Vibrant
2 Looks Like an iPhone, Has Battery Life to Match.”

3 87. Similar comments have been made about Samsung’s Galaxy Tab 10.1 device. For
4 example, a Business Insider review of Samsung’s Galaxy Tab 10.1 stated that, “[f]rom the front,
5 it looks like an iPad.” Exhibit 33 is a true and correct copy of a February 13, 2011 article on
6 www.businessinsider.com by Dan Frommer, entitled “LIVE FROM BARCELONA: Check Out
7 The New 10-Inch Samsung Galaxy Tab.” A recent CNET reviewer remarked: “Taking another
8 page from the iPad 2’s school of sexy tablet building, the 10.1 has one of the cleanest designs
9 we’ve seen on a tablet. From the front, its 10.1-inch screen is surrounded by a 0.75-inch black
10 bezel and a silver aluminum outline at its edge.” Exhibit 34 is a true and correct copy of a May
11 10, 2011 article on www.reviews.cnet.com by Eric Franklin, entitled “Samsung Galaxy Tab 10.1-
12 inch: The iPad 2 of Honeycomb tablets.”

13 88. Summarizing “Samsung’s Anti-iPad 2 Policy” – “[To] Clone the Heck Out of It,”
14 a Fast Company editor concluded, “Samsung has thrown in the towel on innovative tablet design,
15 and has realized it has to match Apple’s successful design and pricing recipe (to the extent it’s
16 even tweaked its design plans) to capture any meaningful market share.” Exhibit 35 is a
17 March 22, 2011 article on www.fastcompany.com by Kit Keaton.

18 89. Samsung had many options in developing its smart phones and tablet computers.
19 Indeed, earlier versions of Samsung smart phones did not embody the same combination of
20 elements of Apple’s trade dress. Even the icons in earlier versions of the Samsung smart phones
21 looked different because, for example, they did not appear as a matrix of colorful square icons
22 above a bottom “dock” of icons.

23 90. Samsung was apparently not satisfied with copying the design of the Apple
24 products themselves, as it also copied many elements of the unique Apple packaging, including
25 using small rectangular boxes for the phones with minimal graphics other than the prominent
26 image of a phone, and a tray that cradles the phone in the topmost portion of the box so that it is
27 immediately and cleanly presented to the consumer when the box is opened. Samsung even
28 carried these design elements over to its tablet computer packaging.

1 91. Samsung chose to infringe Apple's patent, trade dress, and trademark rights
2 through the design and promotion of its Galaxy mobile phones and tablet computers to trade upon
3 the goodwill that Apple has developed in connection with its Apple family of mobile products.

4 92. Specifically, Samsung has imported into or sold in the United States the following
5 products, each of which infringes Apple's patent, trade dress, and/or trademark rights: the
6 Acclaim, Captivate, Continuum, Droid Charge, Exhibit 4G, Epic 4G, Fascinate, Gem, Galaxy
7 Ace, Galaxy Prevail, Galaxy S (i9000), Galaxy S 4G, Gravity, Indulge, Infuse 4G, Intercept,
8 Mesmerize, Nexus S, Nexus S 4G, Replenish, Showcase i500, Showcase Galaxy S, Sidekick,
9 Transform, and Vibrant phones, and the Galaxy Tab and Galaxy Tab 10.1 tablet computers and
10 similar products. On information and belief, Samsung will soon import or sell in the United
11 States the Galaxy S II (aka Galaxy S 2) phone, which also will infringe Apple's patent, trade
12 dress, and/or trademark rights.

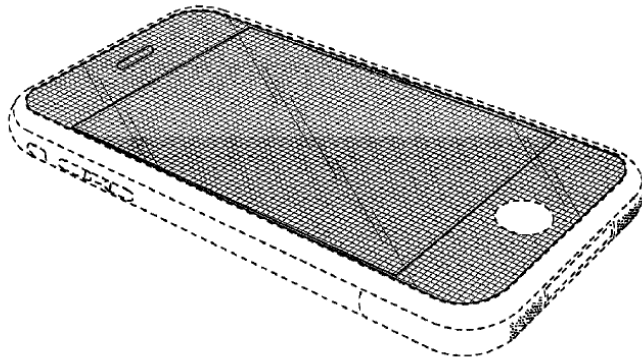
13 **Infringement of Apple's Patents**

14 93. Samsung's infringement of the Apple utility patents identified in this Complaint
15 provides Samsung with unique functionality for its products that is the result of Apple's
16 innovation, not Samsung's. Samsung has not obtained permission from Apple to use its
17 inventions in the identified utility patents.

18 94. Moreover, as the side-by-side comparisons shown below reveal, Samsung has
19 misappropriated Apple's patented product designs in the accused products, including the
20 Samsung Galaxy mobile phone and tablet computer depicted below.

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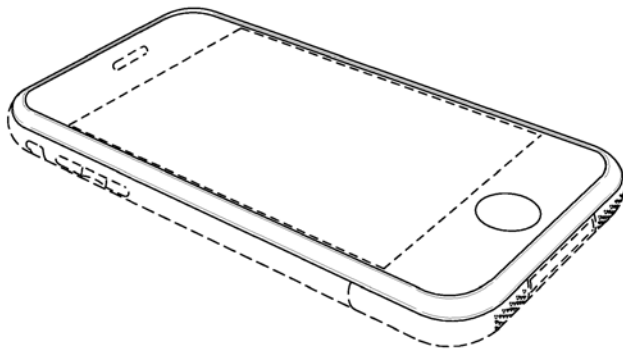
'D677 Patent



Galaxy S 4G



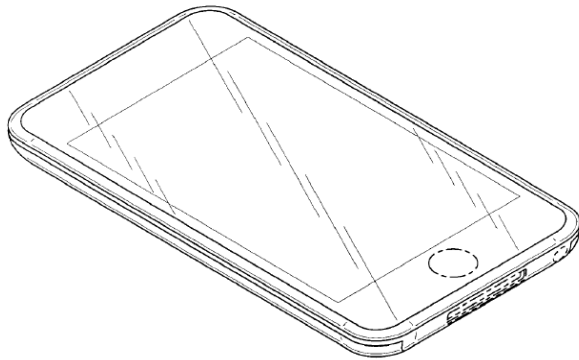
'D087 Patent



Galaxy S 4G



'D270 Patent

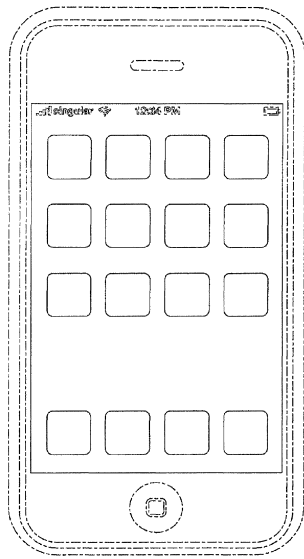


Galaxy S 4G



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'D790 Patent

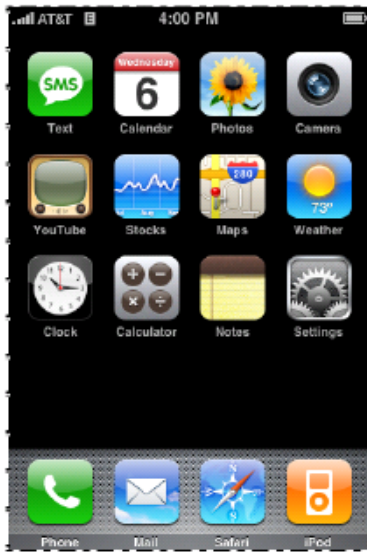


FIGURE

Galaxy S i9000



'D334 Patent



Galaxy S i9000



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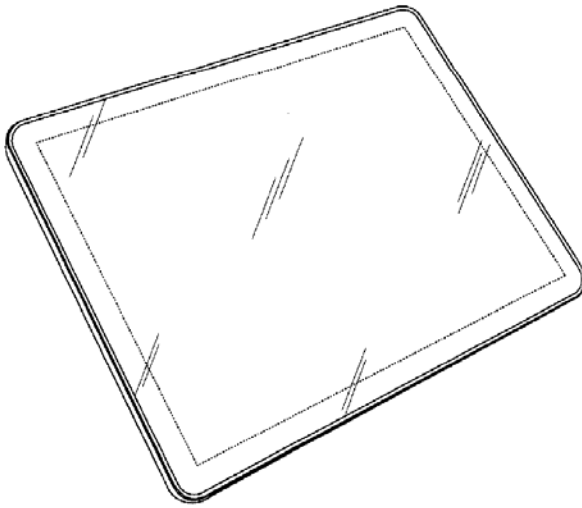
'D305 Patent



Galaxy S i9000



'D889 Patent



Galaxy Tab 10.1



Infringement of Apple's Trade Dress

95. Samsung announced its Galaxy line of Android-based smart phones in March of 2010 in South Korea. The original model, Galaxy S i9000, is shown below side by side with an iPhone 3GS.

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Apple iPhone 3GS



Galaxy S i9000



96. Each of Samsung’s Galaxy phones embodies a combination of several elements of the Apple iPhone/iPhone 3G/iPhone 4 Trade Dress. Specifically, several of the Samsung Galaxy phones, including the Vibrant, Fascinate, Galaxy S (i9000), and Galaxy S 4G include the following elements of the Apple iPhone/iPhone 3G/iPhone 4 Trade Dress:

- a rectangular product with four evenly rounded corners;
- a flat clear surface covering the front of the product;
- a display screen under the clear surface;

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

8 97. Several of Samsung's Galaxy phones, including the Vibrant, Fascinate, Galaxy S
9 (i9000), and Galaxy S 4G also embody significant elements of the Apple iPhone 3G Trade Dress
10 identified above, including the following:

- 11 • a rectangular product with four evenly rounded corners;
- 12 • a flat clear surface covering the front of the product;
- 13 • the appearance of a metallic bezel around the flat clear surface;
- 14 • a display screen under the clear surface;
- 15 • under the clear surface, substantial black borders above and below the display
- 16 screen and narrower black borders on either side of the screen;
- 17 • when the device is on, a row of small dots on the display screen;
- 18 • when the device is on, a matrix of colorful square icons with rounded corners
- 19 within the display screen; and
- 20 • when the device is on, a bottom dock of colorful square icons with evenly rounded
- 21 corners set off from the other icons on the display, which does not change as other pages of the
- 22 user interface are viewed.

23 98. On information and belief, Samsung will be introducing Galaxy S 2 phones that
24 will embody significant elements of the Apple iPhone 4 Trade Dress, specifically:

- 25 • a rectangular product with four evenly rounded corners;
- 26 • a flat clear surface covering the front of the product;
- 27 • a display screen under the clear surface;
- 28

- under the clear surface, substantial black borders above and below the display screen and narrower black borders on either side of the screen;
- when the device is on, a row of small dots on the display screen;
- when the device is on, a matrix of colorful icons within the display screen; and
- when the device is on, a bottom row dock of colorful icons set off from the other icons, which does not change as other pages of the user interface are viewed.

99. As shown below, Samsung's Galaxy Tab computer tablet also closely copies a combination of several elements of the Apple iPad Trade Dress and the Apple iPad 2 Trade Dress.



Samsung Tab

100. Specifically, the Samsung computer tablet has:

- a rectangular product with four evenly rounded corners;
 - a flat clear surface covering the front of the product;
 - a display screen under the clear surface;
 - under the clear surface, substantial black borders on all sides of the display screen;
- and
- when the device is on, a matrix of colorful icons within the display screen.

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Apple Icons



Samsung Icons



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105. Moreover, the icon that Samsung uses for its music application is virtually identical to the iTunes “Eighth Note and CD” logo that Apple has registered with the United States Patent and Trademark Office:

Apple Icon



Samsung Icon



106. Samsung’s adoption of a trade dress that slavishly copies the Apple iPhone Trade Dress, Apple iPhone 3G Trade Dress, Apple iPhone 4 Trade Dress, Apple iPad Trade Dress, and Apple iPad 2 Trade Dress and its use of various icons that infringe Apple’s trademark rights is likely to cause confusion or mistake, or to deceive consumers, purchasers, and others into thinking that Samsung products are Apple products, or that they are sponsored by or affiliated with Apple, when they are not. The copying is particularly problematic because the Samsung

1 Galaxy products are the type of products that will be used in public — on the bus, in cafes, in
2 stores, or at school, where third parties, who were not present when the products were purchased,
3 will associate them with Apple because they have the unmistakable Apple look that is created
4 from the various elements of the Apple iPhone Trade Dress, Apple iPhone 3G Trade Dress, Apple
5 iPhone 4 Trade Dress, Apple iPad Trade Dress, and Apple iPad 2 Trade Dress.

6 107. Of significant concern for Apple is that Apple devotes a tremendous amount of
7 resources — technical research and development *and* design resources — to develop its cutting
8 edge products. Part of the cachet of Apple products is the very fact that they consistently stand
9 out from all of the other products on the market. Apple’s goodwill among consumers is closely
10 tied to its position as a pioneer in technology and communications products, which causes each
11 release of a new product to be highly anticipated among consumers who want to be among the
12 early adopters of the newest Apple product. Samsung’s flagrant and relentless copying of
13 Apple’s intellectual property rights in its Galaxy family of products not only allows Samsung to
14 reap benefits from Apple’s investment, it also threatens to dilute the strength of the Apple trade
15 dress and icon trademarks as source identifiers and diminish the very important goodwill that
16 Apple has cultivated with its products.

17 108. On information and belief, Samsung’s marketing has played up the similarities
18 between its Galaxy family of phones and the Apple iPhone products. On information and belief,
19 Samsung’s mobile phones are marketed as the phone that is the closest to the iPhone — for
20 consumers who want a product with the distinctive Apple look, but who do not want to pay for
21 the real product.

22 109. Apple’s efforts to address Samsung’s pervasive copying of Apple’s innovations
23 and intellectual property directly with Samsung have been unsuccessful. Apple is left with no
24 choice but to file this lawsuit in order to protect one of its most valuable assets — the technology
25 used in and the designs of the iPhone, iPod touch, and the iPad products.

1 **FIRST CLAIM FOR RELIEF**

2 **(Federal False Designation of Origin & Unfair Competition)**

3 **(15 U.S.C. § 1125(a))**

4 110. Apple incorporates and realleges paragraphs 1 through 109 of this Complaint.

5 111. Apple is the owner of all right and title to the distinctive Apple iPhone Trade
6 Dress, Apple iPhone 3G Trade Dress, Apple iPhone 4 Trade Dress, Apple iPad Trade Dress, and
7 Apple iPad 2 Trade Dress, as embodied in the Apple iPhone, iPod touch, and iPad products. The
8 Apple iPhone Trade Dress, Apple iPhone 3G Trade Dress, Apple iPhone 4 Trade Dress, Apple
9 iPad Trade Dress, and Apple iPad 2 Trade Dress are not merely functional.

10 112. In addition, based on extensive and consistent advertising, promotion and sales
11 throughout the United States, the Apple iPhone Trade Dress, Apple iPhone 3G Trade Dress,
12 Apple iPhone 4 Trade Dress, Apple iPad Trade Dress, and Apple iPad 2 Trade Dress have
13 acquired distinctiveness and enjoys secondary meaning among consumers, identifying Apple as
14 the source of its products.

15 113. Apple's extensive promotion of the distinctive Apple iPhone Trade Dress, Apple
16 iPhone 3G Trade Dress, Apple iPhone 4 Trade Dress, Apple iPad Trade Dress, and Apple iPad 2
17 Trade Dress has resulted in Apple's acquisition of valuable, legally protected rights in the Apple
18 iPhone Trade Dress, Apple iPhone 3G Trade Dress, Apple iPhone 4 Trade Dress, Apple iPad
19 Trade Dress, and Apple iPad 2 Trade Dress as well as considerable customer goodwill.

20 114. The Samsung Galaxy line of phone and tablet computer products has
21 misappropriated the Apple iPhone Trade Dress, Apple iPhone 3G Trade Dress, Apple iPhone 4
22 Trade Dress, Apple iPad Trade Dress, and Apple iPad 2 Trade Dress by mimicking a combination
23 of several elements of those trade dresses.

24 115. Samsung's manufacture and distribution of the Samsung Galaxy phone and tablet
25 computer products with product design and product user interface features that mimic a
26 combination of several elements of the Apple iPhone Trade Dress, Apple iPhone 3G Trade Dress,
27 Apple iPhone 4 Trade Dress, Apple iPad Trade Dress, and Apple iPad 2 Trade Dress, coupled
28 with Samsung's use of a packaging style that copies the unique Apple packaging, is likely to

1 cause confusion, cause mistake, or deceive consumers as to the affiliation, connection, or
2 association of Samsung with Apple, or as to the origin, sponsorship, or approval by Apple of
3 Samsung's goods, services, or commercial activities.

4 116. Samsung's manufacture and distribution of the Samsung Galaxy line of phone and
5 tablet computer products with product design and product user interface features that mimic a
6 combination of several elements of the Apple iPhone Trade Dress, Apple iPhone 3G Trade Dress,
7 Apple iPhone 4 Trade Dress, Apple iPad Trade Dress, and Apple iPad 2 Trade Dress, coupled
8 with Samsung's use of a packaging style that copies the unique Apple packaging, enables
9 Samsung to benefit unfairly from Apple's reputation and success, thereby giving Samsung's
10 infringing products sales and commercial value they would not otherwise have.

11 117. Samsung's actions constitute unfair competition and false designation of origin in
12 violation of Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a).

13 118. Samsung knew of the Apple iPhone Trade Dress, Apple iPhone 3G Trade Dress,
14 Apple iPhone 4 Trade Dress, Apple iPad Trade Dress, and Apple iPad 2 Trade Dress when it
15 designed its Galaxy line of phone and tablet computer products, and has refused to change its
16 product or packaging design in response to Apple's repeated objections. Accordingly, Samsung's
17 infringement has been and continues to be intentional, willful, and without regard to Apple's
18 rights in the Apple iPhone Trade Dress, Apple iPhone 3G Trade Dress, Apple iPhone 4 Trade
19 Dress, Apple iPad Trade Dress, and Apple iPad 2 Trade Dress.

20 119. Apple is informed and believes, and on that basis alleges, that Samsung has gained
21 profits by virtue of its infringement of the Apple iPhone Trade Dress, Apple iPhone 3G Trade
22 Dress, Apple iPhone 4 Trade Dress, Apple iPad Trade Dress, and Apple iPad 2 Trade Dress.

23 120. Apple also has sustained damages as a direct and proximate result of Samsung's
24 infringement of the Apple iPhone Trade Dress, Apple iPhone 3G Trade Dress, Apple iPhone 4
25 Trade Dress, Apple iPad Trade Dress, and Apple iPad 2 Trade Dress in an amount to be proven at
26 trial.

27 121. Apple has been and will continue to be irreparably harmed and damaged by
28 Samsung's conduct insofar as Apple's invaluable goodwill is being eroded by Samsung's

1 continuing infringement, and Apple lacks an adequate remedy at law to compensate for this harm
2 and damage. Pursuant to 15 U.S.C. § 1116, Apple is entitled to an injunction against Samsung’s
3 continuing infringement of the Apple iPhone Trade Dress, Apple iPhone 3G Trade Dress, Apple
4 iPhone 4 Trade Dress, Apple iPad Trade Dress, and Apple iPad 2 Trade Dress. Unless enjoined,
5 Samsung will continue its infringing conduct.

6 122. Because Samsung’s actions have been willful, Apple is entitled to Samsung’s
7 profits, treble Apple’s actual damages, an award of costs, and, this being an exceptional case,
8 reasonable attorneys’ fees pursuant to 15 U.S.C. § 1117(a).

9 **SECOND CLAIM FOR RELIEF**

10 **(Federal Trade Dress Infringement)**

11 **(15 U.S.C. § 1114)**

12 123. Apple incorporates and realleges paragraphs 1 through 122 of this Complaint.

13 124. Apple owns three registrations for the design and configuration of the iPhone.

14 125. U.S. Registration No. 3,470,983 is for the overall design of the product, including
15 the rectangular shape, the evenly rounded corners, the silver edges, the black face, and the display
16 of sixteen colorful icons.

17 126. U.S. Registration No. 3,457,218 is for the configuration of a rectangular handheld
18 mobile digital electronic device with rounded corners.

19 127. U.S. Registration No. 3,475,327 is for a rectangular handheld mobile digital
20 electronic device with a gray rectangular portion in the center, a black band above and below the
21 gray rectangle and on the curved corners, and a silver outer border and side.

22 128. The Samsung Galaxy line of phone products copies and infringes these three trade
23 dress registrations (collectively, the “Apple Registered Trade Dress”).

24 129. Samsung’s manufacture and distribution of the Samsung Galaxy line of phone
25 products with product design and product user interface features that copy a combination of
26 several elements of the Apple Registered Trade Dress, coupled with Samsung’s use of a
27 packaging style that copies the unique Apple packaging, is likely to cause confusion, cause
28 mistake, or deceive the consumer as to the affiliation, connection, or association of Samsung with

1 Apple, or as to the origin, sponsorship, or approval by Apple of Samsung's goods, services or
2 commercial activities.

3 130. Samsung's manufacture and distribution of the Samsung Galaxy line of phone
4 products with product design and product user interface features that copy a combination of
5 several elements of the Apple Registered Trade Dress, coupled with Samsung's use of a
6 packaging style that copies the unique Apple packaging, enable Samsung to benefit unfairly from
7 Apple's reputation and success, thereby giving Samsung's infringing products sales and
8 commercial value they would not otherwise have.

9 131. Prior to Samsung's first use of the Apple Registered Trade Dress, Samsung was
10 aware of Apple's business and had either actual notice and knowledge, or constructive notice of
11 the Apple Registered Trade Dress, and has refused to change its product or packaging design in
12 response to Apple's repeated objections.

13 132. Samsung's unauthorized use of a trade dress for its Galaxy phone product line that
14 infringes the Apple Registered Trade Dress is likely to deceive or to cause confusion or mistake
15 among consumers as to the origin, sponsorship, or approval of the Samsung Galaxy line of phone
16 products and/or to cause confusion or mistake as to any affiliation, connection, or association
17 between Apple and Samsung, in violation of 15 U.S.C. § 1114(a).

18 133. Apple is informed and believes, and on that basis alleges, that Samsung's
19 infringement of the Apple Registered Trade Dress as described herein has been and continues to
20 be intentional, willful, and without regard to Apple's rights in the Apple Registered Trade Dress.

21 134. Apple is informed and believes, and on that basis alleges, that Samsung has gained
22 profits by virtue of its infringement of the Apple Registered Trade Dress.

23 135. Apple also has sustained damages as a direct and proximate result of Samsung's
24 infringement of the Apple Registered Trade Dress in an amount to be proven at trial.

25 136. Apple will suffer and is suffering irreparable harm from Samsung's infringement
26 of the Apple Registered Trade Dress insofar as Apple's invaluable goodwill is being eroded by
27 Samsung's continuing infringement. Apple has no adequate remedy at law to compensate it for
28 the loss of business reputation, customers, market position, and goodwill and confusion of

1 potential customers flowing from Samsung's infringing activities. Pursuant to 15 U.S.C. § 1116,
2 Apple is entitled to an injunction against Samsung's continuing infringement of the Apple
3 Registered Trade Dress. Unless enjoined, Samsung will continue its infringing conduct.

4 137. Because Samsung's actions have been committed with intent to damage Apple and
5 to confuse and deceive the public, Apple is entitled to Samsung's profits, treble Apple's actual
6 damages, an award of costs, and, this being an exceptional case, reasonable attorneys' fees
7 pursuant to 15 U.S.C. § 1117(a).

8 **THIRD CLAIM FOR RELIEF**
9 **(Federal Trademark Infringement)**

10 **(15 U.S.C. § 1114)**

11 138. Apple incorporates and realleges paragraphs 1 through 137 of this Complaint.

12 139. Apple owns seven federal trademark registrations for the distinctive and colorful
13 application icons used in the user interface for the iPhone, iPod touch, and iPad — the Registered
14 Icon Trademarks.

15 140. The Samsung Galaxy line of phone and tablet computer products has infringed the
16 Registered Icon Trademarks by using variations of those application icons in Samsung's products.
17 The Samsung Galaxy line of phone and computer tablet products also has infringed Apple's
18 registered iTunes Eighth Note and CD Logo.

19 141. Samsung's use of infringing application icons is likely to cause confusion, cause
20 mistake, or deceive the consumer as to the affiliation, connection, or association of Samsung with
21 Apple, or as to the origin, sponsorship, or approval by Apple of Samsung's goods, services or
22 commercial activities.

23 142. Samsung's use of infringing application icons enables Samsung to benefit unfairly
24 from Apple's reputation and success, thereby giving Samsung's infringing products sales and
25 commercial value they would not otherwise have.

26 143. Prior to Samsung's first use of its infringing application icons, Samsung was
27 aware of Apple's business and had either actual notice and knowledge, or constructive notice of,
28 Apple's Registered Icon Trademarks.

1 151. Apple is the owner of all right and title to the distinctive Apple iPhone Trade
2 Dress, Apple iPhone 3G Trade Dress, Apple iPhone 4 Trade Dress, Apple iPad Trade Dress, and
3 Apple iPad 2 Trade Dress, as embodied in the Apple iPhone, iPod touch, and iPad products. The
4 Apple iPhone Trade Dress, Apple iPhone 3G Trade Dress, Apple iPhone 4 Trade Dress, Apple
5 iPad Trade Dress, and Apple iPad 2 Trade Dress has acquired secondary meaning and is not
6 merely functional.

7 152. Based on extensive and consistent advertising, promotion, and sales throughout the
8 United States, the Apple iPhone Trade Dress, Apple iPhone 3G Trade Dress, Apple iPhone 4
9 Trade Dress, Apple iPad Trade Dress, and Apple iPad 2 Trade Dress is famous. It serves to
10 identify Apple as the source of Apple's products.

11 153. The Samsung Galaxy line of phone and tablet computer products has
12 misappropriated the Apple iPhone Trade Dress, Apple iPhone 3G Trade Dress, Apple iPhone 4
13 Trade Dress, Apple iPad Trade Dress, and Apple iPad 2 Trade Dress by mimicking a combination
14 of several elements of that trade dress.

15 154. Samsung's manufacture and distribution of the Samsung Galaxy phone and tablet
16 computer products with product design and product user interface features that mimic a
17 combination of several elements of the Apple iPhone Trade Dress, Apple iPhone 3G Trade Dress,
18 Apple iPhone 4 Trade Dress, Apple iPad Trade Dress, and Apple iPad 2 Trade Dress, coupled
19 with Samsung's use of a packaging style that copies the unique Apple packaging, is likely to
20 cause dilution by blurring of the famous Apple iPhone Trade Dress, Apple iPhone 3G Trade
21 Dress, Apple iPhone 4 Trade Dress, Apple iPad Trade Dress, and Apple iPad 2 Trade Dress.

22 155. Samsung's actions constitute dilution in violation of Section 43(c) of the Lanham
23 Act, 15 U.S.C. § 1125(c).

24 156. Samsung knew of the Apple iPhone Trade Dress, Apple iPhone 3G Trade Dress,
25 Apple iPhone 4 Trade Dress, Apple iPad Trade Dress, and Apple iPad 2 Trade Dress when it
26 designed its Galaxy line of phone and tablet computer products, and has refused to change its
27 product or packaging design in response to Apple's repeated objections. Accordingly, Samsung's
28 dilution has been and continues to be intentional, willful, and without regard to Apple's rights in

1 the Apple iPhone Trade Dress, Apple iPhone 3G Trade Dress, Apple iPhone 4 Trade Dress,
2 Apple iPad Trade Dress, and Apple iPad 2 Trade Dress.

3 157. Apple is informed and believes, and on that basis alleges, that Samsung has gained
4 profits by virtue of its dilution of the Apple iPhone Trade Dress, Apple iPhone 3G Trade Dress,
5 Apple iPhone 4 Trade Dress, Apple iPad Trade Dress, and Apple iPad 2 Trade Dress.

6 158. Apple also has sustained damages as a direct and proximate result of Samsung's
7 dilution of the Apple iPhone Trade Dress, Apple iPhone 3G Trade Dress, Apple iPhone 4 Trade
8 Dress, Apple iPad Trade Dress, and Apple iPad 2 Trade Dress in an amount to be proven at trial.

9 159. Apple will suffer and is suffering irreparable harm from Samsung's dilution of the
10 Apple iPhone Trade Dress, Apple iPhone 3G Trade Dress, Apple iPhone 4 Trade Dress, Apple
11 iPad Trade Dress, and Apple iPad 2 Trade Dress insofar as Apple's invaluable trade dress, and
12 goodwill is being eroded by Samsung's continuing sales of Samsung Galaxy products that mimic
13 the Apple iPhone Trade Dress, Apple iPhone 3G Trade Dress, Apple iPhone 4 Trade Dress,
14 Apple iPad Trade Dress, and Apple iPad 2 Trade Dress. Apple has no adequate remedy at law to
15 compensate it for the loss of business reputation, customers, market position, and goodwill and
16 confusion of potential customers flowing from Samsung's infringing activities. Pursuant to 15
17 U.S.C. § 1116, Apple is entitled to an injunction against Samsung's continuing dilution of the
18 Apple iPhone Trade Dress, Apple iPhone 3G Trade Dress, Apple iPhone 4 Trade Dress, Apple
19 iPad Trade Dress, and Apple iPad 2 Trade Dress. Unless enjoined, Samsung will continue its
20 illegal conduct.

21 160. Because Samsung's actions have been willful, Apple is entitled to Samsung's
22 profits, treble Apple's actual damages, an award of costs, and, this being an exceptional case,
23 reasonable attorneys' fees pursuant to 15 U.S.C. § 1117(a).

24 **FIFTH CLAIM FOR RELIEF**

25 **(Common Law Trademark Infringement)**

26 161. Apple incorporates and realleges paragraphs 1 through 160 of this Complaint.

27 162. Apple has prior rights in Apple's Registered Icon Trademarks and the Purple
28 iTunes Store Trademark.

1 163. The Samsung Galaxy line of phone and tablet computer products has infringed
2 Apple's Registered Icon Trademarks and the Purple iTunes Store Trademark by using identical or
3 similar application icons in Samsung's products.

4 164. Samsung's use of infringing application icons is likely to cause confusion, cause
5 mistake, or deceive the consumer as to the affiliation, connection, or association of Samsung with
6 Apple, or as to the origin, sponsorship, or approval by Apple of Samsung's goods, services or
7 commercial activities.

8 165. Samsung's use of infringing application icons enables Samsung to benefit unfairly
9 from Apple's reputation and success, thereby giving Samsung's infringing phone and tablet
10 computer products sales and commercial value they would not otherwise have.

11 166. Prior to Samsung's first use of the infringing application icons, Samsung was
12 aware of Apple's business and had either actual notice and knowledge, or constructive notice of
13 Apple's Registered Icon Trademarks and the Purple iTunes Store Trademark.

14 167. Samsung's unauthorized use of the infringing application icons is likely to deceive
15 or to cause confusion or mistake among consumers as to the origin, sponsorship, or approval of
16 the Samsung Galaxy line of phone and tablet computer products and/or to cause confusion or
17 mistake as to any affiliation, connection, or association between Apple and Samsung, in violation
18 of Apple's common law trademark rights.

19 168. Apple is informed and believes, and on that basis alleges, that Samsung's
20 infringement of Apple's Registered Icon Trademarks and the Purple iTunes Store Trademark as
21 described herein has been and continues to be intentional, willful, and without regard to Apple's
22 rights in its Registered Icon Trademarks and the Purple iTunes Store Trademark.

23 169. Apple is informed and believes, and on that basis alleges, that Samsung has gained
24 profits by virtue of its infringement of Apple's Registered Icon Trademarks and the Purple iTunes
25 Store Trademark.

26 170. Apple also has sustained damages as a direct and proximate result of Samsung's
27 infringement of Apple's Registered Icon Trademarks and the Purple iTunes Store Trademark.
28

1 171. Apple will suffer and is suffering irreparable harm from Samsung's infringement
2 of Apple's Registered Icon Trademarks and the Purple iTunes Store Trademark insofar as
3 Apple's invaluable goodwill is being eroded by Samsung's continuing infringement. Apple has
4 no adequate remedy at law to compensate it for the loss of business reputation, customers, market
5 position, and goodwill and confusion of potential customers flowing from Samsung's infringing
6 activities. Apple is entitled to an injunction against Samsung's continuing infringement of
7 Apple's Registered Icon Trademarks and the Purple iTunes Store Trademark. Unless enjoined,
8 Samsung will continue its infringing conduct.

9 **SIXTH CLAIM FOR RELIEF**

10 **(Unfair Business Practices – California Business and Professions Code § 17200, et seq.)**

11 172. Apple incorporates and realleges paragraphs 1 through 171 of this Complaint.

12 173. The acts of Samsung described above constitute fraudulent and unlawful business
13 practices as defined by California Business & Professions Code § 17200, et seq.

14 174. Apple has valid and protectable prior rights in the Apple iPhone Trade Dress,
15 Apple iPhone 3G Trade Dress, Apple iPhone 4 Trade Dress, Apple iPad Trade Dress, and Apple
16 iPad 2 Trade Dress, the Registered Trade Dress, the iTunes Eighth Note and CD Design
17 Trademark, the Purple iTunes Store Trademark, and the Registered Icon Trademarks. The Apple
18 iPhone Trade Dress, Apple iPhone 3G Trade Dress, Apple iPhone 4 Trade Dress, Apple iPad
19 Trade Dress, Apple iPad 2 Trade Dress, and the Registered Trade Dress do not serve any function
20 other than to identify Apple as the source of its mobile products. The Apple iPhone Trade Dress,
21 Apple iPhone 3G Trade Dress, Apple iPhone 4 Trade Dress, Apple iPad Trade Dress, Apple iPad
22 2 Trade Dress, and the Registered Trade Dress are inherently distinctive, and, through Apple's
23 long use, have come to be associated solely with Apple as the source of the products on which
24 they are used.

25 175. Samsung's use of its infringing trade dress is likely to cause confusion as to the
26 source of Samsung's Galaxy line of phone and tablet computer products and is likely to cause
27 others to be confused or mistaken into believing that there is a relationship between Samsung and
28 Apple or that Samsung's products are affiliated with or sponsored by Apple.

1 176. The above-described acts and practices by Samsung are likely to mislead or
2 deceive the general public and therefore constitute fraudulent business practices in violation of
3 California Business & Professions Code § 17200, *et seq.*

4 177. The above-described acts constitute unfair competition under Section 43(a) of the
5 Lanham Act, 15 U.S.C. § 1125(a), trade dress dilution in violation of Section 43(c) of the Lanham
6 Act, 15 U.S.C. § 1125(c), trademark and trade dress infringement under Section 32 of the
7 Lanham Act, 15 U.S.C. § 1114, and patent infringement under 35 U.S.C. § 271, and are therefore
8 unlawful acts in violation of California Business & Professions Code § 17200, *et seq.*

9 178. Samsung acted willfully and intentionally in designing its infringing trade dress
10 and application icons, with full knowledge of Samsung's prior rights in the distinctive Apple
11 iPhone Trade Dress, Apple iPhone 3G Trade Dress, Apple iPhone 4 Trade Dress, Apple iPad
12 Trade Dress, Apple iPad 2 Trade Dress, Registered Trade Dress, iTunes Eighth Note and CD
13 Design Trademark, Purple iTunes Store Trademark, and Registered Icon Trademarks and with an
14 intent to cause confusion or mistake or to deceive customers into believing that there is an
15 affiliation between Samsung and Apple or between Samsung's phone and tablet computer
16 products and Apple's products.

17 179. The unlawful and fraudulent business practices of Samsung described above
18 present a continuing threat to, and is meant to deceive members of, the public in that Samsung
19 continues to promote its products by wrongfully trading on the goodwill of the Apple iPhone
20 Trade Dress, Apple iPhone 3G Trade Dress, Apple iPhone 4 Trade Dress, Apple iPad Trade
21 Dress, Apple iPad 2 Trade Dress, Registered Trade Dress, iTunes Eighth Note and CD Design
22 Trademark, Purple iTunes Store Trademark, and Registered Icon Trademarks.

23 180. As a direct and proximate result of these acts, Samsung has received, and will
24 continue to profit from, the strength of the Apple iPhone Trade Dress, Apple iPhone 3G Trade
25 Dress, Apple iPhone 4 Trade Dress, Apple iPad Trade Dress, Apple iPad 2 Trade Dress,
26 Registered Trade Dress, iTunes Eighth Note and CD Design Trademark, Purple iTunes Store
27 Trademark, and Registered Icon Trademarks.

1 181. As a direct and proximate result of Samsung's wrongful conduct, Apple has been
2 injured in fact and has lost money and profits, and such harm will continue unless Samsung's acts
3 are enjoined by the Court. Apple has no adequate remedy at law for Samsung's continuing
4 violation of Apple's rights.

5 182. Samsung should be required to restore to Apple any and all profits earned as a
6 result of its unlawful and fraudulent actions, or provide Apple with any other restitutionary relief
7 as the Court deems appropriate.

8 **SEVENTH CLAIM FOR RELIEF**

9 **(Unjust Enrichment)**

10 183. Apple incorporates and realleges paragraphs 1 through 182 of this Complaint.

11 184. As a result of the conduct alleged herein, Samsung has been unjustly enriched to
12 Apple's detriment. Apple seeks a worldwide accounting and disgorgement of all ill-gotten gains
13 and profits resulting from Samsung's inequitable activities.

14 **EIGHTH CLAIM FOR RELIEF**

15 **(Infringement of the '002 Patent)**

16 185. Apple incorporates and realleges paragraphs 1 through 184 of this Complaint.

17 186. Samsung has infringed and continues to infringe one or more claims of the '002
18 Patent by using, selling and/or offering to sell, in the United States and/or importing into the
19 United States, one or more of the Samsung products identified in this Complaint. Samsung's
20 infringing activities violate 35 U.S.C. § 271.

21 187. Apple is informed and believes, and on that basis alleges, that Samsung's
22 infringement of the '002 Patent has been and continues to be intentional, willful, and without
23 regard to Apple's rights.

24 188. Apple is informed and believes, and on that basis alleges, that Samsung has gained
25 profits by virtue of its infringement of the '002 Patent.

26 189. Apple has sustained damages as a direct and proximate result of Samsung's
27 infringement of the '002 Patent.

1 United States, one or more of the Samsung products identified in this Complaint. Samsung's
2 infringing activities violate 35 U.S.C. § 271.

3 199. Apple is informed and believes, and on that basis alleges, that Samsung's
4 infringement of the '607 Patent has been and continues to be intentional, willful, and without
5 regard to Apple's rights.

6 200. Apple is informed and believes, and on that basis alleges, that Samsung has gained
7 profits by virtue of its infringement of the '607 Patent.

8 201. Apple has sustained damages as a direct and proximate result of Samsung's
9 infringement of the '607 Patent.

10 202. Apple will suffer and is suffering irreparable harm from Samsung's infringement
11 of the '607 Patent. Apple has no adequate remedy at law and is entitled to an injunction against
12 Samsung's continuing infringement of the '607 Patent. Unless enjoined, Samsung will continue
13 its infringing conduct.

14 **ELEVENTH CLAIM FOR RELIEF**

15 **(Infringement of the '828 Patent)**

16 203. Apple incorporates and realleges paragraphs 1 through 202 of this Complaint.

17 204. Samsung has infringed and continues to infringe one or more claims of the '828
18 Patent by using, selling and/or offering to sell, in the United States and/or importing into the
19 United States, one or more of the Samsung products identified in this Complaint. Samsung's
20 infringing activities violate 35 U.S.C. § 271.

21 205. Apple is informed and believes, and on that basis alleges, that Samsung's
22 infringement of the '828 Patent has been and continues to be intentional, willful, and without
23 regard to Apple's rights.

24 206. Apple is informed and believes, and on that basis alleges, that Samsung has gained
25 profits by virtue of its infringement of the '828 Patent.

26 207. Apple has sustained damages as a direct and proximate result of Samsung's
27 infringement of the '828 Patent.

1 United States, one or more of the Samsung products identified in this Complaint. Samsung's
2 infringing activities violate 35 U.S.C. § 271.

3 217. Apple is informed and believes, and on that basis alleges, that Samsung's
4 infringement of the '891 Patent has been and continues to be intentional, willful, and without
5 regard to Apple's rights.

6 218. Apple is informed and believes, and on that basis alleges, that Samsung has gained
7 profits by virtue of its infringement of the '891 Patent.

8 219. Apple has sustained damages as a direct and proximate result of Samsung's
9 infringement of the '891 Patent.

10 220. Apple will suffer and is suffering irreparable harm from Samsung's infringement
11 of the '891 Patent. Apple has no adequate remedy at law and is entitled to an injunction against
12 Samsung's continuing infringement of the '891 Patent. Unless enjoined, Samsung will continue
13 its infringing conduct.

14 **FOURTEENTH CLAIM FOR RELIEF**

15 **(Infringement of the '163 Patent)**

16 221. Apple incorporates and realleges paragraphs 1 through 220 of this Complaint.

17 222. Samsung has infringed and continues to infringe one or more claims of the '163
18 Patent by using, selling and/or offering to sell, in the United States and/or importing into the
19 United States, one or more of the Samsung products identified in this Complaint. Samsung's
20 infringing activities violate 35 U.S.C. § 271.

21 223. Apple is informed and believes, and on that basis alleges, that Samsung's
22 infringement of the '163 Patent has been and continues to be intentional, willful, and without
23 regard to Apple's rights.

24 224. Apple is informed and believes, and on that basis alleges, that Samsung has gained
25 profits by virtue of its infringement of the '163 Patent.

26 225. Apple has sustained damages as a direct and proximate result of Samsung's
27 infringement of the '163 Patent.

1 the Samsung products identified in this Complaint, which embody the design covered by the
2 'D790 Patent.

3 235. Apple is informed and believes, and on that basis alleges, that Samsung's
4 infringement of the 'D790 Patent has been and continues to be intentional, willful, and without
5 regard to Apple's rights.

6 236. Apple is informed and believes, and on that basis alleges, that Samsung has gained
7 profits by virtue of its infringement of the 'D790 Patent.

8 237. Apple has sustained damages as a direct and proximate result of Samsung's
9 infringement of the 'D790 Patent.

10 238. Apple will suffer and is suffering irreparable harm from Samsung's infringement
11 of the 'D790 Patent. Apple has no adequate remedy at law and is entitled to an injunction against
12 Samsung's continuing infringement of the 'D790 Patent. Unless enjoined, Samsung will continue
13 its infringing conduct.

14 **SEVENTEENTH CLAIM FOR RELIEF**

15 **(Infringement of the 'D334 Patent)**

16 239. Apple incorporates and realleges paragraphs 1 through 238 of this Complaint.

17 240. Samsung has infringed and continues to infringe the 'D334 Patent by using, selling
18 and/or offering to sell in the United States, and/or importing into the United States one or more of
19 the Samsung products identified in this Complaint, which embody the design covered by the
20 'D334 Patent.

21 241. Apple is informed and believes, and on that basis alleges, that Samsung's
22 infringement of the 'D334 Patent has been and continues to be intentional, willful, and without
23 regard to Apple's rights.

24 242. Apple is informed and believes, and on that basis alleges, that Samsung has gained
25 profits by virtue of its infringement of the 'D334 Patent.

26 243. Apple has sustained damages as a direct and proximate result of Samsung's
27 infringement of the 'D334 Patent.

1 the Samsung products identified in this Complaint, which embody the design covered by the
2 'D677 Patent.

3 253. Apple is informed and believes, and on that basis alleges, that Samsung's
4 infringement of the 'D677 Patent has been and continues to be intentional, willful, and without
5 regard to Apple's rights.

6 254. Apple is informed and believes, and on that basis alleges, that Samsung has gained
7 profits by virtue of its infringement of the 'D677 Patent.

8 255. Apple has sustained damages as a direct and proximate result of Samsung's
9 infringement of the 'D667 Patent.

10 256. Apple will suffer and is suffering irreparable harm from Samsung's infringement
11 of the 'D667 Patent. Apple has no adequate remedy at law and is entitled to an injunction against
12 Samsung's continuing infringement of the 'D667 Patent. Unless enjoined, Samsung will continue
13 its infringing conduct.

14 **TWENTIETH CLAIM FOR RELIEF**

15 **(Infringement of the 'D889 Patent)**

16 257. Apple incorporates and realleges paragraphs 1 through 256 of this Complaint.

17 258. Samsung has infringed and continues to infringe the 'D889 Patent by using, selling
18 and/or offering to sell in the United States, and/or importing into the United States one or more of
19 the Samsung products identified in this Complaint, which embody the design covered by the
20 'D889 Patent.

21 259. Apple is informed and believes, and on that basis alleges, that Samsung's
22 infringement of the 'D889 Patent has been and continues to be intentional, willful, and without
23 regard to Apple's rights.

24 260. Apple is informed and believes, and on that basis alleges, that Samsung has gained
25 profits by virtue of its infringement of the 'D889 Patent.

26 261. Apple has sustained damages as a direct and proximate result of Samsung's
27 infringement of the 'D889 Patent.

1 the Samsung products identified in this Complaint, which embody the design covered by the
2 'D270 Patent.

3 271. Apple is informed and believes, and on that basis alleges, that Samsung's
4 infringement of the 'D270 Patent has been and continues to be intentional, willful, and without
5 regard to Apple's rights.

6 272. Apple is informed and believes, and on that basis alleges, that Samsung has gained
7 profits by virtue of its infringement of the 'D270 Patent.

8 273. Apple has sustained damages as a direct and proximate result of Samsung's
9 infringement of the 'D270 Patent.

10 274. Apple will suffer and is suffering irreparable harm from Samsung's infringement
11 of the 'D270 Patent. Apple has no adequate remedy at law and is entitled to an injunction against
12 Samsung's continuing infringement of the 'D270 Patent. Unless enjoined, Samsung will continue
13 its infringing conduct.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Apple prays for relief, as follows:

16 1. A judgment that Samsung has infringed one of more claims of each of Apple's
17 asserted patents;

18 2. An order and judgment preliminarily and permanently enjoining Samsung and its
19 officers, directors, agents, servants, employees, affiliates, attorneys, and all others acting in
20 privity or in concert with them, and their parents, subsidiaries, divisions, successors and assigns
21 from further acts of infringement of Apple's asserted patents;

22 3. A judgment awarding Apple all damages adequate to compensate for Samsung's
23 infringement of Apple's asserted patents, and in no event less than a reasonable royalty for
24 Samsung's acts of infringement, including all pre-judgment and post-judgment interest at the
25 maximum rate permitted by law;

26 4. A judgment awarding Apple all damages, including treble damages, based on any
27 infringement found to be willful, pursuant to 35 U.S.C. § 284, together with prejudgment interest
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1 5. A judgment awarding Apple all of Samsung's profits, pursuant to 35 U.S.C. § 289
2 together with prejudgment interest.

3 6. An order preliminarily and permanently enjoining Samsung and its officers,
4 directors, agents, servants, employees, affiliates, attorneys, and all others acting in privity or in
5 concert with them, and their parents, subsidiaries, divisions, successors and assigns, from directly
6 or indirectly infringing or diluting the Apple iPhone Trade Dress, Apple iPhone 3G Trade Dress,
7 Apple iPhone 4 Trade Dress, Apple iPad Trade Dress, Apple iPad 2 Trade Dress, Registered Icon
8 Trademarks, Purple iTunes Store Trademark, and iTunes Eighth Note and CD Design Trademark,
9 or using any other product or packaging design or designations similar to or likely to cause
10 confusion with or to dilute the Apple iPhone Trade Dress, Apple iPhone 3G Trade Dress, Apple
11 iPhone 4 Trade Dress, Apple iPad Trade Dress, Apple iPad 2 Trade Dress, Registered Icon
12 Trademarks, Purple iTunes Store Trademark, and iTunes Eighth Note and CD Design Trademark;
13 from passing off Samsung's products as being associated with and or sponsored or affiliated with
14 Apple; from committing any other unfair business practices directed toward obtaining for
15 themselves the business and customers of Apple; and from committing any other unfair business
16 practices directed toward devaluing or diminishing the brand or business of Apple.

17 7. Actual damages suffered by Apple as a result of Samsung's unlawful conduct, in
18 an amount to be proven at trial, as well as prejudgment interest as authorized by law;

19 8. Reasonable funds for future corrective advertising;

20 9. An accounting of Samsung's profits pursuant to 15 U.S.C. § 1117;

21 10. A judgment trebling any damages award pursuant to 15 U.S.C. § 1117;

22 11. Punitive damages pursuant to California Civil Code § 3294;

23 12. Restitutionary relief against Samsung and in favor of Apple, including
24 disgorgement of wrongfully obtained profits and any other appropriate relief;

25 13. Costs of suit and reasonable attorneys' fees; and

26 14. Any other remedy to which Apple may be entitled, including all remedies provided
27 for in 15 U.S.C. §§ 1116, 1117, 35 U.S.C. §§ 284, 285, and 289, and Cal. Bus. & Prof. Code §
28 17200, *et seq.*, and under any other law.

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Dated: June 16, 2011

MORRISON & FOERSTER LLP

By: /s/ Michael A. Jacobs
Michael A. Jacobs

Attorneys for Plaintiff
APPLE INC.

