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14 Attorneys for SAMSUNG ELECTRONICS CO.,
 LTD., SAMSUNG ELECTRONICS AMERICA,
 15 INC. and SAMSUNG
 TELECOMMUNICATIONS AMERICA, LLC
 16

17 UNITED STATES DISTRICT COURT
 18 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION
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20 APPLE INC., a California corporation,

21 Plaintiff,

22 vs.

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

26 Defendant.
 27

ASE NO. 11-cv-01846-LHK (PSG)

**DECLARATION OF RACHEL HERRICK
 KASSABIAN IN SUPPORT OF
 SAMSUNG'S MOTION FOR A
 PROTECTIVE ORDER**

Date: March 27, 2012
 Time: 10:00 a.m.
 Place: Courtroom 5, 4th Floor
 Judge: Hon. Paul S. Grewal

1 I, Rachel Herrick Kassabian, declare as follows:

2 1. I am a partner in the law firm of Quinn Emanuel Urquhart & Sullivan, LLP,
3 counsel for Samsung Electronics Co., Ltd., Samsung Electronics America, Inc. and Samsung
4 Telecommunications America, LLC (collectively, “Samsung”). I submit this declaration in
5 support of Samsung’s Motion for a Protective Order Precluding the Deposition of Ten High-
6 Ranking Samsung Executives (“Samsung’s Motion for Protective Order”). I have personal
7 knowledge of the facts set forth in this declaration, except as otherwise noted, and, if called upon
8 as a witness, I could and would testify to such facts under oath.

9 2. Since November 1, 2011, Apple has noticed nearly 100 depositions of current or
10 former Samsung employees. Nearly one-third of these deposition notices – 30 out of 95 – were
11 directed to Samsung’s senior executives, with titles of Vice President or higher. Apple has also
12 served eleven sets of Rule 30(b)(6) deposition notices traversing more than 250 topics and sub-
13 topics.

14 3. Only three of the 30 senior executives Apple noticed – Brian Rosenberg, Tim
15 Sheppard and Todd Pendleton – were identified in Samsung’s Initial disclosures or
16 Supplemental Initial Disclosures. Samsung has not objected to the depositions of those three
17 executives on apex grounds, and has permitted those depositions to proceed.

18 4. Samsung first voiced its objection to Apple’s noticing of senior executives for
19 deposition at the parties’ lead counsel meet and confer session on January 5, 2012. Thereafter,
20 Apple continued to notice additional Samsung senior executive depositions. On January 13,
21 2012, Samsung more specifically identified its apex objections in relation to one of Samsung’s
22 executives that had been noticed as of that date. Apple again served several additional apex
23 deposition notices thereafter.

24 5. On February 3, I sent Apple additional correspondence regarding Samsung’s
25 objections to Apple’s apex deposition notices, specifically identifying 23 senior executives
26 whose depositions Apple had improperly noticed. A true and correct copy of this letter is
27 attached hereto as Exhibit A.

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1 6. At the parties' lead counsel meet and confer on February 6, 2012, Samsung asked
2 Apple to explain in writing what unique personal knowledge it believed these individuals
3 possess, and to propose some reasonable limitations on the scope of testimony.

4 7. Apple finally responded on February 9, but did not agree to withdraw any of its
5 senior executive deposition notices. A true and correct copy of Apple's letter is attached hereto
6 as Exhibit B. Samsung responded that same day, again requesting that Apple explain why
7 whatever knowledge these individuals possess is unique to them and why other means of
8 discovery were insufficient. A true and correct copy of that correspondence is attached hereto as
9 Exhibit C. Apple did not respond.

10 8. Nevertheless, Samsung subsequently narrowed its apex objections down from 23
11 to 17 executives.

12 9. After Samsung raised the apex issue, Apple began withdrawing numerous
13 deposition notices—including many lower-ranking individuals, even while leaving intact its
14 notices for their supervisors—and in some cases the supervisor of their supervisor.

15 10. At the parties' lead counsel meet and confer session on February 14, Samsung's
16 counsel attempted to engage Apple's counsel in a merits discussion of the apex issue. More
17 specifically, Samsung pointed out that the evidence Apple had offered to date did not reflect that
18 any of the apex executives at issue possessed unique knowledge, and asked for a response.
19 Apple refused, stating only that its position was laid out in its February 9 letter.

20 11. Samsung also pointed out that Apple had recently cancelled the depositions of
21 several lower-level employees who reported (directly or indirectly) to these apex executives, and
22 asked why Apple had done so and why that didn't defeat Apple's demand for these apex
23 depositions. Apple responded only that it had done so for "strategic" reasons, and repeatedly
24 stated that the only issue to discuss was whether Samsung intended to immediately drop all of its
25 objections and offer all of the apex executives without limitation—otherwise it would file a
26 motion. Apple then refused to discuss the matter further, demanding instead that the parties
27 move on to the next issue.

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1 12. Nevertheless, during this same meeting Samsung offered to drop three more of its
2 apex objections, bringing its objections down from 17 to 14 executives. Samsung asked Apple
3 if it would drop other of its apex notices in return. Apple again refused.

4 13. On February 16, 2012, Apple filed a motion to compel the depositions of the 14
5 apex executives for whom Samsung had refused to provide deposition dates, and requested
6 shortened time on its motion. On February 17, this Court issued an order denying Apple's
7 request, and instructing the parties to file their apex motions for a regular noticed hearing on the
8 same date. In that Order, the court instructed the parties to "use the additional time available to
9 them to carry out further attempts through the meet and confer process to reduce the number of
10 individuals in dispute."

11 14. To that end, on February 20, Samsung reached out to Apple to further discuss the
12 apex issues, and requested that the parties participate in a conference call. A true and correct
13 copy of that correspondence is attached hereto as Exhibit D. Apple failed to respond to
14 Samsung's meet and confer request. Instead, on February 21, Apple unilaterally re-noticed its
15 motion to compel for hearing on March 27.

16 15. Even after Apple unilaterally re-noticed its motion, Samsung again reached out to
17 Apple, offering to drop four more of its apex objections, and asking Apple to respond. A true
18 and correct copy of that correspondence is attached hereto as Exhibit E. Apple ignored this
19 request to meet and confer as well.

20 16. Attached hereto as Exhibit F is a true and correct copy of excerpts from the
21 transcript of Hangil Song's deposition, which took place on February 8, 2012.

22 17. Attached hereto as Exhibit G is a true and correct copy of excerpts from the
23 transcript of Bo-Ra Kim's deposition, which took place on January 11, 2012.

24 18. Attached hereto as Exhibit H is a true and correct copy of excerpts from the
25 transcript of Sun-Young Yi's deposition, which took place on February 8, 2012.

26 19. Attached hereto as Exhibit I is a true and correct copy of excerpts from the
27 transcript of Jinsoo Kim's deposition, which took place on February 2, 2012.

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1 20. Attached hereto as Exhibit J is a true and correct copy of excerpts from the
2 transcript of Jungmin Yeo's deposition, which took place on February 8, 2012.

3 21. Attached hereto as Exhibit K is a true and correct copy of excerpts from the
4 transcript of Timothy Sheppard's deposition, which took place on February 8, 2012. Mr.
5 Sheppard, Vice President of Finance at STA, has been designated as Samsung's 30(b)(6) witness
6 on at least 24 financial topics, and will testify for the second time in this action next week.

7 22. Samsung has designated numerous 30(b)(6) witnesses to date, including: (1)
8 SEC employees Seongwoo Kim, Sungho Choi and Junwon Lee to testify to various licensing
9 and ETSI-related topics; (2) SEC employee GiSang Lee to testify regarding the development of
10 various features at issue, including the '055 and '871 Patents; (3) SEC employee Yungjung Lee
11 to testify regarding the hardware design of the products at issue; (4) STA employees Todd
12 Pendleton and Tim Benner and SEC employee Oh Chae Kwon to testify regarding the marketing
13 of the products at issue; (5) SEC employee Ioi Lam, Dooju Byun, and Wookyun Kho to testify
14 regarding the development of various features at issue; (6) SEC employee Heonseok Lee to
15 testify regarding various topics related to the development of features and products at issue; (7)
16 STA employee Tim Sheppard to testify regarding finances; and (8) STA employee Justin
17 Denison to testify regarding product design and strategy.

18 23. Attached as Exhibit L is a true and correct copy of the declaration of Jaewan Chi,
19 submitted to the International Trade Commission in Investigation No. 337-TA-794.

20 24. Attached as Exhibit M is a true and correct copy of the declaration of Seungho
21 Ahn, submitted to the International Trade Commission in Investigation No. 337-TA-794.

22 25. Attached as Exhibit N is a true and correct copy of excerpts of Apple's Form 10-
23 K, submitted to the SEC on September 24, 2011.

24 26. Apple has served deposition notices for 14 Samsung employees who work in
25 groups or departments involved with sales and marketing at either SEC or STA.

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

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Executed on February 23, 2012, at San Francisco, California.



Rachel Herrick Kassabian

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