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 CO., LTD., SAMSUNG ELECTRONICS
 14 AMERICA, INC. and SAMSUNG
 TELECOMMUNICATIONS AMERICA, LLC
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16 UNITED STATES DISTRICT COURT

17 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

18 APPLE INC., a California corporation,

19 Plaintiff,

20 vs.

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

24 Defendants.
 25

CASE NO. 11-cv-01846-LHK

**DECLARATION OF JOHN S. GORDON
 IN SUPPORT OF SAMSUNG'S
 OPPOSITION TO APPLE'S MOTION
 FOR RULE 37(b)(2) SANCTIONS FOR
 SAMSUNG'S ALLEGED VIOLATION OF
 JANUARY 27, 2012 DAMAGES
 DISCOVERY ORDER**

Date: April 3, 2012

Time: 10:00 a.m.

Place: Courtroom 5, 4th Floor

Judge: Hon. Paul S. Grewal

27 **EXHIBITS 5 AND 6 HERETO FILED UNDER SEAL**

1 I, John S. Gordon, declare:

2 1. I have personal knowledge of the facts set forth in this declaration, and if called as
3 a witness, I could and would testify to the facts stated herein. This declaration is made in support
4 of Samsung's Opposition to Apple's Rule 37(b)(2) Motion for Samsung's Violation of the January
5 27, 2012 Damages Discovery Order.

6 2. I am an attorney at law, duly licensed and admitted to practice in the courts of the
7 State of California. I am a partner at the law firm of Quinn Emanuel Urquhart & Sullivan LLP.
8 We are counsel of record for the Samsung defendants in Case No. 11-cv-01846-LHK (PSG).

9 3. Attached hereto as Exhibit 1 is a true and accurate copy of Apple Inc.'s Disclosure
10 of Asserted Claims & Infringement Contentions, dated August 26, 2011.

11 4. Attached hereto as Exhibit 2 is a true and accurate copy of Apple Inc.'s Addendum
12 to its Disclosure of Asserted Claims and Infringement Contentions, dated August 26, 2011.

13 5. Attached hereto as Exhibit 3 is a true and accurate copy of Apple Inc.'s Amended
14 Objections and Response to Samsung Electronic Co. Ltd.'s Interrogatory No. 5 to Apple, Inc.,
15 dated March 4, 2012.

16 6. Attached hereto as Exhibit 4 is a true and accurate copy of the January 6, 2012
17 email from Mark Selwyn to Todd Briggs titled "Apple v. Samsung – Draft Stipulation and
18 Proposed Order Regarding Adding Accused Products," with the attached Stipulation and
19 [Proposed] Order Regarding Adding Accused Products. To the best of my knowledge, the
20 stipulation was never executed and the proposed order was never issued by the Court.

21 7. Timothy Sheppard, the Vice President of Finance and Operations at Samsung
22 Telecommunications America, LLC ("STA"), was deposed by Apple on February 29, 2012. I
23 have read that deposition and have done an electronic search of the transcript for all references to
24 the term "Galaxy." Based on my review of the deposition transcript, Apple marked as deposition
25 exhibits (Exhs. 1920 and 1922) and questioned Mr. Sheppard about two financial information
26 spreadsheets produced by Samsung. Based on my recollection and on my electronic search of

1 the transcript, Apple's counsel questioned Mr. Sheppard about the two spreadsheets, and Apple's
2 counsel never asked Mr. Sheppard whether either one covered the T-Mobile and AT&T editions
3 of the Galaxy S II phone. Apparently the court reporter did not fully copy the version of the
4 original spreadsheet appended as Exhibit 1920, so the hard copy of that exhibit provided by the
5 court reporter is missing almost the entirety of the spreadsheet. But the original spreadsheet,
6 which I understand was produced to Apple on February 3, 2012 in native form, contains a tab
7 titled "Galaxy S II tab" with an accompanying worksheet titled "Galaxy S II/2 (GT-I9100)." The
8 third spreadsheet, Exhibit 1922, produced in hard copy, has on pages SAMNDCA00354333-
9 SAMNDCA00354335 a worksheet titled "Galaxy S II/2 (GT-I9100)."

10 8. Attached hereto as Exhibit 5 is a true and accurate copy of a March 6, 2012 letter
11 from Marc J. Pernick to Samsung's counsel raising various complaints Apple had about Samsung's
12 document production. On page two of that letter, in bullet point two, Mr. Pernick stated the
13 following:

14 Mr. Sheppard testified that these spreadsheets are actually available at the level of
15 detail provided in Exhibit 1926, *i.e.*, the Samsung global consolidating package
16 report. But Samsung has continued to withhold this information or any versions
17 of the spreadsheets that include this more granular level of detail, including any
18 documents used to verify or confirm the data. We have requested this level of
19 detail several times now. When you reproduce these spreadsheets in native
20 format—which we ask that you do by close of business tomorrow—please include
21 the level of detail for all entities that is shown in Exhibit 1926.

22 9. Attached hereto as Exhibit 6 is a copy of the cover page and pages 8, 35-36, 43-48,
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24 /
25 /

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1 103-104, 114-115, 120-23, 150-153, 183-185, and the reporter's signature page of the March 10,
2 2012 transcript of the deposition of Jaehwang Sim, taken in Seoul, Korea.

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

5 Executed on this 12th day of March, 2011, at Los Angeles, California.

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By /s/ John S. Gordon

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John S. Gordon

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