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Attorneys for Plaintiff and
 Counterclaim-Defendant Apple Inc.

**United States District Court
 Northern District of California
 San Jose Division**

14 APPLE INC., a California corporation,
 Plaintiff,
 15 vs.
 16 SAMSUNG ELECTRONICS CO., LTD., a
 Korean business entity, SAMSUNG
 17 ELECTRONICS AMERICA, INC., a New
 York corporation, and SAMSUNG
 18 TELECOMMUNICATIONS AMERICA,
 LLC, a Delaware limited liability company,
 19 Defendants.
 20
 21 SAMSUNG ELECTRONICS CO., LTD., a
 Korean business entity, SAMSUNG
 22 ELECTRONICS AMERICA, INC., a New
 York corporation, and SAMSUNG
 23 TELECOMMUNICATIONS AMERICA,
 LLC, a Delaware limited liability company,
 24 Counterclaim-Plaintiffs,
 25 v.
 26 APPLE INC., a California corporation,
 27 Counterclaim-Defendant.

Civil Action No. 11-CV-01846-LHK

**DECLARATION OF S. CALVIN
 WALDEN IN SUPPORT OF APPLE
 INC.'S NOTICE OF MOTION AND
 MOTION TO COMPEL**

Date: April 24, 2012
 Time: 10:00 a.m.

ORAL ARGUMENT REQUESTED

1 I, S. Calvin Walden, hereby declare as follows:

2 1. I am an attorney at the law firm of Wilmer Cutler Pickering Hale and Dorr LLP,
3 counsel for Apple Inc. (“Apple”) in the above-referenced litigation. I am licensed to practice law
4 in the State of New York, and am admitted to practice before the U.S. District Court for the
5 Southern and Eastern Districts of New York, as well as the Federal Circuit. I am admitted *pro*
6 *hac vice* in this case. I am familiar with the facts set forth herein, and, if called as a witness, I
7 could and would testify competently to those facts under oath.
8

9 2. Attached as Exhibit 1 is a copy of Apple’s Third Set of Requests for Production
10 of Documents and Things.
11

12 3. Attached as Exhibit 2 is a copy of Apple’s Fourth Set of Requests for Production
13 of Documents and Things.
14

15 4. Attached as Exhibit 3 is Samsung’s Objections and Responses to Apple’s Third
16 Set of Requests for Production of Documents and Things.
17

18 5. Attached as Exhibit 4 is Samsung’s Objections and Responses to Apple’s Fourth
19 Set of Requests for Production of Documents and Things.
20

21 6. In 2012, Apple served 164 individual document requests on Samsung (in nine sets
22 of document requests). In its written responses to these nine sets of document requests, Samsung
23 agreed to produce documents in response to just two requests, stated it would not produce
24 documents in response to just one request, and stated it would “meet and confer” on the
25 remaining 161 of the 164 individual requests.
26

27 7. Attached as Exhibit 5 is a copy of a letter from myself to Rachel Kassabian dated
28 January 13, 2012.

1 8. The issues outlined in my January 13, 2012 letter – including those respecting
2 Apple document requests 134, 151-154, and 185-187 – were placed on the agenda for the lead
3 counsel meeting which was scheduled and held on January 16, 2012.
4

5 9. Samsung’s counsel refused to discuss these issues at the January 13, 2012 lead
6 counsel meeting. Instead, Samsung indicated that, in Samsung’s view, these issues were not yet
7 ripe for discussion among the parties’ lead counsel (purportedly because Apple had only raised
8 them a few days earlier). Samsung’s counsel stated that Samsung would respond to Apple’s
9 January 13 letter in writing.
10

11 10. Despite the promise made during the January 16, 2012 lead counsel meeting,
12 Samsung did not respond to my January 13, 2012 letter before the next scheduled lead counsel
13 meeting held over the course of two days on February 14 and 15, 2012. Apple once again placed
14 the document requests at issue in this motion on the agenda for the February 14-15, 2012 lead
15 counsel meeting.
16

17 11. The February 14-15, 2012 lead counsel meeting was attended by lead counsel
18 Charles Verhoeven and Harold McElhinny, as well as other attorneys, including myself (via
19 telephone). Over the course of two days, the meeting lasted approximately five hours.
20

21 12. During the February 14, 2012 lead counsel session, Apple again raised Samsung’s
22 failure to produce the documents at issue in this motion. In response, Samsung’s counsel again
23 refused to address the substance of these issues, but instead stated (as they had a month earlier)
24 that a written response would be forthcoming. Apple informed Samsung that Apple considered
25 the lead counsel meet-and-confer requirement to have been satisfied with respect to the issues
26 raised in my January 13, 2012 letter, since Samsung had twice refused to discuss the issues
27
28

1 despite the presence of both sides' lead counsel at the meet and confer per the Court's
2 requirements.

3
4 13. Attached as Exhibit 6 is a copy of a letter from Rachel Kassabian to myself dated
5 February 16, 2012.

6 14. Despite the promise in Samsung's February 16, 2012 letter to "get back to you
7 shortly" with an actual proposal, Samsung thereafter simply stopped engaging with Apple on the
8 document requests at issue in this motion.

9
10 15. Attached as Exhibit 7 is a copy of a letter from myself to Rachel Kassabian dated
11 February 28, 2012.

12 16. Attached as Exhibit 8 is a copy of an e-mail from myself to Rachel Kassabian
13 dated March 6, 2012.

14
15 17. Attached as Exhibit 9 is a copy of an e-mail from myself to Rachel Kassabian
16 dated March 7, 2012.

17
18 18. Attached as Exhibit 10 is a copy of an e-mail from Rachel Kassabian to me dated
19 March 7, 2012.

20 19. Attached as Exhibit 11 is a copy of an e-mail from myself to Rachel Kassabian
21 dated March 9, 2012.

22
23 20. At the time of this filing, Samsung has not sent Apple the letter promised in Ms.
24 Kassabian's March 7, 2012 email.

25
26 21. Apple's Document Request No. 134 (seeking documents pertaining to Samsung's
27 standards strategies), like its document requests seeking documents from other litigations, was
28 addressed in Apple's January 13, 2012 letter, and placed on the agenda for the January 16, 2012

1 and February 14-15, 2012, lead counsel meetings. Samsung refused to discuss this document
2 request at either lead counsel meeting, but instead stated that it would provide Apple with a
3 written response.
4

5 22. Despite several requests from Apple, Samsung has not responded to Apple's
6 February 28, 2012 letter, and thus, it is unclear whether Samsung has agreed to produce the
7 documents Apple seeks in response to Request No. 134, or what exactly Samsung has agreed to
8 produce in response to that request.
9

10 23. Attached as Exhibit 12 is a copy of a document Samsung produced numbered
11 SAMNDCA0016606.

12 24. Attached as Exhibit 13 is a copy of a translation Apple commissioned of the
13 document Samsung produced numbered SAMNDCA0016606.
14

15 25. Attached as Exhibit 14 is the translator certification for the document Samsung
16 produced numbered SAMNDCA0016606.
17

18 26. According to the production information accompanying the document Samsung
19 produced numbered SAMNDCA0016606, the document is from the files of Joon Young Cho.

20 I declare under penalty of perjury that the foregoing is true and correct to the best of my
21 knowledge. Executed on this 15th day of March, 2012, in New York, New York.
22
23

24 Dated: March 15, 2012

/s/ S. Calvin Walden
S. Calvin Walden

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on March 15, 2012 to all counsel of record who are deemed to have consented to electronic service per Civil Local Rule 5.4.

/s/ S. Calvin Walden
S. Calvin Walden