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11 Attorneys for Plaintiff and
 12 Counterclaim-Defendant APPLE INC.

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

17 APPLE INC., a California corporation,
 18 Plaintiff,
 19 v.
 20 SAMSUNG ELECTRONICS CO., LTD., A
 Korean business entity; SAMSUNG
 21 ELECTRONICS AMERICA, INC., a New York
 corporation; SAMSUNG
 22 TELECOMMUNICATIONS AMERICA, LLC, a
 Delaware limited liability company.,
 23 Defendants.
 24

Case No. 11-cv-01846-LHK (PSG)

**REPLY DECLARATION OF
 MARC J. PERNICK IN SUPPORT
 OF APPLE'S RULE 37(b)(2)
 MOTION BASED ON
 SAMSUNG'S VIOLATION OF
 THE COURT'S DECEMBER 22,
 2011 ORDER REGARDING
 SOURCE CODE**

Date: April 24, 2012
 Time: 10:00 a.m.
 Place: Courtroom 5, 4th Floor
 Judge: Hon. Paul S. Grewal

26 **EXHIBIT D FILED UNDER SEAL**
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1 I, Marc J. Pernick, declare as follows:

2 1. I am a partner in the law firm of Morrison & Foerster LLP, counsel for Apple Inc.
3 (“Apple”). I am licensed to practice law in the State of California. Unless otherwise indicated, I
4 have personal knowledge of the matters stated herein or understand them to be true from
5 members of my Morrison & Foerster colleagues. I make this Reply Declaration in support of
6 Apple’s Rule 37(b)(2) Motion Based on Samsung’s Violation of the Court’s December 22, 2011
7 Order Regarding Source Code.

8 2. On October 26, 2011, Apple served a Sixth Set of Requests for Production of
9 Documents on Samsung. A true and correct copy of that document is attached hereto as
10 Exhibit A.

11 3. As described in Paragraphs 4-13 of my previous Declaration (Dkt. No. 796), Apple
12 made repeated attempts to negotiate a stipulation with Samsung regarding whether the limited
13 source code that Samsung produced by December 31, 2011 was representative of the source code
14 that Samsung did not produce by that time (or ever). Those efforts included a proposed stipulation
15 that I sent to Samsung on February 26, 2012, to which I requested a response by February 28,
16 2012. I followed up that communication on February 29, 2012, with another request that
17 Samsung respond to Apple’s proposal. Samsung did not reply to those communications until
18 March 15, 2012.

19 4. On March 16, 2012, I replied to Samsung’s March 15 communication with
20 comments on its proposed stipulation, and with suggestions for how the parties might resolve the
21 issues raised in Apple’s Motion. Samsung did not reply to my March 16 communication until
22 Friday, March 23, 2012. A true and correct copy of Samsung’s March 23 response is attached
23 hereto as Exhibit B.

24 5. I replied by letter to Samsung on Monday, March 26, 2012. A true and correct
25 copy of that letter is attached hereto as Exhibit C. Samsung has not responded to my March 26
26 letter.

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ATTESTATION OF E-FILED SIGNATURE

I, Michael A. Jacobs, am the ECF User whose ID and password are being used to file this Declaration. In compliance with General Order 45, X.B., I hereby attest that Marc J. Pernick has concurred in this filing.

Dated: March 30, 2012

/s/ Michael A. Jacobs
Michael A. Jacobs