

1 HAROLD J. MCELHINNY (CA SBN 66781)
 hmcclhinny@mofo.com
 2 MICHAEL A. JACOBS (CA SBN 111664)
 mjacobs@mofo.com
 3 JENNIFER LEE TAYLOR (CA SBN 161368)
 jtaylor@mofo.com
 4 ALISON M. TUCHER (CA SBN 171363)
 atucher@mofo.com
 5 RICHARD S.J. HUNG (CA SBN 197425)
 rhung@mofo.com
 6 JASON R. BARTLETT (CA SBN 214530)
 jasonbartlett@mofo.com
 7 MORRISON & FOERSTER LLP
 425 Market Street
 8 San Francisco, California 94105-2482
 Telephone: (415) 268-7000
 9 Facsimile: (415) 268-7522

WILLIAM F. LEE
 william.lee@wilmerhale.com
 WILMER CUTLER PICKERING
 HALE AND DORR LLP
 60 State Street
 Boston, MA 02109
 Telephone: (617) 526-6000
 Facsimile: (617) 526-5000

MARK D. SELWYN (SBN 244180)
 mark.selwyn@wilmerhale.com
 WILMER CUTLER PICKERING
 HALE AND DORR LLP
 950 Page Mill Road
 Palo Alto, California 94304
 Telephone: (650) 858-6000
 Facsimile: (650) 858-6100

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 11 Attorneys for Plaintiff and
 Counterclaim-Defendant APPLE INC.

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

16
 17 APPLE INC., a California corporation,

18 Plaintiff,

19 v.

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

23 Defendants.
 24

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

**APPLE'S OPPOSITION TO
 SAMSUNG'S ADMINISTRATIVE
 REQUEST FOR LEAVE TO FILE A
 SUR-REPLY TO APPLE'S REPLY IN
 SUPPORT OF RULE 37(b)(2)
 MOTION RE SAMSUNG'S
 VIOLATION OF JANUARY 27, 2012
 DAMAGES DISCOVERY ORDER**

Date: April 9, 2012
 Time: 10:00 a.m.
 Place: Courtroom 5, 4th Floor
 Judge: Hon. Paul S. Grewal

1 Samsung offers no explanation for waiting 18 days after Apple filed its reply, during a
2 holiday weekend less than two days before the hearing,¹ to seek leave to submit a 10-page sur-
3 reply. Samsung gave no notice to Apple of its filing, and it did not confer with Apple before
4 filing it as required by Civil Local Rule 7-11. The Court should deny the requested leave.

5 Samsung inappropriately invokes Civil Local Rule 7-3(d) as a basis for its Administrative
6 Request. Rule 7-3(d) allows a party to file, “within 7 days after the reply is filed, an Objection to
7 Reply Evidence, which may not exceed 5 pages of text, stating its objections to any new
8 evidence, which may not include further argument on the motion.” Samsung’s proposed sur-
9 reply violates all of these requirements.

10 Samsung also violates Civil Local Rule 7-11, the other Rule invoked in its Administrative
11 Request. Local Rule 7-11 provides that any request for administrative relief “must be
12 accompanied . . . by either a stipulation under Civil L.R. 7-12 or by a declaration that explains
13 why a stipulation could not be obtained.” Samsung’s Administrative Request is not accompanied
14 by either a stipulation or a declaration, for good reason—Samsung did not even inform Apple of
15 its intended filing, much less seek Apple’s consent to its being filed.

16 For the foregoing reasons, Apple requests that the Court deny Samsung’s Administrative
17 Request for leave to file a sur-reply to Apple’s reply in support of its Rule 37(b)(2) Motion
18 scheduled for hearing this Monday at 10:00 a.m.

19 Dated: April 7, 2012

MORRISON & FOERSTER LLP

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

22 Attorneys for Plaintiff
23 APPLE INC.

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26 _____
27 ¹ The declaration of Mr. Kim that is attached to the response was signed on March 30 in
28 Korea, more than a week ago. It could have been, but was not, provided to Apple prior to Mr.
Sheppard’s deposition in the U.S. on March 30 or Mr. Sim’s deposition in Korea on March 31.