

1 HAROLD J. MCELHINNY (CA SBN 66781)  
 hmcclhinny@mofo.com  
 2 MICHAEL A. JACOBS (CA SBN 111664)  
 mjacobs@mofo.com  
 3 RICHARD S.J. HUNG (CA SBN 197425)  
 rhung@mofo.com  
 4 MORRISON & FOERSTER LLP  
 425 Market Street  
 5 San Francisco, California 94105-2482  
 Telephone: (415) 268-7000  
 6 Facsimile: (415) 268-7522

WILLIAM F. LEE (*pro hac vice*)  
 william.lee@wilmerhale.com  
 WILMER CUTLER PICKERING  
 HALE AND DORR LLP  
 60 State Street  
 Boston, Massachusetts 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

*Attorneys for Plaintiff and  
 Counterclaim-Defendant Apple Inc.*

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN JOSE DIVISION

15 APPLE INC., a California corporation,  
 16  
 Plaintiff,  
 17  
 v.  
 18 SAMSUNG ELECTRONICS CO., LTD., a  
 Korean corporation; SAMSUNG ELECTRONICS  
 19 AMERICA, INC., a New York corporation; and  
 SAMSUNG TELECOMMUNICATIONS  
 20 AMERICA, LLC, a Delaware limited liability  
 company,  
 21  
 Defendants.

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

**JOINT STIPULATION AND  
 [PROPOSED] ORDER  
 REGARDING SAMSUNG'S  
 PRODUCTION OF DOCUMENTS  
 AND WITHDRAWING APPLE'S  
 MOTION TO COMPEL**

1           WHEREAS, on March 15, 2012, Apple Inc. (“Apple”) filed a Motion to Compel Samsung  
2 Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung Telecommunications  
3 America, LLC (collectively “Samsung,” and together with Apple, “the Parties” and individually  
4 each a “Party”) to produce (i) documents relating to positions Samsung has taken in other  
5 litigations regarding the licensing of patents and other intellectual property rights (“IPR”) claimed  
6 to be essential to the UMTS standard, the determination of a fair, reasonable and non-  
7 discriminatory (“FRAND”) royalty, and the propriety of injunctive relief for the infringement of  
8 IPR claimed to be essential to the UMTS standard; and (ii) documents concerning Samsung’s  
9 plans for the development, marketing or licensing of IPR that is claimed to be essential to the  
10 UMTS standard, including presentations to executive management and the Board of Directors.

11           WHEREAS, on March 29, 2012, Samsung filed an Opposition to Apple’s Motion to  
12 Compel;

13           WHEREAS, pursuant to Court Order, the filing date for the reply in support of Apple’s  
14 Motion to Compel is April 10, 2012;

15           WHEREAS, the Parties have met and conferred and agreed to the joint stipulation below  
16 that would resolve this discovery dispute without the Court’s intervention;

17           NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by the Parties as  
18 follows:

19           1.       Samsung agrees to produce on a rolling basis, its non-privileged documents, if any,  
20 that it is able to locate after conducting a reasonable search, responsive to the following  
21 categories of documents for litigation in the US and foreign jurisdictions, excluding any  
22 responsive discovery motions, filings by third parties, and documents prepared by non-testifying  
23 experts:

24                   Documents and/or responsive portions thereof, including briefing not  
25                   publicly available on Pacer, responsive excerpts of deposition or other  
26                   testimony of Samsung’s current or former employees or its testifying  
27                   experts, and reports and/or responsive portions thereof prepared by  
28                   Samsung’s testifying experts, relating to or containing any claims or  
                    statements by Samsung in any litigation or judicial proceeding, regarding  
                    the determination of a FRAND royalty rate for any IPR that is claimed  
                    Essential to the UMTS Standard, and the propriety of injunctive relief for  
                    the infringement of IPR claimed to be Essential to the UMTS Standard.

1 For the avoidance of doubt, Samsung agrees to conduct a reasonable  
2 search for documents from at least the following litigations, and will  
3 produce its non-privileged responsive documents (or portions thereof), to  
4 the extent they exist: (1) *In re Certain 3G WCDMA Handsets*  
5 (*InterDigital v. Samsung*), No. 337-TA-601 (I.T.C.); (2) *Samsung v.*  
6 *InterDigital*, No. 07-0167 (D. Del.); (3) *Ericsson v. Samsung*, No. 06-0063  
7 (*E.D. Tex.*); and (4) *Telefonaktiebolaget LM Ericsson v. Samsung*  
8 *Electronics UK Ltd.*, HC06 C00618. Of course, Samsung reserves the  
9 right to make redactions as appropriate where documents contain non-  
10 responsive information or statements, and to protect information about  
11 unannounced products.

12 2. Samsung agrees to produce the documents referenced in paragraph 1, above, on a  
13 rolling basis. Samsung agrees to use its best efforts to substantially complete production of  
14 documents not containing third party confidential information by April 16, 2012. Any non-  
15 privileged responsive documents that are not in English, however, may take longer to review and  
16 produce, and Samsung agrees to produce such documents on a rolling basis to be substantially  
17 completed by April 24, 2012. To the extent any documents referenced in paragraph 1 are subject  
18 to a protective order or other provision precluding their disclosure to Apple, Samsung will use its  
19 best efforts to obtain any necessary third party consent to redact any third party confidential  
20 information and produce those documents in redacted form in the first instance by April 16, 2012.  
21 To the extent that there are any documents referenced in paragraph 1 that Samsung is unable to  
22 produce to Apple by April 16, Samsung agrees to meet and confer with Apple on April 18, 2012  
23 at 2:00 p.m. Pacific concerning which documents have not been produced and the reasons  
24 therefor. For those responsive documents that were redacted to protect third party confidential  
25 business information, Samsung shall use its best efforts to obtain third party consent to provide  
26 unredacted copies of those documents responsive to paragraph 1 as quickly as possible.  
27 However, nothing in this stipulation shall require Samsung to produce responsive documents  
28 from other proceedings if doing so would require Samsung to violate the terms of a protective  
order or other authority precluding the disclosure of those documents.

1 3. Samsung agrees to use its best efforts to make a substantially complete production  
2 by April 16 of its non-privileged, responsive business plans, strategy documents, financial  
3 projections and licensing plans dated from January 1, 1999 to December 31, 2005, located after a

1 reasonable search, that are applicable to patents that have been declared essential to the UMTS  
2 specifications identified in Apple's answer and counterclaim, even if those business plans and  
3 other responsive documents also apply to other patents, to UMTS generally and/or to 3G  
4 generally. Of course, Samsung reserves the right to make redactions as appropriate to protect  
5 information about unannounced products or technology that has not been incorporated into a  
6 released product. To the extent that there are any documents referenced in this paragraph that  
7 Samsung is unable to produce to Apple by April 16, Samsung agrees to meet and confer with  
8 Apple on April 18, 2012 at 2:00 p.m. Pacific concerning which documents have not been  
9 produced and the reasons therefor.

10 4. Apple's Motion to Compel [Dkt. 815] is withdrawn. Apple may still file a motion  
11 to enforce this stipulation if necessary; and

12 5. No other dates or deadlines shall be modified by this stipulation and order.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: April 10, 2012

Dated: April 10, 2012

/s/ Mark D. Selwyn  
William F. Lee  
WILMER CUTLER PICKERING  
HALE AND DORR LLP  
60 State Street  
Boston, Massachusetts 02109  
Telephone: (617) 526-6000  
Facsimile: (617) 526-5000

/s/ Victoria Maroulis  
Charles K. Verhoeven  
QUINN EMANUEL URQUHART  
& SULLIVAN LLP  
50 California Street, 22<sup>nd</sup> Floor  
San Francisco, California 94111  
Telephone: (415) 875-6600

Mark D. Selwyn  
WILMER CUTLER PICKERING  
HALE AND DORR LLP  
950 Page Mill Road  
Palo Alto, California 94304  
Telephone: (650) 858-6000  
Facsimile: (650) 858-6100

Victoria Maroulis  
Rachel Herrick Kassabian  
QUINN EMANUEL URQUHART  
& SULLIVAN LLP  
555 Twin Dolphin Drive, 5<sup>th</sup> Floor  
Redwood Shores, California 94065  
Telephone: (650) 801-5066

Harold J. McElhinny  
Michael A. Jacobs  
Richard S.J. Hung  
MORRISON & FOERSTER LLP  
425 Market Street  
San Francisco, California 94105  
Telephone: (415) 268-7000  
Facsimile: (415) 268-7522

Diane C. Hutnyan  
QUINN EMANUEL URQUHART  
& SULLIVAN LLP  
865 S. Figueroa St., 10<sup>th</sup> Floor  
Los Angeles, California 90017  
Telephone: (213) 443-3000

*Counsel for Plaintiff and Counterclaim-  
Defendant Apple Inc.*

*Counsel for Samsung Electronics Co., Ltd.,  
Samsung Electronics America, Inc., and  
Samsung Telecommunications America, LLC*

**PURSUANT TO STIPULATION, IT IS SO ORDERED.**

Dated: \_\_\_\_\_, 2012

By: \_\_\_\_\_  
The Honorable Paul S. Grewal  
United States Magistrate Judge

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ATTESTATION OF E-FILED SIGNATURE**

I, Mark D. Selwyn, 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 Victoria Maroulis has concurred in this filing.

Dated: April 10, 2012

/s/ Mark. D Selwyn  
Mark D. Selwyn