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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,	Case No. 11-cv-01846-LHK (PSG)
18	Plaintiff,	SUPPLEMENTAL DECLARATION OF ERIK J.
19	V.	OLSON IN SUPPORT OF APPLE'S RULE 37(B)(2) MOTION
20	SAMSUNG ELECTRONICS CO., LTD., A Korean business entity; SAMSUNG	RE SAMSUNG'S VIOLATION OF JANUARY 27, 2012 DAMAGES
21	ELECTRONICS AMERICA, INC., a New York corporation; SAMSUNG	DISCOVERY ORDER
22	TELECOMMUNICATIONS AMERICA, LLC, a Delaware limited liability company,	Date: April 9, 2012
23	Defendants.	Time: 10:00 a.m. Place: Courtroom 5, 4th Floor
24		Judge: Hon. Paul S. Grewal
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Supplemental Olson Decl. ISO Apple's Mot. to Enforce the Court's January 27 Order & Seek Sanctions Case No. 11-cv-01846-LHK (PSG) sf-3135689

1. I am a partner in the law firm of Morrison & Foerster LLP, counsel for Apple Inc. ("Apple"). I am licensed to practice law in the State of California. Unless otherwise indicated, I have personal knowledge of the matters stated herein or understand them to be true from members of my litigation team. I make this Supplemental Declaration in support of Apple's Motion regarding Samsung's Violation of the Court's January 27, 2010 Damages Discovery Order ("Motion").

2. After the Motion was argued and submitted on April 9, 2012, three relevant developments have occurred that Apple wishes to bring to the Court's attention. To the extent the Court has questions regarding the facts set forth in this Declaration, Apple will be prepared to address them during the upcoming April 24 hearing on another Apple motion.

Scheduling the Deposition of Apple's Damages Expert Terry Musika

- 3. Apple's Motion requests that Samsung be required to produce additional documents and data to Apple, but that Apple's expert not be required to produce a supplemental report or sit for a second deposition. (Dkt. No. 759-2 at 17.) During the hearing on Apple's Motion, counsel for Apple argued that it would not be fair to give Samsung two opportunities to cross-examine Apple's damages expert as a benefit of Samsung's own violation of the Court's order. (Apr. 9, 2012 Hrg. Tr. at 53.) The Court responded, "Wouldn't a better way to solve that problem be simply to delay his deposition and have him deposed once after a supplement report is tendered?" (*Id.*) For the Court's convenience, a true and correct copy of an excerpt of the April 9, 2012, transcript is attached hereto as Exhibit A.
- 4. Following the Court's direction, Apple has asked Samsung to defer the deposition of Apple's damages expert, Terry Musika, until the Court rules on the pending motion. Samsung has refused. Attached hereto as Exhibits B and C are true and correct copies of correspondence between counsel for Apple and counsel for Samsung reflecting this exchange.
 - 5. Mr. Musika's deposition is currently scheduled for April 26, 2012.

The Sixth Version of Samsung's Spreadsheet

6. Apple's Motion addressed the multiple versions of a spreadsheet produced by Samsung after the Court's February 3 deadline. (Dkt. No. 759-2 at 10-12.) Samsung's damages expert, in his April 16 rebuttal expert report, makes reference to yet another version of this spreadsheet, containing different numbers from any version previously produced to Apple. On April 17, 2012, Samsung produced this sixth version of the spreadsheet and other financial data, apparently assembled for the benefit of Samsung's damages expert but not provided previously to Apple. Based on what Apple can determine, this sixth spreadsheet suffers from the same problems and errors in the previous versions, which were discussed at the hearing on Apple's Motion.

The Deposition of Joseph Cheong

- 7. Apple's Motion requests that Apple be permitted to depose a witness knowledgeable about any financial information Samsung might be ordered to produce as a result of the Motion. (Dkt. No. 759-2 at 18.) During the hearing on Apple's Motion, Apple suggested that the deposition of Joseph Cheong, the Chief Financial Officer of Samsung Telecommunications America LLC, might satisfy this request. (Apr. 9, 2012 Hrg. Tr. at 52-53.) Counsel for Samsung similarly described Mr. Cheong's deposition as "an opportunity" to obtain relevant testimony. (*Id.* at 70.)
- 8. Mr. Cheong was deposed on April 18, 2012. During his deposition, Mr. Cheong was shown two versions of Samsung's financial spreadsheet. Mr. Cheong testified that he had never seen the spreadsheets, had no understanding of what they were, and could not state whether they were accurate. Accordingly, Mr. Cheong's deposition could not satisfy Apple's request for the deposition of a witness knowledgeable about Samsung's financial information.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 20, 2012, at Palo Alto, California.

/s/ Erik Olson	
Erik Olson	

ATTESTATION OF E-FILED SIGNATURE I, Alison M. Tucher, 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 Erik Olson has concurred in this filing. Dated: April 20, 2012 /s/ Alison M. Tucher Alison M. Tucher