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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

APPLE, INC.,	)	CV-11-1846-LHK
	)	
PLAINTIFF,	)	SAN JOSE, CALIFORNIA
	)	
VS.	)	
	)	APRIL 9, 2012
SAMSUNG ELECTRONICS CO.	)	
LTD., ET AL,	)	
	)	PAGES 1-189
DEFENDANT.	)	

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TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE PAUL S. GREWAL  
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

FOR THE PLAINTIFF: MORRISON & FOERSTER, LLP  
BY: ALLISON TUCHER  
NATHAN SABRI  
JOBY MARTIN  
425 MARKET STREET  
SAN FRANCISCO, CA 94105

FOR THE DEFENDANT: QUINN EMANUEL  
BY: VICTORIA MAROULIS  
SARA JENKINS  
555 TWIN DOLPHIN DRIVE, 5TH FL  
REDWOOD SHORES, CA 94065

(APPEARANCES CONTINUED ON THE NEXT PAGE)

OFFICIAL COURT REPORTER: SUMMER FISHER, CSR, CRR  
CERTIFICATE NUMBER 13185

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FOR THE PLAINTIFF: MORRISON & FOERSTER, LLP  
BY: ERIK OLSON  
755 PAGE MILL ROAD  
PALO ALTO, CA 94304

FOR THE DEFENDANT: QUINN EMANUEL  
BY: DIANE HUTNYAN  
ANTHONY ALDEN  
CURRAN WALKER  
865 S. FIGUEROA ST., 10TH FLOOR  
LOS ANGELES, CALIFORNIA 90017

1 SAN JOSE, CALIFORNIA

APRIL 9, 2012

2 P R O C E E D I N G S

3 (WHEREUPON, COURT CONVENEED AND THE  
4 FOLLOWING PROCEEDINGS WERE HELD:)

5 THE COURT: MR. RIVERA, WOULD YOU CALL  
6 MATTER ON THIS MORNING'S CALENDAR.

7 THE CLERK: YES, YOUR HONOR.

8 CALLING APPLE INC. VERSUS SAMSUNG  
9 ELECTRONICS. CASE NUMBER CV-11-1846.

10 MATTER ON FOR APPLE'S RULE FOR 37 (B) (2)  
11 MOTION AND SAMSUNG'S MOTIONS TO COMPEL.

12 COUNSEL, PLEASE STATE YOUR APPEARANCES.

13 MS. TUCHER: GOOD MORNING, YOUR HONOR.

14 ALLISON TUCHER FROM MORRISON & FOERSTER  
15 ON BEHALF OF APPLE, INC.

16 AND WITH ME TODAY IS MY PARTNER  
17 ERIK OLSON AND NATE SABRI.

18 THE COURT: GOOD MORNING, COUNSEL.

19 MS. MAROULIS: GOOD MORNING, YOUR HONOR.

20 VICTORIA MAROULIS, COUNSEL FOR SAMSUNG.

21 WITH ME ARE MY PARTNERS DIANE HUTNYAN AND  
22 ANTHONY ALDEN, AND OUR ASSOCIATE TEAM MEMBERS SARA  
23 JENKINS WHO WILL BE ARGUING TODAY AND JOBY MARTIN  
24 AND CURRAN WALKER.

25 THE COURT: GOOD MORNING TO YOU AND YOUR

1 TEAM AS WELL, MS. MAROULIS.

2 ALL RIGHT, COUNSEL. I HAVE ON MY  
3 CALENDAR THREE MOTIONS. A MOTION FROM APPLE FOR  
4 SANCTIONS AND TWO MOTIONS TO COMPEL FILED BY  
5 SAMSUNG.

6 BEFORE WE TURN TO THE SUBSTANCE OF THE  
7 THREE MOTIONS I WANTED TO JUST BETTER UNDERSTAND A  
8 COUPLE OF LATE SUBMISSIONS THAT I RECEIVED ON  
9 FRIDAY AND OVER THE WEEKEND.

10 MS. MAROULIS, I WILL START WITH YOU, WITH  
11 YOUR INDULGENCE.

12 COULD YOU EXPLAIN TO ME WHY MY STAFF WAS  
13 ASKED TO CONSIDER PAPERS FILED ON A SATURDAY BEFORE  
14 A MONDAY HEARING?

15 MS. MAROULIS: YOUR HONOR, WE APOLOGIZE  
16 FOR LATE SUBMISSION. THERE ARE TWO SEPARATE  
17 THINGS.

18 ONE WAS OUR IN CAMERA SUBMISSION OF  
19 TRANSCRIPTS. AND WHAT WE ARE HOPING TO DO IS TO  
20 NEGOTIATE WITH APPLE SUBMISSION OF THE TRANSCRIPTS  
21 ON THE RECORD SO THEY ARE PART OF THE RECORD. AND  
22 WE WEREN'T ABLE TO DO SO, SO APPLE IS REFUSING TO  
23 PROVIDE THEM BUT WAS WILLING TO PROVIDE THEM IN  
24 CAMERA.

25 SO WE THOUGHT FOR THE COURT TO FULLY

1 CONSIDER THE MOTION AFTER THE HEARING AND THE  
2 PLEADINGS THE COURT WOULD NEED TO ACTUALLY CONSULT  
3 THE DEPOSITIONS.

4 WITH RESPECT TO THE SANCTIONS MOTION, WE  
5 HAD SEVERAL LATE DEPOSITIONS ON THE 30TH AND 31ST  
6 THAT WERE PART OF YOUR HONOR'S PRIOR ORDERS OF --

7 THE COURT: SO OVER, I DON'T KNOW 9,  
8 10 DAYS AGO.

9 MS. MAROULIS: YOUR HONOR, ABOUT A WEEK.  
10 AND WE DID NOT GET THE TRANSCRIPTS UNTIL THE 2ND OR  
11 3RD OF APRIL. SO WE PUT TOGETHER THE SUBMISSIONS  
12 AS QUICKLY AS WE COULD AND WE THOUGHT IT WOULD BE  
13 MORE APPROPRIATE TO GIVE NOTICE TO APPLE BY FILING  
14 THEM RATHER THAN BRING THIS MATTER UP AT THE  
15 HEARING.

16 THE COURT: COULDN'T THAT HAVE BEEN DONE  
17 BEFORE THE SATURDAY BEFORE THE HEARING?

18 MY ONLY POINT IS MY OPPORTUNITY TO  
19 PROPERLY CONSIDER THE PAPERS, TO SAY NOTHING OF THE  
20 OPPOSING PARTIES, IS PRETTY LIMITED.

21 AND I WOULD JUST THINK SOMETHING FILED ON  
22 A SATURDAY BEFORE A MONDAY MORNING HEARING ISN'T  
23 REALLY GIVING ME A FULL AND FAIR OPPORTUNITY TO  
24 CONSIDER EVIDENCE THAT'S NOW ON THE RECORD AND I  
25 WILL JUST HAVE TO INFORM MY DECISION.

1 METES AND BOUNDS OF WHAT THEY WERE OBLIGATED TO  
2 PRODUCE IN RESPONSE TO YOUR ORDER.

3 JUST A NARROW POINT NOW, YOU KNOW THE  
4 INCLUDED FORECAST, I WANT TO MAKE SURE YOU KNOW  
5 THEY INCLUDE ACTUALS NOT JUST FORECASTS.

6 WHILE THEY MAY NOT BE PUBLICLY REPORTED,  
7 THEY DO GO ALL THE WAY UP THE CHAIN IN SAMSUNG  
8 KOREA SO THEIR NUMBERS ARE RELIED UPON --

9 THE COURT: THEY ARE NUMBERS THAT MATTER.

10 MS. TUCHER: THEY ARE NUMBERS THAT  
11 MATTER, THEY ARE NUMBERS THAT HAVE BEEN GIVEN A  
12 WHOLE LOT MORE REVIEW AND THOUGHT THAN THE NUMBERS  
13 PROVIDED IN THE SPREADSHEET.

14 AND WHILE WE HAVE NO OBJECTION TO A  
15 SPREADSHEET, OR I WOULDN'T HAVE SPOKEN SO MUCH  
16 ABOUT THIS MORNING, WE DON'T THINK THAT'S A  
17 SUBSTITUTE FOR PROVIDING A REPORT THAT ALREADY  
18 EXISTS.

19 AND FINALLY ON THE QUESTION OF REMEDY, I  
20 WANT TO POINT OUT WE DIDN'T ASK FOR PRECLUSIVE  
21 SANCTIONS HERE. I WOULDN'T BE OPPOSED IF  
22 YOUR HONOR WANTED TO SAY AN APPROPRIATE SANCTION  
23 FOR THEIR BEHAVIOR, AND THEY MAY NOT CONTEST  
24 MR. MUSIKA'S DAMAGES ANALYSIS, BUT I'M NOT ASKING  
25 FOR THAT AND IT'S BECAUSE OF THAT THAT I DON'T

1 THINK WE HAVE TO PROVE ANYTHING BEYOND WHAT WE'VE  
2 ALREADY PROVEN IN TERMS OF THEIR MISCONDUCT IN THIS  
3 CASE.

4 AND ALSO IF YOUR HONOR DECIDES THAT YOU  
5 WANT TO ORDER SUPPLEMENTAL REPORT FOR MR. MUSIKA, I  
6 WOULD ASK YOU TO ALSO ORDER THAT SUPPLEMENTAL  
7 REPORTS FROM THE DAMAGES EXPERTS ON THEIR SIDE,  
8 INCLUDING AT A MINIMUM AN EXPERT BY THE NAME OF  
9 O'BRIEN AND AN EXPERT BY THE NAME TIES.

10 AND WE HAVEN'T RECEIVED THEIR REBUTTAL  
11 REPORTS, SO I DON'T KNOW IF THERE ARE OTHERS. BUT  
12 ANY KIND OF EXPERT ON THE SAMSUNG SIDE THAT DOES  
13 DAMAGES ANALYSIS SHOULD BE REQUIRED TO FILE A  
14 SUPPLEMENTAL REPORT.

15 THE COURT: I DON'T WANT TO PUT WORDS IN  
16 YOUR MOUTH, BUT WOULDN'T YOU PREFER THERE NOT BE A  
17 REPORT AND SIMPLY WE WOULD BE ABLE TO EXCLUDE ANY  
18 TESTIMONY ON THAT SUBJECT AT TRIAL ON THE BASIS  
19 THAT THEY DIDN'T CLOSE THEY WEREN'T AUTHORIZED TO  
20 DISCLOSE?

21 MS. TUCHER: YOUR HONOR, I WOULD  
22 CERTAINLY GO BACK TO MY ORIGINAL THAT THEY BE  
23 REQUIRED TO KEEP THEIR TESTIMONY LIMITED, AND THAT  
24 WOULD BE FACT AND EXPERT TESTIMONY LIMITED TO WHAT  
25 THEY PRODUCED BY FEBRUARY 3RD.

1 I DON'T WANT TO DETRACT FROM THAT. I HAD  
2 IN SOME SENSE YOU WEREN'T GOING GIVE ME EVERYTHING  
3 I ASKED FOR, BUT I WANT TO MAKE CLEAR THAT IF YOU  
4 DECIDE WHETHER YOU THINK IT'S APPROPRIATE, THEY  
5 HAVE EXPERTS ON THEIR SIDE THAT SUBMITTED REPORTS  
6 THAT MAY NEED SUPPLEMENTING.

7 TO THE EXTENT YOU WERE PRESSING ON THE  
8 QUESTION OF THE FOREIGN SUBSIDIARY DATA THAT WAS  
9 GIVEN TO US AND THEN TAKEN OUT, IT'S NOT JUST THAT  
10 WE SAW IT ONCE, AND THAT WE KNOW EVERYTHING WE NEED  
11 TO KNOW, WE NEVER GOT DATA WITH REGARD TO THE  
12 HERCULES PRODUCT BECAUSE THAT CORRECTION CAME  
13 LATER. AND WE, OF COURSE, DIDN'T GET AN  
14 OPPORTUNITY TO EXAMINE THE WITNESS ON IT BECAUSE  
15 THAT WAS THE INSTRUCTION NOT TO ANSWER.

16 THE COURT: ALL RIGHT.

17 THANK YOU VERY MUCH.

18 ALL RIGHT. WELL, WE HAVE TWO OTHER  
19 MOTIONS TO ADDRESS. I DO NEED TO GIVE THE COURT  
20 REPORTER A BREAK, SO WHY DON'T WE STAND IN RECESS  
21 FOR TEN MINUTES.

22 WE WILL TAKE THIS UP AT 12:00 AND KEEP  
23 GOING.

24 (WHEREUPON A RECESS WAS TAKEN.)

25 THE COURT: I WANT TO TURN NEXT TO



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THANK YOU.

(WHEREUPON, THE PROCEEDINGS IN THIS  
MATTER WERE CONCLUDED.)

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CERTIFICATE OF REPORTER

I, THE UNDERSIGNED OFFICIAL COURT  
REPORTER OF THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH  
FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY  
CERTIFY:

THAT THE FOREGOING TRANSCRIPT,  
CERTIFICATE INCLUSIVE, CONSTITUTES A TRUE, FULL AND  
CORRECT TRANSCRIPT OF MY SHORTHAND NOTES TAKEN AS  
SUCH OFFICIAL COURT REPORTER OF THE PROCEEDINGS  
HEREINBEFORE ENTITLED AND REDUCED BY COMPUTER-AIDED  
TRANSCRIPTION TO THE BEST OF MY ABILITY.

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SUMMER A. FISHER, CSR, CRR  
CERTIFICATE NUMBER 13185

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