1		
2		
3		
4		
5		
6		
7		
8	UNITED STATES DISTRICT COURT	
9	NORTHERN DISTRICT OF CALIFORNIA	
10	SAN JOSE DIVISION	
11		
12	APPLE INC., a California corporation,	Case No. 11-cv-01846-LHK (PSG)
13	Plaintiff,	[PROPOSED] ORDER GRANTING APPLE INC.'S MOTION FOR
14	V.	ADVERSE INFERENCE JURY
		INSTRUCTIONS DUE TO
15	SAMSUNG ELECTRONICS CO., LTD., a Korean corporation: SAMSUNG ELECTRONICS	INSTRUCTIONS DUE TO SAMSUNG'S SPOLIATION OF EVIDENCE
15 16	Korean corporation; SAMSUNG ELECTRONICS AMERICA, INC., a New York corporation; and	
16 17	Korean corporation; SAMSUNG ELECTRONICS AMERICA, INC., a New York corporation; and SAMSUNG TELECOMMUNICATIONS AMERICA, LLC, a Delaware limited liability	SAMSUNG'S SPOLIATION OF
16 17 18	Korean corporation; SAMSUNG ELECTRONICS AMERICA, INC., a New York corporation; and SAMSUNG TELECOMMUNICATIONS AMERICA, LLC, a Delaware limited liability company,	SAMSUNG'S SPOLIATION OF
16 17 18 19	Korean corporation; SAMSUNG ELECTRONICS AMERICA, INC., a New York corporation; and SAMSUNG TELECOMMUNICATIONS AMERICA, LLC, a Delaware limited liability	SAMSUNG'S SPOLIATION OF
16 17 18 19 20	Korean corporation; SAMSUNG ELECTRONICS AMERICA, INC., a New York corporation; and SAMSUNG TELECOMMUNICATIONS AMERICA, LLC, a Delaware limited liability company,	SAMSUNG'S SPOLIATION OF
16 17 18 19 20 21	Korean corporation; SAMSUNG ELECTRONICS AMERICA, INC., a New York corporation; and SAMSUNG TELECOMMUNICATIONS AMERICA, LLC, a Delaware limited liability company,	SAMSUNG'S SPOLIATION OF
116 117 118 119 220 21 222	Korean corporation; SAMSUNG ELECTRONICS AMERICA, INC., a New York corporation; and SAMSUNG TELECOMMUNICATIONS AMERICA, LLC, a Delaware limited liability company,	SAMSUNG'S SPOLIATION OF
116 117 118 119 220 221 222 223	Korean corporation; SAMSUNG ELECTRONICS AMERICA, INC., a New York corporation; and SAMSUNG TELECOMMUNICATIONS AMERICA, LLC, a Delaware limited liability company,	SAMSUNG'S SPOLIATION OF
116 117 118 119 220 221 222 233 224	Korean corporation; SAMSUNG ELECTRONICS AMERICA, INC., a New York corporation; and SAMSUNG TELECOMMUNICATIONS AMERICA, LLC, a Delaware limited liability company,	SAMSUNG'S SPOLIATION OF
116 117 118 119 220 221 222 223 224 225	Korean corporation; SAMSUNG ELECTRONICS AMERICA, INC., a New York corporation; and SAMSUNG TELECOMMUNICATIONS AMERICA, LLC, a Delaware limited liability company,	SAMSUNG'S SPOLIATION OF
116 117 118 119 220 221 222 223 224 225 226	Korean corporation; SAMSUNG ELECTRONICS AMERICA, INC., a New York corporation; and SAMSUNG TELECOMMUNICATIONS AMERICA, LLC, a Delaware limited liability company,	SAMSUNG'S SPOLIATION OF
116 117 118 119 220 221 222 223 224 225	Korean corporation; SAMSUNG ELECTRONICS AMERICA, INC., a New York corporation; and SAMSUNG TELECOMMUNICATIONS AMERICA, LLC, a Delaware limited liability company,	SAMSUNG'S SPOLIATION OF

<code>[Proposed]</code> Order Granting Apple's Motion for Adverse Inference Jury Instructions Case No. 11-cv-01846-LHK (PSG) sf-3139813

1	Pursuant to Federal Rule of Civil Procedure 37 and Local Rule 37-4, Apple Inc. ("Apple"	
2	seeks certain remedies based on Samsung Electronics Co., Ltd.'s, Samsung Electronics	
3	America, Inc.'s, and Samsung Telecommunications America, LLC's (collectively, "Samsung")	
4	spoliation of evidence.	
5	Having considered the arguments of the parties and the papers submitted, and GOOD	
6	CAUSE HAVING BEEN SHOWN, IT IS ORDERED that Apple's Motion for Adverse Inference	
7	Jury Instructions Due to Samsung's Spoliation of Evidence is GRANTED.	
8	The Court issues the following findings and orders:	
9	1. The Court finds that Samsung spoliated evidence.	
10	2. The Court will instruct the jury that:	
11	(a) Samsung had a duty to preserve relevant evidence, including emails;	
12	Samsung failed to preserve large volumes of relevant emails and other	
13	documents; Samsung acted in bad faith in failing to preserve the relevant	
14	documents; and the jury may presume that the documents that Samsung failed	
15	to preserve would have been favorable to Apple's case and unfavorable to	
16	Samsung; and	
17	(b) if the jury finds infringement of any Apple patent, trademark, or trade	
18	dress, the jury may infer that the infringement was intentional, willful, and	
19	without regard to Apple's rights.	
20		
21	IT IS SO ORDERED.	
22		
23	Dated: May, 2012	
24	HONORABLE LUCY H. KOH United States District Judge	
25		
26		
27		
28		