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LTD., SAMSUNG ELECTRONICS AMERICA,  
15 INC. and SAMSUNG  
TELECOMMUNICATIONS AMERICA, LLC  
16

17 UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION  
18

19 APPLE INC., a California corporation,

20 Plaintiff,

21 vs.

22 SAMSUNG ELECTRONICS CO., LTD., a  
23 Korean business entity; SAMSUNG  
ELECTRONICS AMERICA, INC., a New  
24 York corporation; SAMSUNG  
TELECOMMUNICATIONS AMERICA,  
25 LLC, a Delaware limited liability company,

26 Defendant.  
27

CASE NO. 11-cv-01846-LHK (PSG)

**DECLARATION OF HANKIL KANG  
PURSUANT TO CIVIL L.R. 79-5(d), TO  
SUPPORT THE SEALING OF PORTIONS  
OF APPLE'S MOTION FOR ADVERSE  
INFERENCE JURY INSTRUCTIONS  
DUE TO SAMSUNG'S SPOILIATION OF  
EVIDENCE AND SUPPORTING  
EXHIBITS [Dkt. 895]**

Judge: Magistrate Judge Paul S. Grewal

1 Pursuant to Civil L.R. 79-5(d), Defendants Samsung Electronics Co., Ltd., Samsung  
2 Electronics America, Inc., and Samsung Telecommunications America, LLC (collectively,  
3 “Samsung”) submit the declaration of Hankil Kang in support of Apple’s Administrative Motion  
4 to File Documents Under Seal (Dkt. No. 895), to establish that the following are sealable:

- 5 • Confidential Portions of Apple’s Motion for Adverse Inference Jury Instructions  
6 (“Motion”);
- 7 • Confidential Portions of the Declaration of Esther Kim in Support of Apple’s  
8 Motion (“Kim Declaration”); and
- 9 • Exhibits 2 through 31, 34, and 35 to the Kim Declaration.

10 **DECLARATION OF HANKIL KANG**

11 I, Hankil Kang, declare as follows:

12 1. I am Legal Counsel at Samsung Electronics Co., Ltd. (“SEC”). I submit  
13 this declaration in support of Samsung’s Administrative Motion to File Documents Under Seal,  
14 filed by SEC, Samsung Electronics America, Inc. (“SEA”) and Samsung Telecommunications  
15 America, LLC (“STA”) (collectively, “Samsung”). I have personal knowledge of the facts set  
16 forth in this declaration, except as otherwise noted, and, if called as a witness, could and would  
17 testify to those facts under oath.

18 2. It is Samsung’s policy not to disclose or describe its confidential business  
19 affairs, practices, or structures. This information is confidential to Samsung. It is indicative of the  
20 way that Samsung manages its business and conducts business strategy, and thus it could be used  
21 by Samsung’s competitors to Samsung’s disadvantage.

22 3. Exhibit 2 to the Kim Declaration consists of a Korean-language Samsung  
23 document and what Apple has certified to be the accurate English translation of the document.  
24 This document contains confidential business information about the development and design of  
25 Samsung’s products, Samsung’s custodians, and Samsung’s business organization and  
26 relationships, and has been designated HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
27 ONLY. This document contains sensitive business information that could be used to Samsung’s  
28 detriment if not filed under seal.

1                   4.       Exhibit 3 to the Kim Declaration consists of a Korean-language Samsung  
2 document and what Apple has certified to be the accurate English translation of the document.  
3 This document contains confidential business information about the development and design of  
4 Samsung's products, Samsung's custodians, and Samsung's business organization and  
5 relationships, and has been designated HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
6 ONLY. This document contains sensitive business information that could be used to Samsung's  
7 detriment if not filed under seal.

8                   5.       Exhibit 4 to the Kim Declaration consists of a Korean-language Samsung  
9 document and what Apple has certified to be the accurate English translation of the document.  
10 This document contains confidential business information about the development and design of  
11 Samsung's products, Samsung's custodians, and Samsung's business organization and  
12 relationships, and has been designated HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
13 ONLY. This document contains sensitive business information that could be used to Samsung's  
14 detriment if not filed under seal.

15                  6.       Exhibit 5 to the Kim Declaration consists of a Korean-language Samsung  
16 document and what Apple has certified to be the accurate English translation of the document.  
17 This document contains confidential business information about the development and design of  
18 Samsung's products, Samsung's custodians, and Samsung's business organization and  
19 relationships, and has been designated HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
20 ONLY. This document contains sensitive business information that could be used to Samsung's  
21 detriment if not filed under seal.

22                  7.       Exhibit 6 to the Kim Declaration consists of a Korean-language Samsung  
23 document and what Apple has certified to be the accurate English translation of the document.  
24 This document contains confidential business information about the development and design of  
25 Samsung's products, Samsung's custodians, and Samsung's business organization and  
26 relationships, and has been designated HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
27 ONLY. This document contains sensitive business information that could be used to Samsung's  
28 detriment if not filed under seal.

1                   8.       Exhibit 7 to the Kim Declaration consists of a Korean-language Samsung  
2 document and what Apple has certified to be the accurate English translation of the document.  
3 This document contains confidential business information about the development and design of  
4 Samsung's products, Samsung's custodians, and Samsung's business organization and  
5 relationships, and has been designated HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
6 ONLY. This document contains sensitive business information that could be used to Samsung's  
7 detriment if not filed under seal.

8                   9.       Exhibit 8 to the Kim Declaration consists of a table describing confidential  
9 Samsung documents that Apple claims were not produced from certain Samsung custodians. The  
10 table describes documents that have been designated HIGHLY CONFIDENTIAL –  
11 ATTORNEYS' EYES ONLY, and that contain confidential business information about the  
12 development and design of Samsung's products, Samsung's custodians, and Samsung's business  
13 organization and relationships. This document contains sensitive business information that could  
14 be used to Samsung's detriment if not filed under seal.

15                  10.       Exhibit 9 to the Kim Declaration consists of Samsung's Second  
16 Supplemental and Amended Identification of Custodians, Litigation Hold Notices and Search  
17 Terms, served on Apple February 26, 2012. This document contains confidential business  
18 information about Samsung's custodians, Samsung's business organization, the development of  
19 Samsung's products, as well as the litigation hold notices Samsung distributed, and has been  
20 designated HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY. This document contains  
21 sensitive business information that could be used to Samsung's detriment if not filed under seal.

22                  11.       Exhibit 10 to the Kim Declaration consists of excerpts from the March 8,  
23 2012 deposition of Kyu Hyuk Lee. The transcript contains confidential business information  
24 about Samsung's business organization, Samsung's custodians, document retention practice, and  
25 Samsung's litigation hold notices. The transcript has been designated HIGHLY  
26 CONFIDENTIAL – ATTORNEYS' EYES ONLY. This document contains sensitive business  
27 information that could be used to Samsung's detriment if not filed under seal.

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1                   12.     Exhibit 11 to the Kim Declaration consists of excerpts from the February  
2 10, 2012 deposition of Kyu Hyuk Lee, taken in the 337-TA-796 investigation before the  
3 International Trade Commission. The transcript contains confidential business information about  
4 Samsung's business organization, Samsung's custodians, document retention practice, and  
5 Samsung's litigation hold notices. The transcript has been designated CONFIDENTIAL  
6 BUSINESS INFORMATION – SUBJECT TO PROTECTIVE ORDER. This document contains  
7 sensitive business information that could be used to Samsung's detriment if not filed under seal.

8                   13.     Exhibit 12 to the Kim Declaration consists of excerpts from the February 8,  
9 2012 deposition of Joohyuk Kang, taken in the 337-TA-796 investigation before the International  
10 Trade Commission. The transcript contains confidential business information about Samsung's  
11 business organization, Samsung's custodians, document retention practice, and Samsung's  
12 litigation hold notices. The transcript has been designated CONFIDENTIAL BUSINESS  
13 INFORMATION – SUBJECT TO PROTECTIVE ORDER. This document contains sensitive  
14 business information that could be used to Samsung's detriment if not filed under seal.

15                   14.     Exhibit 13 to the Kim Declaration consists of excerpts from the February 3,  
16 2012 deposition of Kanghyun Lee, taken in the 337-TA-796 investigation before the International  
17 Trade Commission. The transcript contains confidential business information about Samsung's  
18 business organization, Samsung's custodians, document retention practice, and Samsung's  
19 litigation hold notices. The transcript has been designated CONFIDENTIAL BUSINESS  
20 INFORMATION – SUBJECT TO PROTECTIVE ORDER. This document contains sensitive  
21 business information that could be used to Samsung's detriment if not filed under seal.

22                   15.     Exhibit 14 to the Kim Declaration consists of excerpts from the February  
23 20, 2012 deposition of Se-Hyun Cho, taken in the 337-TA-796 investigation before the  
24 International Trade Commission. The transcript contains confidential business information about  
25 Samsung's business organization, Samsung's custodians, document retention practice, and  
26 Samsung's litigation hold notices. The transcript has been designated CONFIDENTIAL  
27 BUSINESS INFORMATION – SUBJECT TO PROTECTIVE ORDER. This document contains  
28 sensitive business information that could be used to Samsung's detriment if not filed under seal.



1                   20.     Exhibit 19 to the Kim Declaration consists of excerpts from the April 11,  
2 2012 deposition of Wooup Kwon, taken in the 337-TA-796 investigation before the International  
3 Trade Commission. The transcript contains confidential business information about Samsung's  
4 business organization, Samsung's custodians, document retention practice, and Samsung's  
5 litigation hold notices. The transcript has been designated CONFIDENTIAL BUSINESS  
6 INFORMATION – SUBJECT TO PROTECTIVE ORDER. This document contains sensitive  
7 business information that could be used to Samsung's detriment if not filed under seal.

8                   21.     Exhibit 20 to the Kim Declaration consists of excerpts from the March 31,  
9 2012 deposition of Jaehwang Sim. The transcript contains confidential business information about  
10 Samsung's business organization, Samsung's custodians, document retention practice, and  
11 Samsung's litigation hold notices. The transcript has been designated HIGHLY  
12 CONFIDENTIAL – ATTORNEYS' EYES ONLY. This document contains sensitive business  
13 information that could be used to Samsung's detriment if not filed under seal.

14                   22.     Exhibit 21 to the Kim Declaration consists of excerpts from the March 29,  
15 2012 deposition of Corey Kerstetter. The transcript contains confidential business information  
16 about Samsung's business organization, Samsung's custodians, document retention practice, and  
17 Samsung's litigation hold notices. The transcript has been designated HIGHLY  
18 CONFIDENTIAL – ATTORNEYS' EYES ONLY. This document contains sensitive business  
19 information that could be used to Samsung's detriment if not filed under seal.

20                   23.     Exhibit 22 to the Kim Declaration consists of excerpts from the March 6,  
21 2012 deposition of Hyun Goo Woo. The transcript contains confidential business information  
22 about Samsung's business organization, Samsung's custodians, document retention practice, and  
23 Samsung's litigation hold notices. The transcript has been designated HIGHLY  
24 CONFIDENTIAL – ATTORNEYS' EYES ONLY. This document contains sensitive business  
25 information that could be used to Samsung's detriment if not filed under seal.

26                   24.     Exhibit 23 to the Kim Declaration consists of a document with Bates  
27 numbers S-ITC-000042671-42688. This document is a document retention policy promulgated by  
28 Samsung Electronics America. It contains confidential business information about Samsung's

1 business organization, Samsung's employees and custodians, and Samsung's policies, and has  
2 been designated CONFIDENTIAL BUSINESS INFORMATION – SUBJECT TO PROTECTIVE  
3 ORDER. This document contains sensitive business information that could be used to Samsung's  
4 detriment if not filed under seal.

5           25. Exhibit 24 to the Kim Declaration consists of a document with Bates  
6 numbers S-ITC-003006124-3006247. This document is a business organization chart for  
7 Samsung Electronics Co., Ltd. It contains confidential business information about Samsung's  
8 business organization, reporting structures, custodians, practices, and policies, and has been  
9 designated CONFIDENTIAL BUSINESS INFORMATION – SUBJECT TO PROTECTIVE  
10 ORDER. This document contains sensitive business information that could be used to Samsung's  
11 detriment if not filed under seal.

12           26. Exhibit 25 to the Kim Declaration consists of excerpts from the January 12,  
13 2012 deposition of Woogyun Koh. The transcript contains confidential business information  
14 about Samsung's business organization, Samsung's custodians, document retention practice, and  
15 Samsung's source code. The transcript has been designated HIGHLY CONFIDENTIAL –  
16 ATTORNEYS' EYES ONLY. This document contains sensitive business information that could  
17 be used to Samsung's detriment if not filed under seal.

18           27. Exhibit 26 to the Kim Declaration consists of excerpts from the January 14,  
19 2012 deposition of Junho Park. The transcript contains confidential business information about  
20 Samsung's business organization, Samsung's custodians, document retention practice, and  
21 Samsung's source code. The transcript has been designated HIGHLY CONFIDENTIAL –  
22 ATTORNEYS' EYES ONLY. This document contains sensitive business information that could  
23 be used to Samsung's detriment if not filed under seal.

24           28. Exhibit 27 to the Kim Declaration consists of excerpts from the January 11,  
25 2012 deposition of Ahyoung Kim. The transcript contains confidential business information about  
26 Samsung's business organization, Samsung's custodians, document retention practice, and  
27 Samsung's source code. The transcript has been designated HIGHLY CONFIDENTIAL –  
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1 ATTORNEYS' EYES ONLY. This document contains sensitive business information that could  
2 be used to Samsung's detriment if not filed under seal.

3           29. Exhibit 28 to the Kim Declaration consists of excerpts from the March 28,  
4 2012 deposition of HyeJung Lee. The transcript contains confidential business information about  
5 Samsung's business organization, Samsung's custodians, document retention practice, and  
6 Samsung's source code. The transcript has been designated HIGHLY CONFIDENTIAL –  
7 ATTORNEYS' EYES ONLY. This document contains sensitive business information that could  
8 be used to Samsung's detriment if not filed under seal.

9           30. Exhibit 29 to the Kim Declaration consists of excerpts from the March 30,  
10 2012 deposition of Oh Chae Kwon. The transcript contains confidential business information  
11 about Samsung's business organization, Samsung's custodians, document retention practice, and  
12 Samsung's source code. The transcript has been designated HIGHLY CONFIDENTIAL –  
13 ATTORNEYS' EYES ONLY. This document contains sensitive business information that could  
14 be used to Samsung's detriment if not filed under seal.

15           31. Exhibit 30 to the Kim Declaration consists of excerpts from the March 2,  
16 2012 deposition of MinCheol Schin. The transcript contains confidential business information  
17 about Samsung's business organization, Samsung's custodians, document retention practice, and  
18 Samsung's source code. The transcript has been designated HIGHLY CONFIDENTIAL –  
19 ATTORNEYS' EYES ONLY. This document contains sensitive business information that could  
20 be used to Samsung's detriment if not filed under seal.

21           32. Exhibit 31 to the Kim Declaration consists of excerpts from the January 14,  
22 2012 deposition of Nara Cho. The transcript contains confidential business information about  
23 Samsung's business organization, Samsung's custodians, document retention practice, and  
24 Samsung's source code. The transcript has been designated HIGHLY CONFIDENTIAL –  
25 ATTORNEYS' EYES ONLY. This document contains sensitive business information that could  
26 be used to Samsung's detriment if not filed under seal.

27           33. Exhibit 34 to the Kim Declaration consists of a Korean-language Samsung  
28 document and what Apple has certified to be the accurate English translation of the document.

1 This document contains confidential business information about the development and design of  
2 Samsung's products, Samsung's custodians, and Samsung's business organization and  
3 relationships, and has been designated HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
4 ONLY. This document contains sensitive business information that could be used to Samsung's  
5 detriment if not filed under seal.

6           34. Exhibit 35 to the Kim Declaration consists of a Korean-language Samsung  
7 document and what Apple has certified to be the accurate English translation of the document.  
8 This document contains confidential business information about the development and design of  
9 Samsung's products, Samsung's custodians, and Samsung's business organization and  
10 relationships, and has been designated HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
11 ONLY. This document contains sensitive business information that could be used to Samsung's  
12 detriment if not filed under seal.

13           35. The confidential Kim Declaration summarizes, describes and/or directly  
14 cites the confidential exhibits discussed in paragraphs 3 through 34 above. Therefore, the un-  
15 redacted declaration should remain under seal for the same reasons articulated above.

16           36. Apple's Motion for Adverse Inference Jury Instructions summarizes,  
17 describes, and/or cites to the confidential Kim Declaration and the confidential exhibits discussed  
18 in paragraphs 3 through 34 above. Therefore, the un-redacted Motion should remain under seal  
19 for the same reasons articulated above.

20           37. The requested relief is necessary and narrowly tailored to protect this  
21 confidential information. The exhibits described above do not contain significant relevant non-  
22 confidential material.

23           I declare under penalty of perjury under the laws of the United States of America  
24 that the foregoing is true and correct.

25           Executed May 9, 2012, at Seoul, Korea.

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27 \_\_\_\_\_  
28 Hankil Kang

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**General Order 45 Attestation**

I, Victoria F. Maroulis, 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 Hankil Kang has concurred in this filing.

/s/ Victoria F. Maroulis