

1 [COUNSEL LISTED ON SIGNATURE PAGES]  
2  
3  
4  
5  
6  
7  
8

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN JOSE DIVISION  
12  
13

14 APPLE INC., a California corporation,

15 Plaintiff,

16 v.

17 SAMSUNG ELECTRONICS CO., LTD., a  
18 Korean corporation; SAMSUNG  
19 ELECTRONICS AMERICA, INC., a New  
20 York corporation; and SAMSUNG  
TELECOMMUNICATIONS AMERICA,  
LLC, a Delaware limited liability company,

21 Defendants.  
22  
23  
24  
25  
26  
27  
28

Case No. 11-cv-01846-LHK

**APPLE'S MOTION FOR LEAVE TO  
FILE RESPONSE TO SAMSUNG'S  
STATEMENT IDENTIFYING  
CLAIMS IT WILL ASSERT AT  
TRIAL**

1 On May 2, 2012, this Court issued a Minute Order directing each party to “file a statement  
2 identifying with specificity the claims they will assert at trial, e.g., specific patent claims.” Apple  
3 filed its statement at 6:00 p.m. on May 7th.

4 Over five hours later, and just twenty minutes before midnight, Samsung filed an eleven page  
5 statement. Rather than comply with the Court’s order, Samsung devoted eight of its eleven pages to a  
6 brief challenging the sufficiency of Apple’s trial plan. This brief was neither authorized nor permitted  
7 by this Court’s Order.

8 Apple therefore moves for leave to file the attached Reply Statement, in order to respond to  
9 several important misstatements in Samsung’s brief.

10 Apple sought but was unable to obtain Samsung's consent to file the attached Reply  
11 Statement. (Decl. of Richard S.J. Hung in Support of Apple’s Motion for Leave to File Response to  
12 Samsung’s Statement Identifying Claims It Will Assert at Trial (“Hung Decl.” ¶ 1.) Samsung stated  
13 that it would oppose Apple’s motion for leave, and proposed as an alternative that the parties file  
14 a “joint submission.” The purpose of Apple’s proposed submission is to respond to the facts in  
15 Samsung’s original, improperly filed “Statement.” It makes no sense to condition Apple's filing  
16 of a response on allowing Samsung to file yet another brief. (Hung Decl. Ex. 1.)  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: May 9, 2012

HAROLD J. MCELHINNY (CA SBN 66781)  
hmcclhinny@mofo.com  
MICHAEL A. JACOBS (CA SBN 111664)  
mjacobs@mofo.com  
JENNIFER LEE TAYLOR (CA SBN 161368)  
jtaylor@mofo.com  
ALISON M. TUCHER (CA SBN 171363)  
atucher@mofo.com  
RICHARD S.J. HUNG (CA SBN 197425)  
rhung@mofo.com  
JASON R. BARTLETT (CA SBN 214530)  
jasonbartlett@mofo.com  
MORRISON & FOERSTER LLP  
425 Market Street  
San Francisco, California 94105-2482  
Telephone: (415) 268-7000  
Facsimile: (415) 268-7522

WILLIAM F. LEE  
william.lee@wilmerhale.com  
WILMER CUTLER PICKERING  
HALE AND DORR LLP  
60 State Street  
Boston, MA 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

By: /s/ Harold J. McElhinny

MORRISON & FOERSTER LLP  
Attorneys for Plaintiff and Counterclaim-  
Defendant  
APPLE INC.