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11 Attorneys for Plaintiff and
 12 Counterclaim-Defendant APPLE INC.

13 UNITED STATES DISTRICT COURT
 14 NORTHERN DISTRICT OF CALIFORNIA
 15 SAN JOSE DIVISION

17 APPLE INC., a California corporation,
 18 Plaintiff,
 19 v.
 20 SAMSUNG ELECTRONICS CO., LTD., a
 21 Korean business entity; SAMSUNG
 22 ELECTRONICS AMERICA, INC., a New York
 23 corporation; SAMSUNG
 24 TELECOMMUNICATIONS AMERICA, LLC, a
 25 Delaware limited liability company,
 26 Defendants.

Case No. 11-cv-01846-LHK

**APPLE'S SUPPLEMENTAL
 STATEMENT OF ADDITIONAL
 FACTS REGARDING MOTION
 FOR CLARIFICATION**

1 Apple writes to apprise the Court of additional facts relating to its motion for clarification.

2 In its April 12, 2012 Order (Dkt. No. 867), the Court ordered Apple to produce certain
3 transcripts by April 27, 2012. The Court also allowed Samsung to identify and depose five
4 individuals for up to ten hours, in aggregate, based on that transcript production and set the
5 deadline for these depositions as May 10, 2012. Apple produced all of the deposition transcripts
6 required by the Court's order by April 21, 2012. This was a full six days before the Court's
7 deadline. Three times, on April 24, 2012, April 30, 2012, and May 4, 2012, Apple wrote
8 Samsung to ask when it would be identifying its deponents. (*See* Exhibits A, B, & C (April 24,
9 2012, April 30, 2012, and May 4, 2012 correspondence from Mia Mazza to Diane Hutnyan).)

10 Despite its possession of these transcripts for *eighteen days*, and despite Apple's *three*
11 *reminders*, Samsung waited until May 9th to identify its five deponents for the first time. This is
12 just *one day before the Court's deadline*. (*See* Exhibit D (May 9, 2012 e-mails from Diane
13 Hutnyan to Jason Bartlett).)

14 Samsung's identification of these witnesses is simply perplexing. These depositions
15 cannot be reasonably occasioned by the Court's order. The names of two of these employees,
16 Emilie Kim and Saku Hieta, appear nowhere in the transcripts. Samsung also previously declined
17 to depose Mr. Hieta, and it terminated Ms. Kim's prior deposition after two hours. The deposition
18 references to Richard Howarth and Priya Balasubramaniam are limited, to say the least. Mr.
19 Howarth has already been deposed for more than 13 hours in this case and the co-pending ITC
20 investigation (337-TC-796). Finally, as for Andrew Bright, it is difficult to understand how his
21 work on the acoustics of the iPhone 4 (which was the subject of his produced transcript) bears any
22 relevance to the issues in this case.

23 In response to Apple's inquiries, Samsung has refused to explain why these depositions
24 were occasioned by the production of Apple's transcripts. Samsung also confirmed its position
25 that the Court's April 12, 2012 order allows Samsung to take the depositions of *anyone*. Finally,
26 despite waiting eighteen days to identify its deponents, Samsung demanded that all five
27 individuals appear for deposition on one day's notice or that Apple stipulate to extend the
28 deadline. (*See* Exhibit D (May 9, 2012 e-mails from Diane Hutnyan to Jason Bartlett).)

1 Samsung's conduct in identifying these deponents one day before the Court's deadline—
2 and its position that it can take or re-open any deposition regardless of whether it is reasonably
3 occasioned by Apple's transcript production—underscores the need for this Court's clarification
4 of its April 12, 2012 Order.

5 As a result of Samsung's extremely belated identification of these witnesses, Apple
6 believes that Samsung has waived its right to depose or re-depose these witnesses under the
7 Court's order. But if Apple is required to put these individuals up for deposition after the
8 deadline, Samsung should be required to explain why Apple's production of transcripts
9 reasonably justifies these depositions, as Apple has requested in its clarification motion. Apple
10 also requests reasonable time to produce these witnesses for deposition, in light of Samsung's
11 very late identification.

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14 Dated: May 9, 2012

MORRISON & FOERSTER LLP

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16 By: /s/ Jason R. Bartlett
JASON R. BARTLETT

17 Attorneys for Plaintiff
18 APPLE INC.
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