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LTD., SAMSUNG ELECTRONICS AMERICA,

14 INC. and SAMSUNG

TELECOMMUNICATIONS AMERICA, LLC

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16 UNITED STATES DISTRICT COURT

17 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

18 APPLE INC., a California corporation,

19 Plaintiff,

20 vs.

21 SAMSUNG ELECTRONICS CO., LTD., a

Korean business entity; SAMSUNG

22 ELECTRONICS AMERICA, INC., a New

York corporation; SAMSUNG

23 TELECOMMUNICATIONS AMERICA,

LLC, a Delaware limited liability company,

24 Defendant.

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CASE NO. 11-cv-01846-LHK

**DECLARATION OF MARK TUNG IN
SUPPORT OF SAMSUNG'S MOTION
FOR CLARIFICATION**

Date: June 19, 2012

Time: 10:00 a.m.

Place: Courtroom 5, 4th Floor

Judge: Hon. Paul S. Grewal

PUBLIC REDACTED VERSION

1 I, Mark Tung, declare as follows:

2 1. I am an associate in the law firm of Quinn Emanuel Urquhart & Sullivan, LLP,
3 counsel for Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung
4 Telecommunications America, LLC (collectively, "Samsung"). I submit this declaration in
5 support of Samsung's Motion for Clarification Regarding the Court's May 4, 2012 Order. I have
6 personal knowledge of the facts set forth in this declaration and, if called upon as a witness, I
7 could and would testify to such facts under oath.

8 2. Attached hereto as Exhibit 1 is a true and correct copy of excerpts from the
9 transcript for the April 24, 2012 hearing on Apple's Rule 37(b) Motion Based On Samsung's
10 Violation of the Court's December 22, 2011 Order Regarding Source Code.

11 3. Following the hearing, Samsung conducted a detailed review of its December 30,
12 2011 production of source code. [REDACTED]

13 [REDACTED]
14 [REDACTED] As a result of
15 this review, Samsung confirmed that the blue glow source code is present in the versions of source
16 code produced on December 30, 2011 for at least the Galaxy S II (Android Gingerbread 2.3.5),
17 Exhibit 4G (Android Gingerbread 2.3.3), Epic 4G (Android Gingerbread 2.3.6), and Galaxy Tab
18 10.1 (Android Honeycomb 3.1). Source code files for these products, as they appear on the source
19 code review computer at Quinn Emanuel's Redwood Shores office, are date-stamped December
20 20, 2011.

21 4. I am informed that Apple's experts requested printouts of Samsung's timely
22 production of blue glow source code on January 6, 2012, and received Bates-stamped printouts of
23 the code on January 9, 2012. Attached hereto as Exhibit 2 is a true and correct copy of a letter
24 from Samsung's counsel to Apple's counsel, dated January 9, 2012, accompanying the delivery of
25 these printouts.

26 5. [REDACTED]
27 [REDACTED]
28 [REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

6. Attached hereto as Exhibit 3 is a true and correct copy of excerpts from the February 1, 2012 deposition transcript of Qi Ling, a Samsung witness, in which Apple's counsel questioned Mr. Ling about the blue glow functionality.

7. Attached hereto as Exhibit 4 is a true and correct copy of excerpts from the January 12, 2012 deposition transcript of Wookyun Kho, a Samsung witness, in which Apple's counsel questioned Mr. Kho about the blue glow functionality.

8. Attached hereto as Exhibit 5 is a true and correct copy of excerpts from the March 8, 2012 deposition transcript of Ioi Lam, a Samsung witness, in which Apple's counsel questioned Mr. Lam about the blue glow functionality.

9. Attached hereto as Exhibit 6 is a true and correct copy of excerpts from the January 27, 2012 deposition transcript of Jaegwan Shin, a Samsung witness, in which Apple's counsel questioned Mr. Shin about the blue glow functionality.

10. Attached hereto as Exhibit 7 is a true and correct copy of excerpts from the April 26, 2012 deposition transcript of Dr. Jeffrey Johnson, a Samsung expert witness, in which Apple's counsel questioned Dr. Johnson about the blue glow functionality as it is implemented in numerous accused products and applications.

11. Attached hereto as Exhibit 8 is a true and correct copy of excerpts from the May 12, 2012 deposition transcript of Dr. Michael Wagner, a Samsung expert witness, in which counsel for Apple discussed the impact of the May 4, 2012 Order.

12. Attached hereto as Exhibit 9 is a true and correct copy of excerpts from the April 20, 2012 deposition transcript of Apple's infringement expert, Dr. Ravin Balakrishnan, discussing his review of physical samples of Samsung products containing the blue glow and "bounceback" functionality.

13. Attached hereto as Exhibit 10 is a true and correct copy of excerpts from the August 16, 2011 deposition transcript of Dr. Balakrishnan.

1 14. Attached hereto as Exhibit 11 is a true and correct copy of excerpts from the Expert
2 Report of Ravin Balakrishnan, Ph.D. Regarding Infringement of U.S. Patent No. 7,469,381.

3 15. Apple has refused to make the devices upon which Dr. Balakrishnan based his
4 infringement report available for inspection. Samsung's counsel requested to inspect the device on
5 April 22, 2012. Following Apple's refusal, Samsung reiterated its request by letter dated May 6,
6 2012. Attached hereto as Exhibit 12 is a true and correct copy of the May 6, 2012 letter from
7 Samsung's counsel to Apple's counsel.

8 16. Attached hereto as Exhibit 13 is a true and correct copy of a letter from Apple's
9 counsel to Samsung's counsel, dated May 10, 2012, in which Apple again refused to make
10 available for inspection the devices upon which Dr. Balakrishnan based his infringement report.

11 17. Attached hereto as Exhibit 14 is a true and correct copy of a letter from Apple's
12 counsel to Samsung's counsel dated November 29, 2011 requesting documents relating to the blue
13 glow functionality that Samsung implemented in its products.

14 18. Attached hereto as Exhibit 15 is a true and correct copy of a proposed stipulation
15 that Apple's counsel sent to Samsung's counsel on February 26, 2012. This proposed stipulation
16 provided that the version of source code for each accused product produced by Samsung by
17 December 31, 2011 is representative of all later versions of that product. Apple expressly
18 acknowledged that "Samsung's representation does not apply to Apple's allegation that Samsung's
19 accused products infringe U.S. Patent No. 7,469,381."

20 19. Attached hereto as Exhibit 16 is a true and correct copy of Samsung's Supplemental
21 Objections and Responses to Apple's Seventh Set of Interrogatories (No. 16).

22 20. Attached hereto as Exhibit 17 is a true and correct copy of excerpts from the April
23 26, 2012 deposition transcript of Dr. Karan Singh, an Apple expert witness, in which Dr. Singh
24 testified that certain technical alternatives do not infringe the '163 patent.

25 21. Attached hereto as Exhibit 18 is a true and correct copy of excerpts from the Expert
26 Report of Karan Singh, Ph.D., Regarding Infringement of U.S. Patents Nos. 7,864,163, 7,844,915
27 and 7,853,891.

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22. Dr. Singh's report discusses a document bearing Bates label SAMNDCA00203880. Samsung produced this document to Apple on December 29, 2012, from the custodial files of Min Kyoung Kim.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on the 15th of May, 2012, in Redwood Shores, California.

/s/ Mark Tung
Mark Tung