UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

APPLE INC., a California corporation,

Plaintiff,

vs.

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

Defendants.

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

[PROPOSED] ORDER GRANTING SAMSUNG'S MOTION TO STRIKE EXPERT TESTIMONY BASED ON UNDISCLOSED FACTS AND THEORIES

Date: June 26, 2012
Time: 10:00 a.m.
Place: Courtroom 5, 4th Floor
Judge: Hon. Paul S. Grewal

FILED UNDER SEAL

Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung Telecommunications America, LLC (collectively, "Samsung") have filed a Motion to Strike Expert Testimony Based on Undisclosed Facts and Theories.

For good cause shown, the Court ORDERS that, to the extent that they rely on undisclosed facts and theories as set forth in Samsung's Memorandum of Points and Authorities, Apple shall be precluded from citing, basing testimony on, offering expert testimony corresponding to, or in any other way relying on the following portions of Apple's expert reports, which are hereby stricken:

1. From the March 22, 2012 Report of Michel Maharbiz, paragraph 67, and pages 11, 12, 16, 18, 23, 28, 30, 31, 44, 57, 66, and Exhibits C and D, insofar as they cite or present Scanning Electron Microscope Reports.
2. From the March 22, 2012 Invalidity Report of Tony Givargis, paragraphs 97, 127, 136, 148, 150, 164, 167, 168, 169, 170, 171, 174,183, 184, 185, 188, 191, 222, 231, 253, 260, 288, 295, and 324.
3. From the April 16, 2012 Non-Infringement Rebuttal Report of Tony Givargis, paragraphs 14-16, 27-28, 30, 62-63, 64, 65, and footnote 4.
4. From the March 22, 2012 Report of Sanjay Sood, paragraphs 12-30 and 63-64.

5. From the March 22, 2012 Report of Peter Bressler, paragraphs 34, 51, 56, 60, 64-67, 68, 73, 77-80, 81, 86, 89-92, 104, 110-127, 136, 141-143, 191-193, 255-259, 338-344, 358, and 360.
6. From the March 22, 2012 Report of Susan Kare, paragraphs 45, 46, 53, 54, 62-64, and Exhibits 9 & 10.
7. From the March 22, 2012 Report of Russell Winer, paragraphs 83-86, 92, 96 101, 105, 107, 108, 110, 111, 112, 114-116, 123, 124,127-130, 132 -138, 140, 141, 143, 145, 147-151, 154,157, 158-160, 163-165, 171, 174, 181, 184 and 185.
8. From the March 22, 2012 Report of Terry Musika, paragraphs 152-262 (opinions on reasonable royalty Samsung should pay to Apple), and the Exhibits referenced therein.
9. From the March 22, 2012 Report of Terry Musika, paragraphs 168-181 (discussions of Apple and Samsung licenses and licensing practices), and the Exhibits referenced therein.
10. From the March 22, 2012 Report of Terry Musika, paragraphs 126-127 and 133 (opinions concerning Apple's manufacturing capacity), and the Exhibits referenced therein.
11. From the April 16, 2012 Rebuttal Report of Terry Musika, paragraphs 29, 43-45, and 68-69 (opinions concerning Apple's production of license agreements).
12. Mr. Musika is precluded from relying on all licenses and license-related information produced by Apple after the close of fact discovery, including all licensing charts produced after the close of fact discovery (APLNDC0001772330-R-APLNDC0001772340-R; APLNDC-Y0000051350-R-APLNDC-Y0000051356-R; APLNDC-Y0000236371-R-APLNDC-Y0000236405-R; APLNDC-Y0000232449-APLNDC-Y0000232454); all non-patent licenses, including the "Made for iPod" licenses (APLNDC-Y00014859-APLNDC-Y000148473); and all evidence of the parties' licensing practices, including licensing negotiations between Samsung and Apple.

13. From the March 22, 2012 Report of Ravin Balakrishnan, paragraphs 17, 40-41, 63, 66, 71, 73-75, 77, 79-82, 84-85, 87-90, 92-94, 96-102, 104-05, 107-08, 110-11, 113-15, 117-18, 120-21, 123-26, 128-31, 133-35, 137-40, 142-44, 146-48, 150-54, 156-61, 163-67, 169-73, 175, 177-78, 181, 183, 186, 189-90, 196-98, 200-05, 207-13, 215-23, 225, 227-28, 233-35, 237-42, 244-50, 252-260 and all descriptions, figures and cites to video exhibits in Exhibit 3 of the same.

IT IS SO ORDERED.

DATED: May ___, 2011

Honorable Paul S. Grewal
United States Magistrate Judge