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Attorneys for Plaintiff and
Counterclaim-Defendant APPLE INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

APPLE INC., a California corporation,

Plaintiff,

v.

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)

**DECLARATION OF
CYNDI WHEELER IN SUPPORT
OF APPLE'S ADMINISTRATIVE
MOTION TO FILE DOCUMENTS
UNDER SEAL RE MOTION TO
STRIKE PORTIONS OF
SAMSUNG'S EXPERT REPORTS**

1 I, Cyndi Wheeler, do hereby declare as follows:

2 1. I am an attorney for Apple Inc. (“Apple”). I submit this declaration in support of
3 Apple’s Administrative Motion to File Documents Under Seal. I have personal knowledge of the
4 matters set forth below. If called as a witness I could and would testify competently as follows.

5 2. Exhibits 2, 12, 13, 18, 19, 27, 31, 34, and 35 to the Declaration of Marc J. Pernick
6 in Support of Apple’s Motion to Strike Portions of Samsung’s Expert Reports (“Pernick
7 Declaration”) contain information that Apple treats as confidential in the ordinary course of its
8 business. Specifically:

9 A. Exhibit 2 to the Pernick Declaration is the Expert Report of Stephen Gray
10 Regarding Invalidity of U.S. Patent Nos. 7,884,915 and 7,864,163. I
11 understand that Samsung has designated this report Outside Attorneys’
12 Eyes Only. I have seen only a redacted version of this report.
13 Paragraphs 138 and 293-297 of the report contain non-public Apple
14 confidential information relating to Apple’s products, and could be used to
15 Apple’s disadvantage by competitors if it were not filed under seal.

16 B. Exhibit 12 to the Pernick Declaration is the Corrected Expert Report of
17 Dr. Brian Von Herzen on the Invalidity of U.S. Patents 7,663,607 and
18 7,920,129. I understand that Samsung has designated this report Outside
19 Attorneys’ Eyes Only. I have seen only a redacted version of this report.
20 Paragraphs 44, 113, 185, 191, 244, 444-458, 460, 564, 565, and 624 of the
21 report contain non-public Apple confidential information relating to
22 Apple’s products, and could be used to Apple’s disadvantage by
23 competitors if it were not filed under seal.

24 C. Exhibit 13 to the Pernick Declaration is an April 29, 2012 letter from
25 Victoria F. Maroulis to Marc J. Pernick regarding Apple’s motion to strike
26 portions of Samsung’s expert reports. Pages 11 through 17 contain non-
27 public Apple confidential information relating to Apple’s products, and
28

1 could be used to Apple's disadvantage by competitors if it were not filed
2 under seal.

3 D. Exhibit 18 to the Pernick Declaration is the Rebuttal Expert Report of
4 Dr. Brian Von Herzen Regarding Non-Infringement of U.S. Patents
5 7,663,607 and 7,920,129. I understand that Samsung has designated this
6 report Outside Attorneys' Eyes Only. I have seen only a redacted version
7 of this report. Paragraphs 118, 133-135, 157, 238-239, and footnote 10 to
8 the report contain non-public Apple confidential information relating to
9 Apple's products, and could be used to Apple's disadvantage by
10 competitors if it were not filed under seal.

11 E. Exhibit 19 to the Pernick Declaration is the Rebuttal Expert Report of
12 Stephen Gray Regarding Invalidity of U.S. Patent Nos. 7,884,915 and
13 7,864,163. I understand that Samsung has designated this report Outside
14 Attorneys' Eyes Only. I have seen only a redacted version of this report.
15 Paragraphs 55 and 236 of the report contain non-public Apple confidential
16 information relating to Apple's products, and could be used to Apple's
17 disadvantage by competitors if it were not filed under seal.

18 F. Exhibit 27 to the Pernick Declaration is the Corrected Expert Report of Itay
19 Sherman. I understand that Samsung has designated this report Outside
20 Attorneys' Eyes Only. I have seen only a redacted version of this report.
21 Pages 48-50, 94-100, and 103-104 of the report contain non-public Apple
22 confidential information relating to Apple's products, and could be used to
23 Apple's disadvantage by competitors if it were not filed under seal.

24 G. Exhibit 34 to the Pernick Declaration is the Supplemental Expert Report of
25 Michael J. Wagner. I understand that Samsung has designated this report
26 Outside Attorneys' Eyes Only. I have seen only a redacted version of this
27 report. Paragraphs 20, 34, 37, and 38, and associated footnotes, and Figure
28 1, and Supplemental Schedules 14.1 and 14.2, of the report contain non-

1 public Apple confidential information relating to Apple's products, and
2 could be used to Apple's disadvantage by competitors if they were not filed
3 under seal. In addition, the parties have stipulated that damages-related
4 expert reports will be submitted under seal in full and not on the public
5 record.

6 H. Exhibits 31 and 35 to the Pernick Declaration are excerpts of the Corrected
7 Expert Report of Michael Wagner and of Mr. Wagner's Deposition,
8 respectively. I understand that Samsung has designated these materials
9 Outside Attorneys' Eyes Only. The parties have stipulated that damages-
10 related expert reports will be submitted under seal in full and not on the
11 public record.

12 3. In addition, to the extent Apple's Motion to Strike Portions of Samsung's Expert
13 Reports and the Pernick Declaration refer to or quote from these portions of these reports, they
14 could be used to Apple's disadvantage by competitors if they were not filed under seal, for the
15 same reasons.

16 4. It is Apple's policy not to disclose or describe its confidential design and product
17 development information. The information that is described above is confidential to Apple. It is
18 indicative of the way that Apple designs its products. Apple is well known worldwide for its
19 corporate culture of carefully maintaining the confidentiality of its business information. If
20 disclosed, the information in the materials described above could be used by Apple's competitors
21 to Apple's disadvantage.

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5. The relief requested in this motion is necessary and is narrowly tailored to protect confidential information, focusing only on specific exhibits and specific portions of the brief at issue.

I declare under the penalty of perjury under the laws of the United States of America that the forgoing is true and correct to the best of my knowledge and that this Declaration was executed this 17th day of May, 2012, at Cupertino, California.

Dated: May 17, 2012

By: /s/ Cyndi Wheeler
Cyndi Wheeler

