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 AMERICA, INC. and SAMSUNG  
 TELECOMMUNICATIONS AMERICA,  
 LLC

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

18 APPLE INC., a California corporation,  
 19 Plaintiff,

20 v.

21 SAMSUNG ELECTRONICS CO., LTD., a  
 Korean corporation; SAMSUNG ELECTRONICS  
 22 AMERICA, INC., a New York corporation; and  
 SAMSUNG TELECOMMUNICATIONS  
 23 AMERICA, LLC, a Delaware limited liability  
 company,

24 Defendants.

Case No. 11-cv-01846-LHK

**JOINT STIPULATION AND  
 [PROPOSED] ORDER  
 DISMISSING CLAIMS  
 WITHOUT PREJUDICE**

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Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii) and the Court’s May 10, 2012 Order Regarding Parties’ Statements Narrowing Claims to be Asserted at Trial (Dkt. No. 912), the parties, through their respective counsel of record, hereby stipulate and agree as follows:

WHEREAS, Apple Inc. (“Apple”) commenced the above-captioned action (the “Litigation”) against Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung Telecommunications America, LLC (collectively “Samsung,” and together with Apple, “the Parties” and individually each a “Party”) on April 15, 2011;

WHEREAS, pursuant to the Court’s May 2, 2012 Case Management Order, a trial in this action shall commence on July 30, 2012 (Dkt. No. 901);

WHEREAS, both parties have previously represented to each other and to the Court that each is willing to dismiss certain claims and counterclaims in the interests of streamlining and simplifying the issues in this case (Dkt. Nos. 893, 902);

WHEREAS, the Court’s May 10 Order instructed that the parties file a stipulation dismissing without prejudice the claims and counterclaims that will not be tried on July 30, 2012;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by the Parties as follows:

1. This Stipulation and Order dismisses without prejudice any claims by Apple against Samsung for infringement of:
  - a. U.S. Patent No. 6,493,002 (Eighth Claim for Relief);
  - b. Claims 1-18 and 20 of U.S. Patent No. 7,469,381 (Ninth Claim for Relief);
  - c. Claim 1-3, 6-7, 10, and 11 of U.S. Patent No. 7,663,607 (Tenth Claim for Relief);
  - d. U.S. Patent No. 7,812,828 (Eleventh Claim for Relief);
  - e. Claims 1-7 and 9-21 of U.S. Patent No. 7,844,915 (Twelfth Claim for Relief);
  - f. U.S. Patent No. 7,853,891 (Thirteenth Claim for Relief);
  - g. Claims 2, 4-13, 17-18, 27-42, 47-49, and 51-52 of U.S. Patent No. 7,864,163 (Fourteenth Claim for Relief);

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- h. U.S. Patent No. 7,920,129 (Fifteenth Claim for Relief);
- i. U.S. Patent No. D627,790 (Sixteenth Claim for Relief);
- j. U.S. Patent No. D622,270 (Twenty-Second Claim for Relief);
- k. iPhone trade dress, based on U.S. Registration No. 3,470,983 (First and Second Claims for Relief);
- l. iPhone trade dress, based on unregistered combination iPhone/iPhone 3G/iPhone 4 trade dress (First Claim for Relief);
- m. iPhone trade dress, based on unregistered iPhone 3G trade dress (First Claim for Relief);
- n. Registered Trademarks 3,889,642; 3,886,200; 3,889,685; 3,886,169; and 3,886,197; 3,886,196; 2,935,038; and 3,889,642 (Third and Fifth Claims for Relief);
- o. Unregistered Trademarks (Fifth Claim for Relief).

2. This Stipulation and Order dismisses without prejudice any claims by Apple against Samsung for infringement and dilution of:

- a. iPhone trade dress, based on U.S. Registration No. 3,457,218 (First, Second, and Fourth Claims for Relief);
- b. iPhone trade dress, based on U.S. Registration No. 3,475,327 (First, Second, and Fourth Claims for Relief);
- c. iPhone trade dress, based on unregistered original iPhone trade dress (First and Fourth Claims for Relief); and
- d. iPhone trade dress, based on unregistered iPhone 4 trade dress (First and Fourth Claims for Relief).

3. This Stipulation and Order dismisses without prejudice claims by Apple against Samsung for unfair business practices under California Business and Professions Code Section 17200 pursuant to the Sixth Claim for Relief.

4. This Stipulation and Order dismisses without prejudice claims by Apple against Samsung for Unjust Enrichment pursuant to the Seventh Claim for Relief.

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2           5.       Samsung agrees that its corresponding counterclaims seeking declaratory  
3 judgment of non-infringement and invalidity for Apple’s dismissed claims for patent, trademark,  
4 and trade dress infringement, as well as Samsung’s counterclaims for a declaration of  
5 nonviolation of California Business and Professions Code § 17200 and cancelation of Apple’s  
6 dismissed registered trademarks and trade dress, should be dismissed without prejudice. This  
7 stipulation of dismissal without prejudice is made subject to Samsung’s reservation of rights to  
8 reassert these or other counterclaims and defenses relating to Apple’s dismissed claims should  
9 any such dismissed claim be revived or reasserted by Apple for any reason.

10           6.       This Stipulation and Order dismisses without prejudice any claims by Samsung  
11 Electronics Co. Ltd. and Samsung Telecommunications America, LLC (collectively, the  
12 “Samsung Patent Counterclaimants”) against Apple for infringement of:

- 13           a.       U.S. Patent No. 7,050,410;
- 14           b.       U.S. Patent No. 7,069,055;
- 15           c.       U.S. Patent No. 7,200,792;
- 16           d.       U.S. Patent No. 7,386,001;
- 17           e.       U.S. Patent No. 7,079,871;
- 18           f.       Claims 1, 2, 4, 6-9, 13, 16-18 of U.S. Patent No. 7,675,941;
- 19           g.       Claims 1-4, 6, 10-12, 19-22 and 24 of U.S. Patent No. 6,928,604;
- 20           h.       Claims 1-6, 9-10, 14, 18-20, 23-24 and 28 of U.S. Patent No. 7,447,516;
- 21           i.       Claims 27 and 30 of U.S. Patent No. 7,362,867;
- 22           j.       Claims 1-2, 7-8 and 15-18. of U.S. Patent No. 7,698,711; and
- 23           k.       Claims 1-4, 6-8, 11 and 13-16 of U.S. Patent No. 7,546,893.

24           7.       Apple agrees that its corresponding counterclaims seeking declaratory judgment of  
25 non-infringement and invalidity for the Samsung Patent Counterclaimants’ dismissed claims  
26 should be dismissed without prejudice. This stipulation of dismissal without prejudice is made  
27 subject to Apple’s reservation of rights to reassert these or other counterclaims and defenses  
28 relating to the Samsung Patent Counterclaimants’ dismissed claims should any such dismissed  
claim be revived or reasserted by the Samsung Patent Counterclaimants for any reason.

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8. This Stipulation and Order is not an adjudication on the merits of any of the claims or counterclaims that are hereby dismissed without prejudice.

Dated: May 21, 2012

MORRISON & FOERSTER LLP

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**PURSUANT TO STIPULATION, IT IS SO ORDERED.**

Dated: \_\_\_\_\_, 2012

By: \_\_\_\_\_  
The Honorable Lucy H. Koh  
United States District Judge