

1 HAROLD J. MCELHINNY (CA SBN 66781)  
 hmcclhinny@mofo.com  
 2 MICHAEL A. JACOBS (CA SBN 111664)  
 mjacobs@mofo.com  
 3 JENNIFER LEE TAYLOR (CA SBN 161368)  
 jtaylor@mofo.com  
 4 ALISON M. TUCHER (CA SBN 171363)  
 atucher@mofo.com  
 5 RICHARD S.J. HUNG (CA SBN 197425)  
 rhung@mofo.com  
 6 JASON R. BARTLETT (CA SBN 214530)  
 jasonbartlett@mofo.com  
 7 MORRISON & FOERSTER LLP  
 425 Market Street  
 8 San Francisco, California 94105-2482  
 Telephone: (415) 268-7000  
 9 Facsimile: (415) 268-7522

WILLIAM F. LEE  
 william.lee@wilmerhale.com  
 WILMER CUTLER PICKERING  
 HALE AND DORR LLP  
 60 State Street  
 Boston, MA 02109  
 Telephone: (617) 526-6000  
 Facsimile: (617) 526-5000

MARK D. SELWYN (SBN 244180)  
 mark.selwyn@wilmerhale.com  
 WILMER CUTLER PICKERING  
 HALE AND DORR LLP  
 950 Page Mill Road  
 Palo Alto, California 94304  
 Telephone: (650) 858-6000  
 Facsimile: (650) 858-6100

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

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

16 APPLE INC., a California corporation,  
 17

18 Plaintiff,

19 v.

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

23 Defendants.  
 24

Case No. 11-cv-01846-LHK

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

1 I, Cyndi Wheeler, hereby declare as follows:

2 1. I am an attorney for Apple Inc. (“Apple”). I submit this declaration in support of  
3 Samsung’s Administrative Motion to File Under Seal (D.N. 934) pursuant to Local Rules 7-11  
4 and 79-5. I have personal knowledge of the matters set forth below. If called as a witness I could  
5 and would competently testify as follows.

6 2. Samsung’s Motion to Strike Expert Testimony (“Samsung’s Motion to Strike”),  
7 the Declaration of Christopher E. Price in Support of Samsung’s Motion to Strike (“Price  
8 Declaration”), the Declaration of James Ward in Support of Samsung’s Motion to Strike (“Ward  
9 Declaration”), and Exhibits to the Price and Ward Declarations contain Apple-confidential  
10 information. (See Declaration of James Ward in Support of Samsung’s Administrative Motion to  
11 File Documents Under Seal [D.N. 934-2].) A description of these documents follows.

12 3. Ward Declaration Exhibit E is Apple’s Corrected and Amended Objections and  
13 Responses to Samsung’s Interrogatories 4, 6, 7, 16, 17 and 18. It contains highly confidential and  
14 commercially sensitive business information, including Apple’s advertising expenditures and  
15 confidential discussions between the parties relating to legal disputes. A proposed redacted  
16 version is attached as **Exhibit 1**.

17 4. Ward Declaration Exhibit H is Apple’s Objections and Responses to Samsung’s  
18 Fourth Set of Interrogatories. It contains confidential product development information on pages  
19 64 and 65. A proposed redacted version is attached as **Exhibit 2**.

20 5. Ward Declaration Exhibit K is excerpts from the Sood Deposition. It contains  
21 confidential information about Apple’s design and product development at 155:1-156:25 and  
22 165:1-167:23. A proposed redacted version is attached as **Exhibit 3**.

23 6. Ward Declaration Exhibit O is excerpts from the Givargis Deposition on April 23,  
24 2012. It contains non-public Apple confidential information relating to Apple’s products and the  
25 components in Apple’s products, and could be used to Apple’s disadvantage by competitors if it  
26 were not filed under seal. A proposed redacted version is attached as **Exhibit 4**.

27 7. Ward Declarations Exhibits T and U are the Expert Report and Rebuttal Report of  
28 Terry Musika. The parties have stipulated that that damages-related expert reports will be

1 submitted under seal in full and not on the public record. These documents contain confidential,  
2 proprietary market research and analysis, including information about the competitive landscape  
3 for mobile devices. This business information was created at a significant cost to Apple, and  
4 could be used by Apple's competitors to its disadvantage, particularly because it discusses Apple's  
5 direct competitors. These documents should be under seal in their entirety.

6 8. Ward Declaration Exhibit V is an excerpt from the Buckley Deposition, which  
7 contains specific non-public financial data that is highly confidential to the company. A proposed  
8 redacted version is attached as **Exhibit 5**.

9 9. Ward Declaration Exhibit X is the Expert Report of Tony Givargis, Ph.D.  
10 Regarding Non-Infringement of the Asserted Claims of U.S. Patent No. 7,698,711. It contains  
11 non-public Apple confidential information relating to Apple's products, the components in  
12 Apple's products and Apple's source code, and could be used to Apple's disadvantage by  
13 competitors if it were not filed under seal. A proposed redacted version is attached as Exhibit 6.

14 10. Price Declaration Exhibit B is a letter from Diane Hutnyan, counsel for Samsung,  
15 to Mia Mazza, counsel for Apple, which contains specific non-public financial data that is highly  
16 confidential to the company. A proposed redacted version is attached as **Exhibit 7**.

17 11. Price Declarations Exhibits C, D and F are letters from Diane Hutnyan to Mia  
18 Mazza that contain specific non-public financial data that is highly confidential to the company.  
19 They should be sealed in full.

20 12. Price Declaration Exhibit E is a letter from Diane Hutnyan to Mia Mazza and  
21 Jason Bartlett, counsel for Apple, which contains specific non-public financial data that is highly  
22 confidential to the company. A proposed redacted version is attached as **Exhibit 8**.

23 13. Price Declaration Exhibit H is a letter from Mia Mazza to Sarah Jenkins, counsel  
24 for Samsung, which contains specific non-public financial data that is highly confidential to the  
25 company. A proposed redacted version is attached as **Exhibit 9**.

26 14. Price Declaration Exhibit I is a letter from Mia Mazza to Diane Hutnyan, which  
27 contains specific non-public financial data that is highly confidential to the company. A proposed  
28 redacted version is attached as **Exhibit 10**.

1           15.     Price Declarations Exhibits K, L, M, FF and GG are documents that contain  
2 specific non-public financial data that is highly confidential to the company and should be sealed  
3 in their entirety.

4           16.     Price Declarations Exhibits P, Q, R, S, Y, Z, AA-DD are license agreements  
5 between Apple and third parties, which are subject to non-disclosure agreements and contain  
6 proprietary information that is highly sensitive and highly confidential to the company and to  
7 those third parties. These exhibits should be sealed in their entirety.

8           17.     Price Declaration Exhibit T is a Letter from Diane Hutnyan to Peter Kolovos,  
9 which discusses royalty reports and confidential license agreements between Apple and third  
10 parties, which are subject to non-disclosure agreements. The documents discussed contain Apple  
11 and third party proprietary information that is highly sensitive and highly confidential to the  
12 company and to those third parties. A proposed redacted version is attached as **Exhibit 11**.

13          18.     Price Declaration Exhibit U is an email chain containing confidential business  
14 information regarding Apple's licensing practices with third parties and discussing provisions of a  
15 license containing highly sensitive and highly confidential Apple and third party information.  
16 This exhibit should be sealed in its entirety.

17          19.     Price Declarations Exhibits V and W are draft license agreements with third  
18 parties and contain proprietary information that is highly confidential to the company and to those  
19 third parties. These Exhibits should be sealed in their entirety.

20          20.     Price Declaration Exhibit X is a Letter from Peter Kolovos to Diane Hutnyan,  
21 which discusses Apple's confidential licensing and royalty policies and confidential license  
22 agreements between Apple and third parties, which are subject to non-disclosure agreements.  
23 The documents discussed contain Apple and third party proprietary information that is highly  
24 sensitive and highly confidential to the company and to those third parties. A proposed redacted  
25 version is attached as **Exhibit 12**.

26          21.     The portions of the confidential, unredacted versions of Samsung's Motion to  
27 Strike, the Price Declaration, and the Ward Declaration containing information drawn from the  
28 exhibits above should remain under seal for the same reasons articulated above.



