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13 Attorneys for SAMSUNG ELECTRONICS CO.,
 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
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19 APPLE INC., a California corporation,
 20 Plaintiff,
 21 vs.
 22 SAMSUNG ELECTRONICS CO., LTD., a
 Korean business entity; SAMSUNG
 23 ELECTRONICS AMERICA, INC., a New
 York corporation; SAMSUNG
 24 TELECOMMUNICATIONS AMERICA,
 LLC, a Delaware limited liability company,
 25 Defendants.
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CASE NO. 11-cv-01846-LHK
**DECLARATION OF JOBY MARTIN IN
 SUPPORT OF APPLE'S
 ADMINISTRATIVE MOTION TO FILE
 DOCUMENTS UNDER SEAL,
 PURSUANT TO LOCAL RULE 79-5(d)**

1 Pursuant to Civil L.R. 79-5(d), Defendants Samsung Electronics Co., Ltd., Samsung
2 Electronics America, Inc., and Samsung Telecommunications America, LLC (collectively,
3 “Samsung”) submit the appended declaration of Joby Martin in Support of Apple’s Administrative
4 Motion to File Documents Under Seal (Dkt. No. 939), to establish that the following are sealable:

- 5 • Confidential Portions of Apple’s Motion to Strike Portions of Samsung's Expert
6 Reports (“Motion to Strike”);
- 7 • Exhibits 2, 6 – 8, 10 – 13, 16 – 20, 25 – 27, 29, 31, 34, 35, and 38 to the Declaration of
8 Marc J. Pernick in Support of Apple’s Motion to Strike (“Pernick Declaration”).

9 **DECLARATION OF JOBY MARTIN**

10 I, Joby Martin, do hereby declare as follows:

11 1. I am an associate at Quinn Emanuel Urquhart & Sullivan LLP, counsel for
12 Samsung. I submit this Declaration in support of Apple’s Administrative Motion to File
13 Documents Under Deal (Dkt. No. 939). I have personal knowledge of the facts set forth in this
14 Declaration and, if called as a witness, could and would competently testify to them.

15 2. Exhibit 2 to the Pernick Declaration is a copy of the Expert Report of Stephen Gray
16 Regarding Invalidity of U.S. Patent Nos. 7,884,915 and 7,864,163. This document, which has
17 been designated HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES ONLY, contains
18 confidential information of third parties, such as Mitsubishi Electronics Research Laboratories,
19 including the source code implemented in the DiamondTouch System. This information is
20 confidential and proprietary, and could be used by competitors to the detriment of third parties if
21 not filed under seal.

22 3. Exhibit 6 to the Pernick Declaration is a copy of Appendix 3 to the Expert Report
23 of Stephen Gray Regarding Invalidity of U.S. Patent Nos. 7,884,915 and 7,864,163. This
24 document, which has been designated HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES
25 ONLY, contains confidential information of third parties, such as Mitsubishi Electronics Research
26 Laboratories, including information regarding the source code implemented in the DiamondTouch
27 System and excerpts from the confidential deposition of third party Clifton Forlines. This
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1 information is confidential and proprietary, and could be used by competitors to the detriment of
2 third parties if not filed under seal.

3 4. Exhibit 7 to the Pernick Declaration is a copy of Appendix 3.1 to the Expert Report
4 of Stephen Gray Regarding Invalidity of U.S. Patent Nos. 7,884,915 and 7,864,163. This
5 document, which has been designated HIGHLY CONFIDENTIAL — OUTSIDE ATTORNEYS’
6 EYES ONLY – SOURCE CODE INFORMATION, contains confidential information of third
7 parties, such as Mitsubishi Electronics Research Laboratories, including the source code
8 implemented in the DiamondTouch system. This information is confidential and proprietary, and
9 could be used by competitors to the detriment of third parties if not filed under seal.

10 5. Exhibit 8 to the Pernick Declaration is a copy of Appendix 3.2 to the Expert Report
11 of Stephen Gray Regarding Invalidity of U.S. Patent Nos. 7,884,915 and 7,864,163. This
12 document, which has been designated HIGHLY CONFIDENTIAL — OUTSIDE ATTORNEYS’
13 EYES ONLY – SOURCE CODE INFORMATION, contains confidential information of third
14 parties, such as Mitsubishi Electronics Research Laboratories, including the source code
15 implemented in the DiamondTouch system. This information is confidential and proprietary, and
16 could be used by competitors to the detriment of third parties if not filed under seal.

17 6. Exhibit 10 to the Pernick Declaration is a copy of Appendix 3.5 to the Expert
18 Report of Stephen Gray Regarding Invalidity of U.S. Patent Nos. 7,884,915 and 7,864,163. This
19 document, which has been designated HIGHLY CONFIDENTIAL — OUTSIDE ATTORNEYS’
20 EYES ONLY – SOURCE CODE INFORMATION, contains confidential information of third
21 parties, such as Mitsubishi Electronics Research Laboratories, including the source code
22 implemented in the DiamondTouch system. This information is confidential and proprietary, and
23 could be used by competitors to the detriment of third parties if not filed under seal.

24 7. Exhibit 11 to the Pernick Declaration is a copy of the Expert Report of Andries Van
25 Dam, Ph.D Regarding Invalidity of U.S. Patent No. 7,469,381. This document, which has been
26 designated HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES ONLY, contains confidential
27 information of third parties, such as Mitsubishi Electronics Research Laboratories, including
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1 information regarding the source code implemented in the DiamondTouch System. This
2 information is confidential and proprietary, and could be used by competitors to the detriment of
3 third parties if not filed under seal.

4 8. Exhibit 12 to the Pernick Declaration is a copy of the Corrected Expert Report of
5 Dr. Brian Von Herzen On the Invalidity of U.S. Patents 7,669,607 and 7,920,129. This document,
6 which has been designated HIGHLY CONFIDENTIAL — ATTORNEYS' EYES ONLY,
7 contains confidential information of third parties, such as Atmel Corp., including documents
8 related to the Velos system, which were produced by Atmel pursuant to the protective order in this
9 litigation. This information is confidential and proprietary, and could be used by competitors to
10 the detriment of third parties if not filed under seal.

11 9. Exhibit 13 to the Pernick Declaration is a copy of a letter sent by Samsung's
12 counsel to Apple's counsel on April 29, 2012. This document discusses, references, and cites to
13 confidential exhibits discussed herein in paragraphs 2 -7 and 17-18. Accordingly, this document
14 has been designated as CONFIDENTIAL--SUBJECT TO PROTECTIVE ORDER, and should
15 remain under seal for the same reasons articulated in those paragraphs.

16 10. Exhibit 16 to the Pernick Declaration is a copy of Samsung's Second Supplemental
17 Objections and Responses to Apple Inc.'s Second Set of Interrogatories (No. 2). This document,
18 which has been designated HIGHLY CONFIDENTIAL — ATTORNEYS' EYES ONLY,
19 contains sensitive commercial information regarding the operation of the accused Samsung
20 products, the structure of Samsung's touchscreens, as well as various software features of the
21 source code implemented in those products. This information is confidential and proprietary to
22 Samsung, and could be used by competitors to its detriment if not filed under seal.

23 11. Exhibit 17 to the Pernick Declaration is a copy of the Expert Report of Jeffrey
24 Johnson, Ph.D Regarding Non-Infringement of U.S. Patent No. 7,469,381. This document, which
25 has been designated HIGHLY CONFIDENTIAL — ATTORNEYS' EYES ONLY, contains
26 sensitive commercial information regarding the operation of the accused Samsung products,
27 updates made to the source code of the accused products, and the internal development of various
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1 features and software programs installed on the accused products. This information is confidential
2 and proprietary to Samsung, and could be used by competitors to its detriment if not filed under
3 seal.

4 12. Exhibit 18 to the Pernick Declaration is a copy of the Rebuttal Expert Report of Dr.
5 Brian Von Herzen Regarding Non-Infringement of U.S. Patents 7,669,607 and 7,920,129. This
6 document, which has been designated HIGHLY CONFIDENTIAL — ATTORNEYS' EYES
7 ONLY, contains sensitive commercial information regarding the structure and configuration of the
8 touchscreens installed on the accused Samsung products, as well as the confidential information of
9 third party Atmel Corp. This information is confidential and proprietary, and could be used by
10 competitors to the detriment of Samsung and third parties if not filed under seal.

11 13. Exhibit 19 to the Pernick Declaration is a copy of the Rebuttal Expert Report of
12 Stephen Gray Regarding Non-Infringement of Asserted Claims of U.S. Patent Nos. 7,884,915 and
13 7,864,163. This document, which has been designated HIGHLY CONFIDENTIAL —
14 ATTORNEYS' EYES ONLY, contains confidential information regarding the operation of the
15 touchscreens of accused Samsung products, as well as software installed on the accused products.
16 This information is confidential and proprietary to Samsung, and could be used by competitors to
17 its detriment if not filed under seal.

18 14. Exhibit 20 to the Pernick Declaration is a copy of the May 4, 2012 deposition
19 transcript of Stephen Gray. This document, which has been designated HIGHLY
20 CONFIDENTIAL — ATTORNEYS' EYES ONLY, contains confidential information of third
21 parties, such as Mitsubishi Electronics Research Laboratories, including information relating to
22 the source code implemented in the DiamondTouch system. This document also contains
23 sensitive commercial information regarding the operation of the accused Samsung products'
24 touchscreens, as well as software installed on the accused products. This information is
25 confidential and proprietary to Samsung and third parties, and could be used by competitors to the
26 detriment of Samsung and third parties if not filed under seal.

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1 15. Exhibit 25 to the Pernick Declaration is a copy of Samsung's Objections to Apple
2 Inc.'s Fifth Set of Interrogatories (Corrected). This document, which has been designated
3 HIGHLY CONFIDENTIAL — ATTORNEYS' EYES ONLY, contains confidential information
4 concerning the structure and organization of groups or departments which are responsible for the
5 design and development of the Samsung accused products, and cites to or discusses confidential
6 documents produced by Samsung in this litigation. This information is confidential and
7 proprietary to Samsung, and could be used by competitors to its detriment if not filed under seal.

8 16. Exhibit 26 to the Pernick Declaration is a copy of the Expert Report of Sam
9 Lucente. This document, which has been designated HIGHLY CONFIDENTIAL —
10 ATTORNEYS' EYES ONLY, contains confidential information regarding the design and
11 development of Samsung's user interface designs, contained in reports and presentations circulated
12 within Samsung. This information is confidential and proprietary to Samsung, and could be used
13 by competitors to its detriment if not filed under seal.

14 17. Exhibit 27 to the Pernick Declaration is a copy of the Expert Report of Itay
15 Sherman. This document, which has been designated HIGHLY CONFIDENTIAL —
16 ATTORNEYS' EYES ONLY, contains confidential information regarding the design and
17 development of Samsung's user interface designs, contained in reports and presentations circulated
18 within Samsung. This information is confidential and proprietary to Samsung, and could be used
19 by competitors to its detriment if not filed under seal.

20 18. Exhibit 29 to the Pernick Declaration is a copy of the Corrected Rebuttal Expert
21 Report of Sam Lucente. This document, which has been designated HIGHLY CONFIDENTIAL
22 — ATTORNEYS' EYES ONLY, contains confidential information regarding the design and
23 development of Samsung's user interface designs, contained in reports and presentations circulated
24 within Samsung, as well as various functional considerations that drove the development of
25 Samsung's icons. This information is confidential and proprietary to Samsung, and could be used
26 by competitors to its detriment if not filed under seal.

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1 19. Exhibit 31 to the Pernick Declaration is a copy of the Corrected Expert Report of
2 Michael J. Wagner. This document, which has been designated HIGHLY CONFIDENTIAL —
3 ATTORNEYS' EYES ONLY, contains sensitive financial information regarding Samsung's
4 profits, operating expenses, and manufacturing expenses for the accused Samsung products. This
5 information is confidential and proprietary to Samsung, and could be used by competitors to its
6 detriment if not filed under seal.

7 20. Exhibit 34 to the Pernick Declaration consists of an email attaching a copy of the
8 Supplemental Expert Report of Michael J. Wagner. This document, which has been designated
9 HIGHLY CONFIDENTIAL — ATTORNEYS' EYES ONLY, contains sensitive financial
10 information regarding Samsung's profits, operating expenses, manufacturing expenses, bills of
11 materials, and development costs for the accused Samsung products. This information is
12 confidential and proprietary to Samsung, and could be used by competitors to its detriment if not
13 filed under seal.

14 21. Exhibit 35 to the Pernick Declaration consists of excerpts from the May 12, 2012
15 deposition transcript of Michael J. Wagner. These excerpts, which have been designated
16 HIGHLY CONFIDENTIAL — ATTORNEYS' EYES ONLY, contain sensitive financial
17 information regarding Samsung's profits, operating expenses, manufacturing expenses, bills of
18 materials, and development costs for the accused products. This information is confidential and
19 proprietary to Samsung, and could be used by competitors to its detriment if not filed under seal.

20 22. Exhibit 38 to the Pernick Declaration is a copy of Samsung's Supplemental
21 Objections and Responses to Apple Inc.'s Fifth Set of Interrogatories (Nos. 11-12). This
22 document, which has been designated HIGHLY CONFIDENTIAL — ATTORNEYS' EYES
23 ONLY, contains confidential information regarding the design and development of Samsung's
24 user interface designs, contained in reports and presentations circulated within Samsung. This
25 information is confidential and proprietary to Samsung, and could be used by competitors to its
26 detriment if not filed under seal.

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1 23. Apple's Motion to Strike summarizes, describes and/or directly cites to the
2 confidential Pernick Declaration and the confidential exhibits discussed in paragraphs 2 through
3 22 above. Therefore, the Motion should remain under seal for the same reasons articulated above.

4 24. The requested relief is necessary and narrowly tailored to protect this confidential
5 information.

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7 I declare under penalty of perjury that the forgoing is true and correct to the best of my
8 knowledge.

9 Executed this 24th day of May, 2012, in San Francisco, CA.

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/s/ Joby Martin

Joby Martin

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General Order 45 Attestation

I, Victoria F. Maroulis, am the ECF user whose ID and password are being used to file this Declaration. In compliance with General Order 45(X)(B), I hereby attest that Joby Martin has concurred in this filing.

/s/ Victoria Maroulis