

1 HAROLD J. MCELHINNY (CA SBN 66781)
 hmcelhenny@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.

Case No. 11-cv-01846-LHK (PSG)

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

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 (Dkt. No. 965) pursuant to Local Rules 7-
4 11 and 79-5. I have personal knowledge of the matters set forth below. If called as a witness I
5 could and would competently testify as follows.

6 2. Samsung’s Motion to Enforce April 12, 2012 Order (“Motion to Enforce”) and
7 Exhibits 12-22 to the Declaration of Diane C. Hutnyan in Support of Samsung’s Motion to
8 Enforce contain Apple-confidential information. A description of these documents follows.

9 3. Exhibit 12 is a transcript of Andrew Bright from *Certain Electronic Devices,*
10 *Including Mobile Phones, Portable Music Players, and Computers*, Inv. No. 337-TA-701 (“ITC
11 701”). This transcript was marked Attorneys Eyes Only under the Protective Order in ITC 701
12 and was marked Attorneys Eyes Only by Apple in this case. It contains non-public Apple
13 information relating to Apple’s development process and internal code names that is highly
14 confidential to the company, is governed by two protective orders, and should be sealed in its
15 entirety.

16 4. Exhibit 13 is a transcript of Dan Rosckes from *Certain Personal Data and Mobile*
17 *Communications Devices and Related Software*, Inv. No. 337-TA-710 (“ITC 710”). This
18 transcript was marked Attorneys Eyes Only under the Protective Order in ITC 710 and was
19 marked Attorneys Eyes Only by Apple in this case. It contains non-public Apple information
20 relating to Apple’s business policies, employee responsibilities, and purchasing processes that is
21 highly confidential to the company, is governed by two protective orders and should be sealed in
22 its entirety.

23 5. Exhibit 14 is a transcript of Mark Buckley from *Microelectronics v. Apple*. This
24 transcript was marked Attorneys Eyes Only under the Protective Order in *Microelectronics v.*
25 *Apple* and was marked Attorneys Eyes Only by Apple in this case. It contains non-public Apple
26 information relating to cost information, individuals responsible for such information, and the
27 information Mr. Buckley reviewed and supplied for the *Microelectronics* case that is highly
28

1 confidential to the company, is governed by two protective orders, and should be sealed in its
2 entirety.

3 6. Exhibit 15 is a transcript of Frederick Charles Lancaster from *QRG, Ltd. v. Apple,*
4 *Inc.*, Case No. 1:05-cv-03408-WMN (D. Md.) This transcript was marked Attorneys Eyes Only
5 under the Protective Order in *QRG v. Apple* and was marked Attorneys Eyes Only by Apple in
6 this case. It contains non-public Apple information relating to employee duties, revenue
7 information, and internal code names that is highly confidential to the company, is governed by
8 two protective orders, and should be sealed in its entirety.

9 7. Exhibit 16 is the transcript of the deposition of Louie Sanguinetti from *Apple Inc.*
10 *v. Motorola, Inc.*, No. 1-11-cv-08540 (N.D. Ill.). This transcript was marked Confidential under
11 the Protective Order in *Apple Inc. v. Motorola, Inc.*, and was marked Highly Confidential -
12 Attorneys Eyes Only by Apple in this case. It contains non-public Apple information relating to
13 the operation and development of Apple's products that is highly confidential to the company, is
14 governed by two protective orders, and should be sealed in its entirety.

15 8. Exhibit 17 is a transcript of Stephen Lemay from ITC 701. This transcript was
16 marked Attorneys Eyes Only under the Protective Order in ITC 701 and was marked Attorneys
17 Eyes Only by Apple in this case. It contains non-public Apple information relating to Apple's
18 development process that is highly confidential to the company, is governed by two protective
19 orders, and should be sealed in its entirety.

20 9. Exhibit 18 is a transcript of Achim Pantfoerder from ITC 701. This transcript was
21 marked Attorneys Eyes Only under the Protective Order in ITC 701 and was marked Attorneys
22 Eyes Only by Apple in this case. It contains non-public Apple information relating to Apple's
23 development process and internal code names that is highly confidential to the company, is
24 governed by two protective orders, and should be sealed in its entirety.

25 10. Exhibit 19 is a transcript of the deposition of Emilie Kim from this case. This
26 transcript was marked Highly Confidential - Attorneys Eyes Only by Apple. It contains non-
27 public Apple information relating to the operation of Apple's products and the source code in
28

1 Apple's products that is highly confidential to the company. A proposed redacted version is
2 attached as **Exhibit 1**.

3 11. Exhibit 20 is a transcript of the deposition of Michael Matas from *Apple Inc. v.*
4 *Motorola, Inc.*, No. 1-11-cv-08540 (N.D. Ill.). This transcript was marked Confidential under the
5 Protective Order in *Apple Inc. v. Motorola, Inc.*, and was marked Highly Confidential - Attorneys
6 Eyes Only by Apple in this case. It contains non-public Apple information relating to the
7 development of Apple's products that is highly confidential to the company, is governed by two
8 protective orders, and should be sealed in its entirety.

9 12. Exhibit 21 is a transcript of the deposition of Kristin Bauerly from *Elan*
10 *Microelectronics Corp. v. Apple, Inc.*, No. C-09-01531 (N.D. Cal.). This transcript was marked
11 Highly Confidential - Attorneys Eyes Only under the Protective Order in *Elan Microelectronics*
12 *Corp. v. Apple, Inc.*, and was marked Highly Confidential - Attorneys Eyes Only by Apple in this
13 case. It contains non-public Apple information relating to the operation and testing of Apple's
14 products that is highly confidential to the company, is governed by two protective orders, and
15 should be sealed in its entirety.

16 13. Exhibit 22 is a transcript of the deposition of Eric Jue from *Elan Microelectronics*
17 *Corp. v. Apple, Inc.*, No. C-09-01531 (N.D. Cal.). This transcript was marked Highly
18 Confidential - Attorneys Eyes Only under the Protective Order in *Elan Microelectronics Corp. v.*
19 *Apple, Inc.*, and was marked Highly Confidential - Attorneys Eyes Only by Apple in this case. It
20 contains non-public Apple information relating to the operation of Apple's products that is highly
21 confidential to the company, is governed by two protective orders, and should be sealed in its
22 entirety.

23 14. The portions of the confidential, unredacted versions of Samsung's Motion to
24 Enforce containing information drawn from the exhibits above should remain under seal for the
25 same reasons articulated above.

26 15. It is Apple's policy not to disclose or describe its confidential financial
27 information, development information, business practices, or internal code names to third parties.
28 The above information is confidential to Apple. It is indicative of the way that Apple manages its

1 business affairs, designs its products, and conducts product development. Apple's internal Apple
2 code names reveal information that Apple uses to maintain confidentiality with respect to its
3 entire design and development process. If disclosed, the information in the materials described
4 above could be used by Apple's competitors to Apple's disadvantage. The requested relief is
5 necessary and narrowly tailored to protect the confidentiality of this information.

6 I declare under penalty of perjury under the laws of the United States of America that the
7 foregoing is true and correct to the best of my knowledge. Executed this 29th day of May, 2012,
8 in Cupertino, California.

9
10 /s/ Cyndi Wheeler
Cyndi Wheeler

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

