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

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

17 APPLE INC., a California corporation,
 18 Plaintiff,
 19 v.
 20 SAMSUNG ELECTRONICS CO., LTD., a
 21 Korean corporation; SAMSUNG ELECTRONICS
 22 AMERICA, INC., a New York corporation; and
 23 SAMSUNG TELECOMMUNICATIONS
 24 AMERICA, LLC, a Delaware limited liability
 company,
 Defendants.

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

**DECLARATION OF MARC J.
 PERNICK IN SUPPORT OF APPLE'S
 OPPOSITION TO SAMSUNG'S
 MOTION FOR CLARIFICATION
 REGARDING THE COURT'S MAY 4,
 2012 ORDER**

Date: June 19, 2012
 Time: 10:00 a.m.
 Place: Courtroom 5, 4th Floor
 Judge: Hon. Paul S. Grewal

26 **EXHIBIT A FILED UNDER SEAL**

1 I, Marc J. Pernick, declare as follows:

2 1. I am an attorney with the law firm of Morrison & Foerster LLP, counsel for
3 Apple Inc. (“Apple”). I am licensed to practice law in the State of California. Unless otherwise
4 indicated, I have personal knowledge of the matters stated herein and, if called as a witness, could
5 and would testify competently thereto. I make this declaration in support of Apple’s Opposition
6 to Samsung’s Motion for Clarification Regarding the Court’s May 4, 2012 Order.

7 2. On March 22, 2012, Apple served the Expert Report of Ravin Balakrishnan, Ph.D.
8 Regarding Infringement of U.S. Patent No. 7,469,381. A true and correct copy of relevant
9 portions of that report is attached to this Declaration as Exhibit A.

10 3. On April 24, 2012, the Court heard argument on Apple’s Rule 37(b)(2) Motion
11 Based On Samsung’s Violation of the Court’s December 22, 2011 Order Regarding Source Code.
12 A true and correct copy of the transcript of that hearing is attached to this Declaration as
13 Exhibit B.

14 4. On May 29, 2012, I accessed the Phone Arena web site at www.phonearena.com,
15 which provides news and information regarding phone products. That web site contains
16 information about the Samsung Epic 4G at [http://www.phonearena.com/phones/Samsung-Epic-
17 4G_id4720](http://www.phonearena.com/phones/Samsung-Epic-4G_id4720).

18 5. The information on this page of the Phone Arena web site states that the Samsung
19 Epic 4G was released on August 31, 2010. A true and correct copy of a screen shot of the web
20 page, which was printed on May 29, 2012, is attached to this Declaration as Exhibit C. That print
21 out accurately captures the contents of that web page as viewed on a computer monitor in the
22 offices of Morrison & Foerster LLP at the time it was printed.

23 6. On May 29, 2012, I accessed the Wikipedia web site at en.wikipedia.org. There is
24 an article on that web site entitled “Android Version History,” at [http://en.wikipedia.org/wiki/
25 Android_version_history](http://en.wikipedia.org/wiki/Android_version_history).

26 7. This article includes a table purporting to show the release dates of different
27 versions of Gingerbread 2.3.x. The article indicates that version 2.3.6 of the Gingerbread
28 software was released on September 2, 2011. A true and correct copy of a screen shot of that

1 table, which was printed on May 29, 2012, is attached to this Declaration as Exhibit D. This print
2 out accurately captures the contents of that table as viewed on a computer monitor in the offices
3 of Morrison & Foerster LLP at the time it was printed.

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I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct.

Executed on May 29, 2012 in Palo Alto, California.

/s/ Marc J. Pernick
Marc J. Pernick

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ATTESTATION

I, Michael A. Jacobs, am the ECF User whose ID and password are being used to file this DECLARATION OF MARC J. PERNICK IN SUPPORT OF APPLE’S OPPOSITION TO SAMSUNG’S MOTION FOR CLARIFICATION REGARDING THE COURT’S MAY 4, 2012 ORDER. In compliance with General Order 45, X.B., I hereby attest that Marc J. Pernick has concurred in this filing.

Date: May 29, 2012

/s/ Michael A. Jacobs
Michael A. Jacobs