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 CO., LTD., SAMSUNG ELECTRONICS
 16 AMERICA, INC. and SAMSUNG
 TELECOMMUNICATIONS AMERICA, LLC
 17 [additional counsel listed on signature page]

18 UNITED STATES DISTRICT COURT

19 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

20 APPLE INC., a California corporation,
 21 Plaintiff,
 22 vs.
 23 SAMSUNG ELECTRONICS CO., LTD., a
 24 Korean corporation; SAMSUNG
 ELECTRONICS AMERICA, INC., a New
 25 York corporation; SAMSUNG
 TELECOMMUNICATIONS AMERICA,
 26 LLC, a Delaware limited liability company,
 27 Defendants.

CASE NO. 12-CV-00630-LHK
**SAMSUNG DEFENDANTS' ANSWER,
 AFFIRMATIVE DEFENSES, AND
 COUNTERCLAIMS TO APPLE INC.'S
 COMPLAINT; AND
 DEMAND FOR JURY TRIAL**

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I. ANSWER

Defendants Samsung Electronics Co., Ltd. (“SEC”), Samsung Electronics America, Inc. (“SEA”), and Samsung Telecommunications America, LLC (“STA”) (collectively, the “Samsung Defendants”) by and through their undersigned counsel, in response to the Complaint of Apple Inc. (“Apple”) deny Apple’s allegations of patent infringement and answer Apple’s Complaint (“Complaint”) as follows:

THE NATURE OF THE ACTION

1. The Samsung Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 1 of the Complaint and therefore deny them.

2. Denied.

3. The Samsung Defendants admit that Apple sued Samsung in April 2011 in a case entitled *Apple Inc. v. Samsung Electronics Co., Ltd., et al.*, Case No. 5:11-cv-01846-LHK, which case is currently set for trial before the Honorable Lucy H. Koh on July 30, 2012 (“Earlier Case”). The Samsung Defendants further admit that Samsung has released new products since the Earlier Case was filed. The Samsung Defendants deny that they have engaged in any illegal conduct alleged in the Complaint. Except as expressly admitted, the Samsung Defendants deny the remaining allegations of paragraph 3 of the Complaint.

4. Denied.

THE PARTIES

5. The Samsung Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 5 of the Complaint and therefore deny them.

6. The Samsung Defendants deny that SEC’s principal offices are at the location specified in paragraph 6 of the Complaint. The Samsung Defendants admit that SEC is South Korea’s largest company and one of Asia’s largest electronics companies. The Samsung Defendants admit that SEC designs, manufactures and provides to the U.S. and world markets a

1 wide range of products, including consumer electronics, computer components, and mobile and
2 entertainment products.

3 7. The Samsung Defendants admit that SEA is a New York corporation, was formed
4 in 1978, and is a subsidiary of SEC. The Samsung Defendants admit that SEA's principal offices
5 are located at 85 Challenger Road, Ridgefield Park, NJ, 07660. The Samsung Defendants admit
6 that SEA offers a full range of award-winning consumer electronics and IT products including, but
7 not limited to, televisions, Blu-ray disc players, digital cameras and camcorders, certain memory
8 storage devices, portable audio devices, printers and monitors. The Samsung Defendants admit
9 that STA, Samsung Electronics Canada, and Samsung Electronics Mexico S.A. de C.V. are
10 affiliates of SEA. The Samsung Defendants deny the remaining allegations of paragraph 7 of the
11 Complaint.

12 8. The Samsung Defendants admit that STA was formed in 1996 and is a subsidiary
13 of SEC. The Samsung Defendants admit that STA is a Delaware limited liability company with
14 its principal place of business at 1301 East Lookout Drive, Richardson, Texas 75082. The
15 Samsung Defendants admit that STA researches, develops, markets, sells and offers for sale a
16 variety of personal and business communications products throughout North America, including
17 handheld wireless phones, wireless communications infrastructure systems, fiber optics and
18 enterprise communication systems.

19 **JURISDICTION**

20 9. The Samsung Defendants admit that the Complaint purports to allege claims over
21 which this Court has subject matter jurisdiction under 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).
22 Except as expressly admitted, the Samsung Defendants deny the remaining allegations of
23 paragraph 9 of the Complaint.

24 10. The Samsung Defendants will not challenge personal jurisdiction over them by this
25 Court for purposes of this action. Except as expressly admitted, the Samsung Defendants deny the
26 remaining allegations of paragraph 10 of the Complaint.

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1 **VENUE AND INTRADISTRICT ASSIGNMENT**

2 11. The Samsung Defendants will not contest the propriety of venue or intradistrict
3 assignment. The Samsung Defendants admit that pursuant to Civil L.R. 3-2(c), Intellectual
4 Property Actions are assigned on a district-wide basis and admits, on information and belief, that
5 Apple’s principal place of business is within this District. The Samsung Defendants admit that
6 SEC has filed counterclaims against Apple in this District. Except as expressly admitted, the
7 Samsung Defendants deny the remaining allegations of paragraph 11 of the Complaint.

8 **BACKGROUND**

9 **Apple’s Alleged Intellectual Property Rights**

10 **Apple’s Alleged Utility Patents**

11 12. The Samsung Defendants admit that Apple purports to have attached as Exhibits 1-
12 8 to its Complaint U.S. Patent Nos. 5,946,647 (the “‘647 Patent”), 6,847,959 (the “‘959 Patent”),
13 8,046,721 (the “‘721 Patent”), 8,074,172 (the “‘172 Patent”), 8,014,760 (the “‘760 Patent”),
14 5,666,502 (the “‘502 Patent”), 7,761,414 (the “‘414 Patent”), and 8,086,604 (the “‘604 Patent”).
15 The Samsung Defendants deny knowledge or information sufficient to form a belief as to the truth
16 or falsity of the remaining allegations in paragraph 12 of the Complaint and therefore deny them.

17 **Samsung’s Accused Products**

18 13. Denied.

19 14. The Samsung Defendants admit to having released products in 2010 and early
20 2011. The Samsung Defendants deny the remaining allegations in paragraph 14 of the
21 Complaint.

22 15. Denied.

23 16. The Samsung Defendants deny that any of the products listed in paragraph 16 of
24 the Complaint infringe any of the alleged patent rights Apple purports to assert in the Complaint.
25 The Samsung Defendants admit that the following devices are Samsung products: Galaxy S II
26 Skyrocket, Galaxy S II Epic 4G Touch, Galaxy S II – T-Mobile, Galaxy S II – AT&T, Galaxy
27 Nexus, Illusion, Captivate Glide, Exhibit II 4G, Stratosphere, Transform Ultra, Admire, Conquer
28 4G, Dart, Galaxy Player 4.0, Galaxy Player 5.0, Galaxy Tab 7.0 Plus, and Galaxy Tab 8.9. SEA

1 denies that it has sold in the United States any of the mobile phones listed in paragraph 16 of the
2 Complaint. Except as expressly admitted, the Samsung Defendants deny the remaining
3 allegations in paragraph 16 of the Complaint.

4 **Apple's Infringement Allegations**

5 17. The Samsung Defendants deny that they have infringed any of the Apple utility
6 patents identified in the Complaint. The Samsung Defendants aver that they do not infringe any
7 of the Apple utility patents identified in the Complaint, and therefore deny the implication that
8 they needed to obtain permission from Apple. Except as expressly admitted, the Samsung
9 Defendants deny the remaining allegations in paragraph 17 of the Complaint.

10 **FIRST CLAIM FOR RELIEF**

11 **(Infringement of the '647 Patent)**

12 18. The Samsung Defendants repeat and incorporate the admissions and denials of
13 paragraphs 1 through 17 above as if fully set forth herein.

14 19. Denied.

15 20. Denied.

16 21. Denied.

17 22. Denied.

18 23. Denied.

19 **SECOND CLAIM FOR RELIEF**

20 **(Infringement of the '959 Patent)**

21 24. The Samsung Defendants repeat and incorporate the admissions and denials of
22 paragraphs 1 through 23 above as if fully set forth herein.

23 25. Denied.

24 26. Denied.

25 27. Denied.

26 28. Denied.

27 29. Denied.

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THIRD CLAIM FOR RELIEF

(Infringement of the '721 Patent)

30. The Samsung Defendants repeat and incorporate the admissions and denials of paragraphs 1 through 29 above as if fully set forth herein.

- 31. Denied.
- 32. Denied.
- 33. Denied.
- 34. Denied.
- 35. Denied.

FOURTH CLAIM FOR RELIEF

(Infringement of the '172 Patent)

36. The Samsung Defendants repeat and incorporate the admissions and denials of paragraphs 1 through 35 above as if fully set forth herein.

- 37. Denied.
- 38. Denied.
- 39. Denied.
- 40. Denied.
- 41. Denied.

FIFTH CLAIM FOR RELIEF

(Infringement of the '760 Patent)

42. The Samsung Defendants repeat and incorporate the admissions and denials of paragraphs 1 through 41 above as if fully set forth herein.

- 43. Denied.
- 44. Denied.
- 45. Denied.
- 46. Denied.
- 47. Denied.

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SIXTH CLAIM FOR RELIEF

(Infringement of the '502 Patent)

48. The Samsung Defendants repeat and incorporate the admissions and denials of paragraphs 1 through 47 above as if fully set forth herein.

49. Denied.

50. Denied.

51. Denied.

52. Denied.

53. Denied.

SEVENTH CLAIM FOR RELIEF

(Infringement of the '414 Patent)

54. The Samsung Defendants repeat and incorporate the admissions and denials of paragraphs 1 through 53 above as if fully set forth herein.

55. Denied.

56. Denied.

57. Denied.

58. Denied.

59. Denied.

EIGHTH CLAIM FOR RELIEF

(Infringement of the '604 Patent)

60. The Samsung Defendants repeat and incorporate the admissions and denials of paragraphs 1 through 59 above as if fully set forth herein.

61. Denied.

62. Denied.

63. Denied.

64. Denied.

65. Denied.

1 The Samsung Defendants deny that Apple is entitled to the judgment sought, set forth in
2 paragraphs 1–9 on pages 11–12 of its Complaint.

3
4 **II. AFFIRMATIVE DEFENSES**

5 66. By alleging the Affirmative Defenses set forth below, the Samsung Defendants do
6 not agree or concede that they bear the burden of proof or the burden of persuasion on any of these
7 issues, whether in whole or in part. For their Affirmative Defenses to the Complaint, the
8 Samsung Defendants allege as follows:

9 **FIRST AFFIRMATIVE DEFENSE**

10 **(Failure to State a Claim)**

11 67. Apple’s Complaint, on one or more claims for relief set forth therein, fails to state a
12 claim upon which relief can be granted.

13 **SECOND AFFIRMATIVE DEFENSE**

14 **(Non-Infringement)**

15 68. The Samsung Defendants have not infringed, and currently do not infringe, the
16 ’647 Patent, ’959 Patent, ’721 Patent, ’172 Patent, ’760 Patent, ’502 Patent, ’414 Patent, or ’604
17 Patent (collectively, the “Apple Patents In Suit”) directly, indirectly, contributorily, by
18 inducement, under the doctrine of equivalents, or in any other manner.

19 **THIRD AFFIRMATIVE DEFENSE**

20 **(Invalidity)**

21 69. The claims of the Apple Patents In Suit are invalid for failure to satisfy one or more
22 of the conditions for patentability specified in Title 35 of the United States Code, including
23 without limitation §§ 101, 102, 103, and/or 112.

24 **FOURTH AFFIRMATIVE DEFENSE**

25 **(Waiver, Acquiescence, and Estoppel)**

26 70. Each of the purported claims set forth in Apple’s Complaint is barred by the
27 doctrines of waiver, acquiescence, and estoppel.

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FIFTH AFFIRMATIVE DEFENSE

(Laches)

71. The Apple Patents In Suit are unenforceable, in whole or in part, against the Samsung Defendants under the doctrine of laches.

SIXTH AFFIRMATIVE DEFENSE

(Failure to Mitigate)

72. The claims made in the Complaint are barred, in whole or in part, because of Apple’s failure to mitigate damages, if such damages exist.

SEVENTH AFFIRMATIVE DEFENSE

(Prosecution History Estoppel)

73. The relief sought by Apple as to the claims of one or more of the Apple Patents In Suit is barred under the doctrine of prosecution history estoppel.

EIGHTH AFFIRMATIVE DEFENSE

(Prosecution Laches)

74. One or more of the Apple Patents In Suit are unenforceable, in whole or in part, against the Samsung Defendants under the doctrine of prosecution laches.

NINTH AFFIRMATIVE DEFENSE

(Acts of Plaintiff)

75. On information and belief, the damages, if any, that were allegedly sustained by Apple as a result of the acts complained of in the Complaint were caused in whole or in part or were contributed to by reason of the acts, omissions, negligence, and/or intentional misconduct of Apple, its agents, predecessors, and/or related entities.

TENTH AFFIRMATIVE DEFENSE

(No Equitable Relief)

76. As a result of Apple’s actions, Apple is not entitled to equitable relief, including but not limited to Apple’s request for injunctive relief as it has an adequate remedy at law.

1 **THE PARTIES**

2 5. Counterclaimant SEC is a corporation organized under the laws of Korea, with its
3 principal place of business at 416 Maetan-3dong, Yeongtong-gu, Suwon-City, Gyeonggi-do,
4 Korea 443-742.

5 6. Counterclaimant SEA is a New York corporation, with its principal place of
6 business at 85 Challenger Road, Ridgefield Park, NJ, 07660.

7 7. Counterclaimant STA is a limited liability company organized under the laws of
8 Delaware, with its principal place of business at 1301 East Lookout Drive, Richardson, Texas
9 75082.

10 8. Upon information and belief, Apple is a corporation organized under the laws of
11 the state of California and has its principal place of business at 1 Infinite Loop, Cupertino,
12 California 95014. Upon information and belief, Apple imports into the United States, offers for
13 sale, sells and/or uses in the United States mobile electronic devices.

14 **JURISDICTIONAL STATEMENT**

15 9. The Samsung Patent Counterclaimants' patent infringement counterclaims arise
16 under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.* The Samsung
17 Counterclaimants' counterclaims for declaratory relief arise under the Declaratory Judgment Act,
18 28 U.S.C. § 2201, *et seq.* and the patent laws of the United States, 35 U.S.C. § 1, *et seq.*

19 10. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338(a),
20 2201(a) and 2202.

21 11. This Court has personal jurisdiction over Apple for at least the following reasons:
22 (i) Apple maintains its principal place of business in this District; (ii) Apple has designated an
23 agent for service of process in the state of California; (iii) Apple regularly does business or solicits
24 business, engages in other persistent courses of conduct, and/or derives substantial revenue from
25 products and/or services provided to individuals in this District and in this state; and (iv) Apple
26 has initiated litigation in this judicial District in connection with this dispute.

27 12. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b)-(c) and 1400(b).

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1 and personal digital assistant (“PDA”) features. In 2000, Samsung introduced the Samsung
2 Uproar SPH-M100, the first cell phone with MP3-playback functionality. In 2001 Samsung
3 introduced into the United States the first PDA phone with a 256-color screen, selected as one of
4 the Best Products of 2001 by BusinessWeek magazine.

5 19. Also in 2001, Samsung broke the 1 cm technological barrier and stunned the
6 industry with an ultra-slim, lightweight flip phone that was only 9.8 mm thick. This innovation
7 sparked the ultra-portable mobile phone revolution spurring dozens of competitors to slim down
8 the design form factors and develop their own portable mobile phone technology design. In
9 2002, Samsung unleashed the world’s first high-definition color LCD display suitable for mobile
10 devices. Now users could browse the web and view images directly from their mobile devices in
11 true color. In 2004, after selling over 20 million mobile handsets in the United States, Samsung
12 announced the first mobile phone that supported digital multimedia broadcast via satellite. Users
13 could now watch streaming high-quality multimedia content wherever they traveled.

14 20. Samsung announced the world’s first five and seven megapixel camera phones in
15 late 2004 and early 2005, respectively. Now, mid- to high-range digital camera functionality
16 could be integrated with mobile handsets, allowing users to snap life-like photos on-the-go. In
17 2008, Samsung became the leading mobile handset vendor in the United States.

18 21. Samsung has also continuously innovated in the area of mobile phone displays. In
19 2008 and 2009, Samsung released the industry’s first high resolution AMOLED display for a
20 mobile phone. The new display featured a 180-degree viewing angle and reduced power
21 consumption when compared to traditional LCD displays. Samsung’s clearer and brighter Super
22 AMOLED displays continued to improve mobile phone displays with 30% better color
23 reproduction over the best quality LCD displays.

24 22. Samsung’s innovative features, including the integrated high resolution cameras
25 and displays, were the result of the exceptional creativity and ingenuity of thousands of Samsung
26 engineers across the globe engaged in cutting-edge research and development projects.

27 23. Samsung’s innovative contributions to the mobile device industry have been
28 recognized through numerous awards for excellence in mobile device design. For example,

1 Samsung has received numerous “Red Dot Design Awards” in one of the largest international
2 design competitions. Similarly, a number of Samsung mobile devices have been awarded the “iF
3 Design Award” from the iF Industrie Forum Design e.V., based in Germany, for features such as
4 the user interface. The iF Designs Awards are among the most important in the world, as
5 evidenced by more than 11,000 annual entries from almost 50 countries. Samsung has also
6 received a number of “Good Design Awards” from the Japan Industrial Design Promotion
7 Organization (JIDPO). Overall, Samsung’s mobile phones and devices have won close to 60
8 awards between 2007 and the beginning of 2011.

9 24. Samsung has consistently introduced market-relevant and innovative products,
10 including over 1,600 mobile phone models incorporating Samsung patented technology into the
11 U.S. marketplace since 1997. Over 332 million Samsung mobile devices have been sold since
12 1997.

13 25. Without the ability to enforce its intellectual property rights, such as those relating
14 to mobile device technology at issue in this action, Samsung would not be able to sustain the
15 extensive commitment to research and development that has enabled it to lead the way into
16 numerous improvements across a broad range of technologies, including the mobile device
17 technologies at issue in this action.

18 **SAMSUNG’S INTELLECTUAL PROPERTY RIGHTS**

19 26. Samsung’s patents relate to fundamental innovations that increase mobile device
20 reliability, efficiency, and quality, and improve user interface in mobile handsets and other
21 products. These innovations are critical to the user’s ability to communicate with family, friends,
22 and business associates reliably and effectively.

23 27. In communications systems, standards that prescribe the formats for sending
24 information are essential to ensure that mobile devices made by different manufacturers are
25 capable of interacting within a network. Because interoperability is key for communications, the
26 development of protocols that ultimately result in a technical standard is very important to
27 ensuring an efficient and functional system. As modern wireless networks carry more data at
28 higher data rates and service more users than their predecessors, continued innovation is essential

1 to keep pace with the increased demands on cellular networks. Samsung has been a leader in
2 developing the ideas and protocols needed to increase the efficiency, reliability, and functionality
3 of standards-based networks and the features available in these networks.

4 28. In the United States, one of the key standards governing cellular communications,
5 known as Wideband Code-Division Multiple-Access (W-CDMA), is published by 3GPP (Third
6 Generation Partnership Project). W-CDMA is one of the main technologies for the
7 implementation of third-generation (3G) and more advanced cellular networks such as those of
8 AT&T and T-Mobile. W-CDMA is the most common form of air interface standard within the
9 Universal Mobile Telecommunications System (UMTS) telecommunications technologies
10 standard. Samsung has made key inventions that are part of these standards.

11 29. The Samsung W-CDMA and UMTS patents at issue in this action relate to
12 reliability, capacity, efficiency, compatibility, and functioning of mobile devices in W-CDMA and
13 UMTS networks.

14 30. Samsung's technology increases the reliability of high speed communication and
15 enables mobile devices to handle higher data and voice transmissions and receptions.

16 31. Samsung's technology increases the throughput and capacity of mobile device
17 networks. The rapid increase in usage of the mobile device networks has led to unprecedented
18 demand for increased capacity and throughput, particularly as data-demanding applications such
19 as video have become widespread. Samsung's technology enables a given network to pack in
20 more users' data without increasing the size of the frequency band used, and can therefore
21 accommodate a larger number of users.

22 32. Samsung's patents also involve popular features used by many users today. For
23 example, Samsung's patents involve the ability to control audio, synchronizing data across more
24 than one device, novel ways to display data, a touchscreen keyboard, and recording and
25 transmitting images, video, and speech.

26 33. Samsung has sold millions of mobile phones in the United States incorporating the
27 patented technology at issue here. For example, in 2010, Samsung sold over 24 million mobile
28 phones incorporating Samsung's innovations.

1 34. The Samsung Galaxy S 4G, which incorporates the patented technologies at issue,
2 has been heralded by CNET as a “fantastic Android smartphone” that delivers “fast data speeds,”
3 and PC Magazine named the Samsung Galaxy S 4G one of the best T-Mobile phones.
4 Samsung’s Captivate and Vibrant mobile phone models, which also incorporate the patented
5 technologies at issue here, were both named to PC Magazine’s Top 10 Smartphones list, with the
6 Samsung Captivate being described as a “super-phone,” and the Samsung Vibrant being described
7 as T-Mobile’s “top smartphone.”

8 35. Apple has copied many of Samsung’s innovations in its Apple iPhone, iPod, and
9 iPad products. Apple continues to violate Samsung’s patent rights by using these patented
10 technologies without a license.

11 36. SEC is the owner of all rights, title, and interest in the ’087 patent, titled “Method
12 and Apparatus for Performing Non-Scheduled Transmission in a Mobile Communication System
13 for Supporting an Enhanced Uplink Data Channel,” which was duly and properly issued by the
14 United States Patent and Trademark Office (“USPTO”) on July 13, 2010. A copy of the ’087
15 patent is attached as Ex. 1.

16 37. SEC is the owner of all rights, title, and interest in the ’596 patent, titled “Method
17 and Apparatus for Signaling Control Information of Uplink Packet Data Service in Mobile
18 Communication System,” which was duly and properly issued by the USPTO on June 23, 2009.
19 A copy of the ’596 patent is attached as Ex. 2.

20 38. SEC is the owner of all rights, title, and interest in the ’470 patent, titled
21 “Audio/Video Device Having a Volume Control Function for an External Audio Reproduction
22 Unit by Using Volume Control Buttons of a Remote Controller and Volume Control Method
23 Therefor,” which was duly and properly issued by the USPTO on March 2, 2010. A copy of the
24 ’470 patent is attached as Ex. 3.

25 39. SEC is the owner of all rights, title, and interest in the ’757 patent, titled
26 “Multimedia Synchronization Method and Device,” which was duly and properly issued by the
27 USPTO on August 18, 2009. A copy of the ’757 patent is attached as Ex. 4.

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1 56. Apple had actual notice of its infringement of the '087 patent, including a detailed
2 explanation of how Apple's customers and/or end users of Apple's products directly infringe the
3 method claims of the '087 patent by using the '087 Accused Products, no later than October 2010,
4 and when Samsung declared the '087 patent to ETSI no later than May 16, 2006.
5 Notwithstanding Apple's actual notice of infringement, Apple has continued to manufacture, use,
6 import, offer for sale, or sell the '087 Accused Products with the knowledge or willful blindness
7 that its actions will induce Apple's customers and end users to infringe the '087 patent.

8 57. Apple has also induced and continues to induce others to infringe the '087 patent in
9 violation of 35 U.S.C. § 271 by encouraging and facilitating others to perform actions known by
10 Apple to be acts of infringement of the '087 patent with intent that those performing the acts
11 infringe the '087 patent. Upon information and belief, Apple performed these acts with
12 knowledge of the '087 patent and with the knowledge or willful blindness that such induced acts
13 would constitute infringement. Upon information and belief, Apple, *inter alia*, advertises
14 regarding the '087 Accused Products, publishes specifications and promotional literature
15 describing the operation of those devices, creates and/or distributes user manuals for the Accused
16 Products, and offers support and technical assistance to its customers. Consumers of these
17 products then directly infringe the '087 patent.

18 58. The Accused Products were especially made or especially adapted for use in
19 infringement of the claims of the '087 patent, and are not a staple article or commodity of
20 commerce suitable for substantial non-infringing use. Therefore, Apple contributed to the
21 infringement of the claims of the '087 patent.

22 59. Upon information and belief, as of the date Apple received knowledge of its
23 infringement of the '087 patent, Apple's infringement is, and has been willful.

24 60. Apple has caused, and will continue to cause, Samsung irreparable injury and
25 damages by infringing the '087 patent. Samsung will suffer further irreparable injury, for which
26 it has no adequate remedy at law, unless and until Apple is enjoined from infringing the '087
27 patent.

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1 **FOURTH CLAIM FOR RELIEF**

2 **(Infringement of the '596 Patent)**

3 61. The Samsung Patent Counterclaimants re-allege and incorporate by reference the
4 allegations of Paragraphs 1-60 of these Counterclaims as though fully set forth herein.

5 62. Upon information and belief, Apple is infringing and has infringed the '596 patent
6 through the manufacture, use, importation, offer for sale, or sale of at least the iPhone 4, iPhone
7 4S, iPad 2, and New iPad (collectively, "'596 Accused Products").

8 63. Upon information and belief, Apple will continue to infringe the '596 patent unless
9 and until they are enjoined by this Court.

10 64. Apple had actual notice of its infringement of the '596 patent, including a detailed
11 explanation of how Apple's customers and/or end users of Apple's products directly infringe the
12 method claims of the '596 patent by using the '596 Accused Products, no later than the filing date
13 of these counterclaims, and when Samsung declared the '596 patent to ETSI, no later than May 6,
14 2010. Notwithstanding Apple's actual notice of infringement, Apple has continued to
15 manufacture, use, import, offer for sale, or sell the '596 Accused Products with the knowledge or
16 willful blindness that its actions will induce Apple's customers and end users to infringe the '596
17 patent.

18 65. Apple has also induced and continues to induce others to infringe the '596 patent in
19 violation of 35 U.S.C. § 271 by encouraging and facilitating others to perform actions known by
20 Apple to be acts of infringement of the '596 patent with intent that those performing the acts
21 infringe the '596 patent. Upon information and belief, Apple performed these acts with
22 knowledge of the '596 patent and with the knowledge or willful blindness that such induced acts
23 would constitute infringement. Upon information and belief, Apple, *inter alia*, advertises
24 regarding the '596 Accused Products, publishes specifications and promotional literature
25 describing the operation of those devices, creates and/or distributes user manuals for the Accused
26 Products, and offers support and technical assistance to its customers. Consumers of these
27 products then directly infringe the '596 patent.

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1 Apple to be acts of infringement of the '470 patent with intent that those performing the acts
2 infringe the '470 patent. Upon information and belief, Apple performed these acts with
3 knowledge of the '470 patent and with the knowledge or willful blindness that such induced acts
4 would constitute infringement. Upon information and belief, Apple, *inter alia*, advertises
5 regarding the '470 Accused Products, publishes specifications and promotional literature
6 describing the operation of those devices, creates and/or distributes user manuals for the Accused
7 Products, and offers support and technical assistance to its customers. Consumers of these
8 products then directly infringe the '470 patent.

9 74. The Accused Products were especially made or especially adapted for use in
10 infringement of the claims of the '470 patent, and are not a staple article or commodity of
11 commerce suitable for substantial non-infringing use. Therefore, Apple contributed to the
12 infringement of the claims of the '470 patent.

13 75. Upon information and belief, as of the date Apple received knowledge of its
14 infringement of the '470 patent, Apple's infringement is, and has been willful.

15 76. Apple has caused, and will continue to cause, Samsung irreparable injury and
16 damages by infringing the '470 patent. Samsung will suffer further irreparable injury, for which
17 it has no adequate remedy at law, unless and until Apple is enjoined from infringing the '470
18 patent.

19 **SIXTH CLAIM FOR RELIEF**

20 **(Infringement of the '757 Patent)**

21 77. The Samsung Patent Counterclaimants re-allege and incorporate by reference the
22 allegations of Paragraphs 1-76 of these Counterclaims as though fully set forth herein.

23 78. Upon information and belief, Apple is infringing and has infringed the '757 patent
24 through the manufacture, use, importation, offer for sale, or sale of at least all iPhones, all iPads,
25 all iPods, all Apple computers, Apple TV, iCloud, and iTunes (collectively, "'757 Accused
26 Products").

27 79. Upon information and belief, Apple will continue to infringe the '757 patent unless
28 and until they are enjoined by this Court.

1 80. Apple had actual notice of its infringement of the '757 patent, including a detailed
2 explanation of how Apple's customers and/or end users of Apple's products directly infringe the
3 method claims of the '757 patent by using the '757 Accused Products, no later than the filing date
4 of these Counterclaims. Notwithstanding Apple's actual notice of infringement, Apple has
5 continued to manufacture, use, import, offer for sale, or sell the '757 Accused Products with the
6 knowledge or willful blindness that its actions will induce Apple's customers and end users to
7 infringe the '757 patent.

8 81. Apple has also induced and continues to induce others to infringe the '757 patent in
9 violation of 35 U.S.C. § 271 by encouraging and facilitating others to perform actions known by
10 Apple to be acts of infringement of the '757 patent with intent that those performing the acts
11 infringe the '757 patent. Upon information and belief, Apple performed these acts with
12 knowledge of the '757 patent and with the knowledge or willful blindness that such induced acts
13 would constitute infringement. Upon information and belief, Apple, *inter alia*, advertises
14 regarding the '757 Accused Products, publishes specifications and promotional literature
15 describing the operation of those devices, creates and/or distributes user manuals for the Accused
16 Products, and offers support and technical assistance to its customers. Consumers of these
17 products then directly infringe the '757 patent.

18 82. The Accused Products were especially made or especially adapted for use in
19 infringement of the claims of the '757 patent, and are not a staple article or commodity of
20 commerce suitable for substantial non-infringing use. Therefore, Apple contributed to the
21 infringement of the claims of the '757 patent.

22 83. Upon information and belief, as of the date Apple received knowledge of its
23 infringement of the '757 patent, Apple's infringement is, and has been willful.

24 84. Apple has caused, and will continue to cause, Samsung irreparable injury and
25 damages by infringing the '757 patent. Samsung will suffer further irreparable injury, for which
26 it has no adequate remedy at law, unless and until Apple is enjoined from infringing the '757
27 patent.

28

1 **SEVENTH CLAIM FOR RELIEF**

2 **(Infringement of the '058 Patent)**

3 85. The Samsung Patent Counterclaimants re-allege and incorporate by reference the
4 allegations of Paragraphs 1-84 of these Counterclaims as though fully set forth herein.

5 86. Upon information and belief, Apple is infringing and has infringed the '058 patent
6 through the manufacture, use, importation, offer for sale, or sale of at least all iPads (collectively,
7 "'058 Accused Products").

8 87. Upon information and belief, Apple will continue to infringe the '058 patent unless
9 and until they are enjoined by this Court.

10 88. Apple had actual notice of its infringement of the '058 patent, including a detailed
11 explanation of how Apple's customers and/or end users of Apple's products directly infringe the
12 method claims of the '058 patent by using the '058 Accused Products, no later than the filing date
13 of these Counterclaims. Notwithstanding Apple's actual notice of infringement, Apple has
14 continued to manufacture, use, import, offer for sale, or sell the '058 Accused Products with the
15 knowledge or willful blindness that its actions will induce Apple's customers and end users to
16 infringe the '058 patent.

17 89. Apple has also induced and continues to induce others to infringe the '058 patent in
18 violation of 35 U.S.C. § 271 by encouraging and facilitating others to perform actions known by
19 Apple to be acts of infringement of the '058 patent with intent that those performing the acts
20 infringe the '058 patent. Upon information and belief, Apple performed these acts with
21 knowledge of the '058 patent and with the knowledge or willful blindness that such induced acts
22 would constitute infringement. Upon information and belief, Apple, *inter alia*, advertises
23 regarding the '058 Accused Products, publishes specifications and promotional literature
24 describing the operation of those devices, creates and/or distributes user manuals for the Accused
25 Products, and offers support and technical assistance to its customers. Consumers of these
26 products then directly infringe the '058 patent.

27 90. The Accused Products were especially made or especially adapted for use in
28 infringement of the claims of the '058 patent, and are not a staple article or commodity of

1 commerce suitable for substantial non-infringing use. Therefore, Apple contributed to the
2 infringement of the claims of the '058 patent.

3 91. Upon information and belief, as of the date Apple received knowledge of its
4 infringement of the '058 patent, Apple's infringement is, and has been willful.

5 92. Apple has caused, and will continue to cause, Samsung irreparable injury and
6 damages by infringing the '058 patent. Samsung will suffer further irreparable injury, for which
7 it has no adequate remedy at law, unless and until Apple is enjoined from infringing the '058
8 patent.

9 **EIGHTH CLAIM FOR RELIEF**

10 **(Infringement of the '179 Patent)**

11 93. The Samsung Patent Counterclaimants re-allege and incorporate by reference the
12 allegations of Paragraphs 1-92 of these Counterclaims as though fully set forth herein.

13 94. Upon information and belief, Apple is infringing and has infringed the '179 patent
14 through the manufacture, use, importation, offer for sale, or sale of at least all iPhones, all iPads,
15 and iPod touches (collectively, "'179 Accused Products").

16 95. Upon information and belief, Apple will continue to infringe the '179 patent unless
17 and until they are enjoined by this Court.

18 96. Apple had actual notice of its infringement of the '179 patent, including a detailed
19 explanation of how Apple's customers and/or end users of Apple's products directly infringe the
20 method claims of the '179 patent by using the '179 Accused Products, no later than October 2010.
21 Notwithstanding Apple's actual notice of infringement, Apple has continued to manufacture, use,
22 import, offer for sale, or sell the '179 Accused Products with the knowledge or willful blindness
23 that its actions will induce Apple's customers and end users to infringe the '179 patent.

24 97. Apple has also induced and continues to induce others to infringe the '179 patent in
25 violation of 35 U.S.C. § 271 by encouraging and facilitating others to perform actions known by
26 Apple to be acts of infringement of the '179 patent with intent that those performing the acts
27 infringe the '179 patent. Upon information and belief, Apple performed these acts with
28 knowledge of the '179 patent and with the knowledge or willful blindness that such induced acts

1 would constitute infringement. Upon information and belief, Apple, *inter alia*, advertises
2 regarding the '179 Accused Products, publishes specifications and promotional literature
3 describing the operation of those devices, creates and/or distributes user manuals for the Accused
4 Products, and offers support and technical assistance to its customers. Consumers of these
5 products then directly infringe the '179 patent.

6 98. The Accused Products were especially made or especially adapted for use in
7 infringement of the claims of the '179 patent, and are not a staple article or commodity of
8 commerce suitable for substantial non-infringing use. Therefore, Apple contributed to the
9 infringement of the claims of the '179 patent.

10 99. Upon information and belief, as of the date Apple received knowledge of its
11 infringement of the '179 patent, Apple's infringement is, and has been willful.

12 100. Apple has caused, and will continue to cause, Samsung irreparable injury and
13 damages by infringing the '179 patent. Samsung will suffer further irreparable injury, for which
14 it has no adequate remedy at law, unless and until Apple is enjoined from infringing the '179
15 patent.

16 **NINTH CLAIM FOR RELIEF**

17 **(Infringement of the '449 Patent)**

18 101. The Samsung Patent Counterclaimants re-allege and incorporate by reference the
19 allegations of Paragraphs 1-100 of these Counterclaims as though fully set forth herein.

20 102. Upon information and belief, Apple is infringing and has infringed the '449 patent
21 through the manufacture, use, importation, offer for sale, or sale of at least all iPhones, all iPads,
22 iPod touches, and Apple computers (collectively, "'449 Accused Products").

23 103. Upon information and belief, Apple will continue to infringe the '449 patent unless
24 and until they are enjoined by this Court.

25 104. Apple had actual notice of its infringement of the '449 patent, including a detailed
26 explanation of how Apple's customers and/or end users of Apple's products directly infringe the
27 method claims of the '449 patent by using the '449 Accused Products, no later than the filing date
28 of these counterclaims. Notwithstanding Apple's actual notice of infringement, Apple has

1 continued to manufacture, use, import, offer for sale, or sell the '449 Accused Products with the
2 knowledge or willful blindness that its actions will induce Apple's customers and end users to
3 infringe the '449 patent.

4 105. Apple has also induced and continues to induce others to infringe the '449 patent in
5 violation of 35 U.S.C. § 271 by encouraging and facilitating others to perform actions known by
6 Apple to be acts of infringement of the '449 patent with intent that those performing the acts
7 infringe the '449 patent. Upon information and belief, Apple performed these acts with
8 knowledge of the '449 patent and with the knowledge or willful blindness that such induced acts
9 would constitute infringement. Upon information and belief, Apple, *inter alia*, advertises
10 regarding the '449 Accused Products, publishes specifications and promotional literature
11 describing the operation of those devices, creates and/or distributes user manuals for the Accused
12 Products, and offers support and technical assistance to its customers. Consumers of these
13 products then directly infringe the '449 patent.

14 106. The Accused Products were especially made or especially adapted for use in
15 infringement of the claims of the '449 patent, and are not a staple article or commodity of
16 commerce suitable for substantial non-infringing use. Therefore, Apple contributed to the
17 infringement of the claims of the '449 patent.

18 107. Upon information and belief, as of the date Apple received knowledge of its
19 infringement of the '449 patent, Apple's infringement is, and has been willful.

20 108. Apple has caused, and will continue to cause, Samsung irreparable injury and
21 damages by infringing the '449 patent. Samsung will suffer further irreparable injury, for which
22 it has no adequate remedy at law, unless and until Apple is enjoined from infringing the '449
23 patent.

24 **TENTH CLAIM FOR RELIEF**

25 **(Infringement of the '239 Patent)**

26 109. The Samsung Patent Counterclaimants re-allege and incorporate by reference the
27 allegations of Paragraphs 1-108 of these Counterclaims as though fully set forth herein.

28

1 110. Upon information and belief, Apple is infringing and has infringed the '239 patent
2 through the manufacture, use, importation, offer for sale, or sale of at least all iPhones, and all 3G
3 iPads with cameras (collectively, "'239 Accused Products").

4 111. Upon information and belief, Apple will continue to infringe the '239 patent unless
5 and until they are enjoined by this Court.

6 112. Apple had actual notice of its infringement of the '239 patent, including a detailed
7 explanation of how the '239 Accused Products directly infringe the claims of the '239 patent, no
8 later than the filing date of these counterclaims. Notwithstanding Apple's actual notice of
9 infringement, Apple has continued to manufacture, use, import, offer for sale, or sell the '239
10 Accused Products with the knowledge or willful blindness that those products infringe the '239
11 patent.

12 113. Upon information and belief, as of the date Apple received knowledge of its
13 infringement of the '239 patent, Apple's infringement is, and has been willful.

14 114. Apple has caused, and will continue to cause, Samsung irreparable injury and
15 damages by infringing the '239 patent. Samsung will suffer further irreparable injury, for which
16 it has no adequate remedy at law, unless and until Apple is enjoined from infringing the '239
17 patent.

18 **PRAYER FOR RELIEF FOR SAMSUNG COUNTERCLAIMANTS**

19 WHEREFORE, the Samsung Counterclaimants respectfully request entry of judgment as
20 follows:

21 A. That the Court dismiss with prejudice any and all claims of Apple's Complaint and
22 order that Apple take nothing as a result of the Complaint and that all of Apple's prayers for relief
23 are denied;

24 B. That the Court find and declare, and enter judgment, in favor of the Samsung
25 Counterclaimants and against Apple that the Samsung Counterclaimants have not infringed any of
26 the Apple Patents In Suit;

27
28

1 C. That the Court find and declare, and enter judgment, in favor of the Samsung
2 Counterclaimants and against Apple that each and every claim of the Apple Patents In Suit is
3 invalid;

4 D. That this case be declared “exceptional” under 35 U.S.C. § 285 and that the
5 Samsung Counterclaimants be awarded their attorneys’ fees, expenses, and costs incurred in this
6 action;

7 E. That Apple be ordered to pay all costs associated with this action; and

8 F. That the Court grant to the Samsung Counterclaimants such other and further relief
9 as may be deemed just and appropriate.

10 **PRAYER FOR RELIEF FOR SAMSUNG PATENT COUNTERCLAIMANTS**

11 WHEREFORE, the Samsung Patent Counterclaimants respectfully request entry of
12 judgment as follows:

13 A. That Apple be declared to have infringed, induced others to infringe and/or
14 committed acts of contributory infringement with respect to the claims of Samsung’s Patents In
15 Suit as alleged above;

16 B. That Apple and its officers, agents, servants, employees, and all those persons
17 acting or attempting to act in active concert or in participation with them or acting on their behalf
18 be immediately, preliminarily and permanently enjoined from further infringement of Samsung’s
19 Patents In Suit;

20 C. That Apple be ordered to account for and pay to the Samsung Patent
21 Counterclaimants all damages caused to them by reason of Apple’s infringement of Samsung’s
22 Patents In Suit pursuant to 35 U.S.C. § 284;

23 D. That Apple be ordered to pay treble damages for willful infringement of each of
24 Samsung’s Patents In Suit pursuant to 35 U.S.C. § 284;

25 E. That this case be declared “exceptional” under 35 U.S.C. § 285 and that the
26 Samsung Patent Counterclaimants be awarded their attorneys’ fees, expenses, and costs incurred
27 in this action; and
28

1 F. That the Samsung Patent Counterclaimants be granted pre-judgment and post-
2 judgment interest on the damages caused to them by reason of Apple's infringement of Samsung's
3 Patents In Suit.

4 **DEMAND FOR JURY TRIAL**

5 SEC, SEA, and STA hereby demand a jury trial on all issues.

6
7 DATED: April 18, 2012

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