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15 Attorneys for SAMSUNG ELECTRONICS
 CO., LTD., SAMSUNG ELECTRONICS
 16 AMERICA, INC. and SAMSUNG
 TELECOMMUNICATIONS AMERICA, LLC
 17

18 UNITED STATES DISTRICT COURT

19 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

20 APPLE INC., a California corporation,

CASE NO. 12-CV-00630-LHK (PSG)

21 Plaintiff,

**DECLARATION OF MICHAEL L. FAZIO
 IN SUPPORT OF SAMSUNG'S
 OPPOSITION TO APPLE INC.'S
 MOTION FOR LEAVE TO AMEND ITS
 DISCLOSURE OF ASSERTED CLAIMS
 & INFRINGEMENT CONTENTIONS**

22 vs.

23 SAMSUNG ELECTRONICS CO., LTD., a
 Korean corporation; SAMSUNG
 24 ELECTRONICS AMERICA, INC., a New
 York corporation; SAMSUNG
 25 TELECOMMUNICATIONS AMERICA,
 LLC, a Delaware limited liability company,

Date: November 6, 2012
 Time: 10:00 a.m.
 Place: Courtroom 5
 Judge: Honorable Paul S. Grewal

26 Defendants.
 27

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DECLARATION OF MICHAEL L. FAZIO

I, Michael L. Fazio, declare as follows:

1. I am a member of the bar of the State of California, admitted to practice before this Court, and a partner with Quinn Emanuel Urquhart & Sullivan, LLP, attorneys for defendants Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung Telecommunications America, LLC (collectively, "Samsung") in this action. I make this declaration of personal, firsthand knowledge, and if called and sworn as a witness, I could and would testify as set forth below.

2. On June 15, 2012, Apple served its infringement contentions via email and FTP. The exhibits to Apple's infringement contentions had several duplicate charts: Exhibits 69 and 81 both corresponded to '604 patent claim charts against the Admire; Exhibits 71 and 83 both corresponded to '604 patent claim charts against the Galaxy S II – AT&T; Exhibits 70 and 82 both corresponded to '604 patent claim charts against the Galaxy S II Skyrocket; Exhibits 136 and 137 both corresponded to '647 patent claim charts against the Galaxy Tab 7.0 Plus; Exhibits 129 and 135 both corresponded to '647 patent claim charts against the Galaxy Tab 8.9. Attached hereto as **Exhibit A** is a true and correct copy of the cover pages for Exhibits 69, 81, 70, 82, 71, and 83, respectively, as originally provided by Apple. Eight charts were also missing from Apple's production: '604 patent claim charts against the Conquer 4G, Dart, Exhibit II 4G, and Galaxy Tab 7.0 Plus; '647 patent claim charts against the Galaxy Player 4.0 and Galaxy Player 5.0; and '959 patent claim charts against the Galaxy Nexus and Galaxy Tab 7.0 Plus.

3. On June 19, 2012, I received an email from Apple indicating that it had made changes to the exhibits to its infringement contentions on its FTP site. According to the email, Apple had "inadvertently uploaded to the FTP two versions of the '647 patent claim charts for each of the Galaxy Tab 8.9 and the Galaxy Tab 7.0 and therefore did not upload the '647 patent claim charts for the Galaxy Player 4.0 and the Galaxy Player 5.0." Apple also "inadvertently uploaded incorrect versions of the '721 patent claim charts for the Samsung Illusion (Exhibit 98) and the Samsung Stratosphere (Exhibit 99)." Apple stated it had "posted corrected versions of

1 the charts to the FTP.” Attached hereto as **Exhibit B** is a true and correct copy of an email from
2 Angela Wilkins, received June 19, 2012, which informed Samsung of these errors.

3 4. On August 7, 2012, I received a letter from Apple detailing additional errors with
4 the infringement contentions that Apple had uploaded to its FTP site on June 15. According to
5 this letter, Apple had “inadvertently left off [the] ftp site during delivery” “Exhibits 87, 141 and
6 142.” However, Apple had included an Exhibit 87 on its FTP. Original Exhibit 87 was a ’959
7 patent claim chart against the Galaxy Tab 8.9. Attached hereto as **Exhibit C** is a true and correct
8 copy of the letter from Apple’s counsel, Emily L. Fedman, without enclosures, addressed to
9 Patrick Shields, received August 7, 2012.

10 5. On October 1, 2012, Apple notified Samsung via email that it had placed proposed
11 amended infringement contentions on its FTP site. Attached hereto as **Exhibit D** is a true and
12 correct copy of this email from Apple’s counsel, Jennifer Rho, received October 1, 2012. The
13 proposed amended contentions included, for the first time, claim charts for the ’604 patent against
14 the Conquer 4G, Dart, and Exhibit II 4G.

15 6. Attached hereto as **Exhibit E** is a true and correct copy of an article by PR
16 Newswire titled “Samsung GALAXY Note 10.1 Has Arrived: Game-Changing Device Hits U.S.
17 Store Shelves Tomorrow” dated August 15, 2012, and downloaded from
18 [http://www.prnewswire.com/news-releases/samsung-galaxy-note-101-has-arrived-](http://www.prnewswire.com/news-releases/samsung-galaxy-note-101-has-arrived-166257736.html)
19 [166257736.html](http://www.prnewswire.com/news-releases/samsung-galaxy-note-101-has-arrived-166257736.html) on October 16, 2012.

20 7. Attached hereto as **Exhibit F** is a true and correct copy of a Samsung
21 Telecommunications America press release titled “SAMSUNG Mobile Unveils Premium
22 Accessory Suite for Galaxy Tab™ 10.1,” dated June 21, 2011, and downloaded from
23 http://www.samsung.com/us/news/newsRead.do?news_seq=19881&gltype on October 16, 2012.

24 8. Attached hereto as **Exhibit G** is a true and correct copy of reviews of the Galaxy
25 Tab™ Conductive Stylus titled “Reviews & Ratings – Galaxy Tab Accessories ET-S100CBEG”
26 with one review dated March 1, 2011, downloaded from
27 <http://www.samsung.com/us/mobile/galaxy-tab-accessories/ET-S100CBEGSTA-reviews> on
28 October 16, 2012.

