

1 QUINN EMANUEL URQUHART & SULLIVAN, LLP
Charles K. Verhoeven (Cal. Bar No. 170151)
2 charlesverhoeven@quinnemanuel.com
50 California Street, 22nd Floor
3 San Francisco, California 94111
Telephone: (415) 875-6600
4 Facsimile: (415) 875-6700

5 Kathleen M. Sullivan (Cal. Bar No. 242261)
kathleensullivan@quinnemanuel.com
6 Kevin P.B. Johnson (Cal. Bar No. 177129)
kevinjohnson@quinnemanuel.com
7 Victoria F. Maroulis (Cal. Bar No. 202603)
victoriamaroulis@quinnemanuel.com
8 555 Twin Dolphin Drive 5th Floor
Redwood Shores, California 94065
9 Telephone: (650) 801-5000
Facsimile: (650) 801-5100

10 Susan R. Estrich (Cal. Bar No. 124009)
susanestrich@quinnemanuel.com
11 Michael T. Zeller (Cal. Bar No. 196417)
michaelzeller@quinnemanuel.com
12 865 S. Figueroa St., 10th Floor
Los Angeles, California 90017
13 Telephone: (213) 443-3000
14 Facsimile: (213) 443-3100

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,

21 Plaintiff,

22 vs.

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

26 Defendants.
27

CASE NO. 11-cv-01846-LHK

**DECLARATION OF COREY
KERSTETTER IN SUPPORT OF
SAMSUNG'S OPPOSITION TO APPLE'S
ADMINISTRATIVE MOTION FOR A
CASE MANAGEMENT CONFERENCE**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION OF COREY KERSTETTER

I, Corey Kerstetter, declare as follows:

1. I am currently employed by Samsung Telecommunications America, LLC (“STA”) as the Vice President of Business Planning. 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. As the Vice President of Business Planning, I am familiar with and have knowledge of STA’s importation and sales of certain mobile devices. STA imports all Samsung wireless telephones offered for sale by Samsung in the United States.

3. Apple asserted claims under the D’677 design patent against certain Samsung Galaxy S II models with a black front face, including the Galaxy S II (AT&T) (SGH-I777). Prior to trial in this case, AT&T had already phased out the SGH-I777. Accordingly, and as stated in my October 19, 2012 declaration, the last AT&T SGH-I777 in any color were imported by STA on June 13, 2012, and sold to AT&T shortly thereafter, on June 26, 2012.

4. Another customer of STA is TracFone. TracFone and STA first agreed to commercialize the Galaxy S II on December 16, 2011. STA and TracFone ultimately agreed that the TracFone Galaxy S II would have the same design as the AT&T SGH-I777. The only difference in its outer appearance is the substitution of the TracFone logo for the AT&T logo in the upper portion of the front face of the phones. TracFone markets and sells these Galaxy S II phones under the names Net10 and Straight Talk. An image of such a TracFone Galaxy S II phone appears on page 4 of Apple’s Administrative Motion Seeking An April 3 Case Management Conference, under the heading “New Galaxy S II (Net10 and Straight Talk).”

5. Contrary to the claims in Apple’s Administrative Motion and the supporting declaration of Michael A. Jacobs, STA shipped the first Tracfone-branded Galaxy S II phones to TracFone on August 22, 2012, shortly before the August 24, 2012 jury verdict in this case. Furthermore, following the jury’s verdict in this case, Samsung phased out all Galaxy S II models with the black front face, including those being sold to TracFone. STA made its last shipment of TracFone Galaxy S II phones with a black front face on October 19, 2012. As explained in my

1 October 19, 2012 declaration, Samsung had begun manufacturing new versions of the accused
2 Galaxy S II (T-Mobile) (SGH-T989) and Galaxy S II Epic 4G Touch (SPH-D710) phones with a
3 silver gray front face to replace the black version. The same was also true for the TracFone
4 Galaxy S II, and STA made its first shipment of silver gray TracFone Galaxy S II phones on
5 November 30, 2012.

6 I declare under penalty of perjury under the laws of the United States of America
7 that the foregoing is true and correct.

8 Executed March 22, 2013, at Richardson, Texas.

9
10 
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ATTESTATION

I, Victoria Maroulis, am the ECF User whose ID and password are being used to file this declaration. In compliance with Local Rule 5.1(i), I hereby attest that Corey Kerstetter has concurred in this filing.

Dated: March 22, 2013

/s/ Victoria Maroulis