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9 Attorneys for Plaintiff and
10 Counterclaim-Defendant APPLE INC.

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN JOSE DIVISION

14
15 APPLE INC., a California corporation,
16 Plaintiff,

17 v.

18 SAMSUNG ELECTRONICS CO., LTD., a
Korean corporation; SAMSUNG
19 ELECTRONICS AMERICA, INC., a New
York corporation; and SAMSUNG
20 TELECOMMUNICATIONS AMERICA,
LLC, a Delaware limited liability company,
21 Defendants.

Case No. 11-cv-01846-LHK

**DECLARATION OF CYNDI WHEELER IN
SUPPORT OF APPLE'S MOTION TO SEAL
REGARDING APPLE'S OPPOSITION TO
SAMSUNG'S ADMINISTRATIVE MOTION
FOR RELIEF FROM APRIL 29, 2013, CASE
MANAGEMENT ORDER**

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23 **EXHIBITS SUBMITTED UNDER SEAL**
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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 Apple’s Motion to Seal Regarding Apple’s Opposition to Samsung’s Administrative Motion for
4 Relief from April 29, 2013, Case Management Order pursuant to Local Rules 7-11 and 79-5. I
5 have personal knowledge of the matters set forth below. If called as a witness I could and would
6 competently testify as follows.

7 **Financial and Capacity Information**

8 2. **Exhibit A to the Declaration of Erik J. Olson in Support of Apple’s**
9 **Opposition to Samsung’s Administrative Motion for Relief from April 29, 2013 Case**
10 **Management Order** consists of excerpts from the Expert Report of Julie L. Davis, CPA. It
11 contains confidential Apple profit/loss information in paragraph 88. Proposed redactions are
12 attached hereto as Exhibit 1.

13 3. **Exhibit C to the Declaration of Marylee Robinson, CPA, in Support of**
14 **Apple’s Opposition to Samsung’s Administrative Motion for Relief from April 29, 2013**
15 **Case Management Order** consists of excerpts from the March 22, 2012 Expert Report of Terry
16 L. Musika, CPA. It contains confidential Apple profit information and data that would allow
17 calculation of Apple profit information in paragraph 124, and capacity information in paragraph
18 127. Proposed redactions are attached hereto as Exhibit 2.

19 4. Apple has previously moved to seal the types of information contained in these
20 documents, including the exact capacity information at issue, as the Musika Expert Report was at
21 issue in Apple’s Motion to Seal Prior Motions and Exhibits Thereto (Dkt. No. 1499) filed at the
22 beginning of trial in July 2012. Apple provided a detailed supporting declaration at that time
23 from its Vice President of Worldwide Planning and Analysis, Jim Bean. (Dkt. No. 1502.)

24 5. As Mr. Bean stated in his declaration, Apple goes to extensive lengths to protect
25 the confidentiality of its financial data, which is on par with source code from a confidentiality
26 perspective. Profits and capacity information are among the most highly confidential of Apple’s
27 financial documents. Armed with capacity information, Apple’s competitors could predict when
28 Apple is more likely to have constrained capacity in order to increase production of competing

1 products, or lower prices of competing products when Apple is more likely to have excess
2 capacity and be more vulnerable to a price cut. Manufacturers with Apple's capacity data would
3 be able to harm Apple by negotiating exorbitant rates with unfairly gained knowledge. Profit/loss
4 information would give competitors a substantial advantage over Apple as competitors could
5 tailor offerings and pricing to undercut Apple.

6 6. The above information is highly confidential and trade secret. If disclosed, the
7 information in the materials described above could be used by Apple's competitors to Apple's
8 disadvantage. The requested relief is necessary and narrowly tailored to protect the
9 confidentiality of this information.

10 I declare under penalty of perjury under the laws of the United States of America that the
11 foregoing is true and correct. Executed this 5th day of July, 2013 at Cupertino, California.

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13 /s/ Cyndi Wheeler
14 Cyndi Wheeler

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ATTESTATION OF E-FILED SIGNATURE

I, Harold J. McElhinny, am the ECF User whose ID and password are being used to file this Declaration. In compliance with Civil L.R. 5-1(i)(3), I hereby attest that Cyndi Wheeler has concurred in this filing.

Dated: July 5, 2013

/s/ Harold J. McElhinny
Harold J. McElhinny