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9 Attorneys for Plaintiff and
Counterclaim-Defendant APPLE INC.

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

14 APPLE INC., a California corporation,

15 Plaintiff,

16 v.

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

21 Defendants.

Case No. 11-cv-01846-LHK

**APPLE'S MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF SAMSUNG'S
ADMINISTRATIVE MOTION TO
FILE DOCUMENTS UNDER SEAL**

1 Apple submits this memorandum in support of Samsung's Administrative Motion to File
2 Documents Under Seal ("Samsung's Motion to Seal") (Dkt. No. 2326).

3 For the reasons set forth in the Declaration of Cyndi Wheeler in Support of Samsung's
4 Administrative Motion to File Documents Under Seal filed herewith ("Wheeler Decl."), the Court
5 should grant Samsung's Motion to Seal as to Apple's and IDC's confidential information.

6 In addition to the justifications for sealing Apple's financial and capacity information, and
7 IDC's industry-wide market information, set out in the Wheeler Declaration, Apple notes that the
8 Court has previously approved redactions of Apple's capacity information. (Dkt. No. 1649 at 12-
9 14.) As the Court held at that time:

10 [D]isclosure of this information would cause substantial
11 competitive harm to Apple. Competitors and suppliers armed with
12 knowledge of Apple's capacity would be able to alter their business
13 and pricing models to gain an unfair advantage over Apple in such
14 a way that would harm its competitive standing. Suppliers, for
15 instance, could predict when Apple would most need to increase
16 supply and leverage this knowledge to exact substantial price
17 increases. Similarly, competitors could lower their prices during
18 periods when Apple has excess capacity and is therefore most
19 vulnerable to a price cut. Although Apple seeks to seal *past*
20 capacity data, such data is cyclical and would allow competitors
21 and suppliers to discover the patterns in Apple's capacity that
22 would make it easy to predict Apple's current and future capacity
23 constraints.

24 (*Id.* at 4 (internal quotations and citations omitted).)

25 Apple further respectfully requests that if the Court denies sealing of any of the materials
26 that are the subject of Samsung's motion, the Court continue its practice of staying effect of its
27 order pending appeal. (Dkt. No. 2047 at 7.) As the Court has previously held, once information
28 is publicly filed, "what once may have been trade secret no longer will be. Thus, the parties may
be irreparably injured absent a stay. In contrast, the public interest, which favors disclosure of
relevant information in order to understand the proceedings, is not unduly harmed by a short
stay." (*Id.*)

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Dated: July 8, 2013

MORRISON & FOERSTER LLP

By: /s/ Erik J. Olson
ERIK J. OLSON

Attorneys for Plaintiff
APPLE INC.