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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 SAMSUNG'S
ADMINISTRATIVE MOTION TO FILE
DOCUMENTS UNDER SEAL**

22
23 **EXHIBIT 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 Samsung’s Administrative Motion to File Documents Under Seal (Dkt. No. 2326) pursuant to
4 Local Rules 7-11 and 79-5. I have personal knowledge of the matters set forth below. If called as
5 a witness I could and would competently testify as follows.

6 2. Exhibit 2 to the Declaration of Anthony P. Alden in Support of Samsung’s
7 Administrative Motion for Relief from April 29, 2013 Case Management Order (“Alden Exhibit
8 2”) consists of excerpts from the June 24, 2013 Expert Report of Julie L. Davis, CPA. It includes
9 industry-wide market share information from the confidential report of a third party, IDC, in
10 paragraphs 83 and 85; Apple profit/loss information in paragraph 88; and detailed month-by-
11 month Apple capacity, margin, and profit information in Exhibits 17.2-PT and 17.2-PT-B.
12 Proposed redactions are attached hereto as Exhibit 1.

13 **Financial and Capacity Information**

14 3. Apple has previously moved to seal the types of financial and capacity information
15 contained in Alden Exhibit 2. Apple provided a detailed supporting declaration at that time from
16 its Vice President of Worldwide Planning and Analysis, Jim Bean. (Dkt. No. 1502.)

17 4. As Mr. Bean stated in his declaration, Apple goes to extensive lengths to protect
18 the confidentiality of its financial data, which is on par with source code from a confidentiality
19 perspective. Profit information and capacity information are among the most highly confidential
20 of Apple’s financial documents. Armed with capacity information, Apple’s competitors could
21 increase production of competing products when Apple typically has constrained capacity, or
22 lower prices of competing products when Apple has excess capacity and would be more
23 vulnerable to a price cut. Manufacturers with Apple’s capacity data would be able to harm Apple
24 by negotiating exorbitant rates with unfairly gained knowledge. Profit/loss information would
25 give competitors a substantial advantage over Apple as competitors could tailor offerings and
26 pricing to undercut Apple. And profits or margins alone allow competitors to approximate
27 Apple’s cost.
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