

1 HAROLD J. MCELHINNY (CA SBN 66781)  
hmcclhinny@mofo.com  
2 MICHAEL A. JACOBS (CA SBN 111664)  
mjacobs@mofo.com  
3 RACHEL KREVANS (CA SBN 116421)  
rkrevans@mofo.com  
4 ERIK J. OLSON (CA SBN 175815)  
ejolson@mofo.com  
5 MORRISON & FOERSTER LLP  
425 Market Street  
6 San Francisco, California 94105-2482  
Telephone: (415) 268-7000  
7 Facsimile: (415) 268-7522

8  
9 Attorneys for Plaintiff and  
Counterclaim-Defendant APPLE INC.

WILLIAM F. LEE  
william.lee@wilmerhale.com  
WILMER CUTLER PICKERING  
HALE AND DORR LLP  
60 State Street  
Boston, MA 02109  
Telephone: (617) 526-6000  
Facsimile: (617) 526-5000

MARK D. SELWYN (SBN 244180)  
mark.selwyn@wilmerhale.com  
WILMER CUTLER PICKERING  
HALE AND DORR LLP  
950 Page Mill Road  
Palo Alto, California 94304  
Telephone: (650) 858-6000  
Facsimile: (650) 858-6100

10  
11  
12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14 SAN JOSE DIVISION

15  
16 APPLE INC., a California corporation,

17 Plaintiff,

18 v.

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

22 Defendants.  
23  
24  
25  
26  
27  
28

Case No. 11-cv-01846-LHK (PSG)

**APPLE'S RESPONSE TO SAMSUNG'S  
ADMINISTRATIVE MOTION TO FILE  
REPLY IN SUPPORT OF SAMSUNG'S  
ADMINISTRATIVE MOTION FOR  
RELIEF FROM APRIL 29 CASE  
MANAGEMENT ORDER, OR  
ALTERNATIVELY, FOR A HEARING**

Place: Courtroom 8, 4th Floor  
Judge: Hon. Lucy H. Koh

1 Samsung files a new Rule 7-11 administrative request, seeking leave to file a reply or  
2 seeking a hearing on its July 1, 2013, Rule 7-11 request, which itself sought to vacate all dates in  
3 the Court's April 29, 2013, Case Management Order (Dkt. No. 2316). Samsung intentionally, but  
4 improperly, chose Rule 7-11 as the basis for its initial request. Rule 7-11 clearly excludes both  
5 replies and hearings. Samsung's original request was not a proper Rule 7-11 motion, but that is  
6 no reason to allow Samsung to abuse the process twice over by filing a new motion and a reply.  
7 This alone is sufficient reason to deny the request.

8 Samsung's arguments for filing a reply provide no reason to deviate from the clear  
9 mandate of the local rules. Samsung claims that the present Rule 7-11 record is too truncated to  
10 resolve these "complex" issues (Dkt. No. 2333-2 at 1), but that is a compelling reason to adhere  
11 to the motion to strike procedure that the Court established in the Case Management Order not a  
12 reason to add a reply.

13 Samsung argues that a reply is needed because Samsung provided "no substantive  
14 declarations in support" of its initial request, while Apple's opposition supported its statements  
15 with declarations and evidence. (Dkt. No. 2333-2 at 1.) Samsung's failure to support its motion  
16 is not a basis to make new arguments in the guise of a reply brief.

17 Further, Samsung's proposed reply merely reargues points from its original brief, with no  
18 new cases and no new evidence. A reply that simply repeats attorney arguments is not a  
19 necessary or useful expansion of the record.

20 The Court's motion to strike procedure and schedule provides a more than adequate  
21 means to resolve the issues that Samsung has raised. The Court should deny Samsung's present  
22 motion for leave to file a reply or set a hearing.

23 Dated: July 8, 2013

MORRISON & FOERSTER LLP

24  
25 By: /s/ Harold J. McElhinny  
26 HAROLD J. MCELHINNY

27 Attorneys for Plaintiff  
28 APPLE INC.