

2013-1129

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

APPLE INC.,

Plaintiff-Appellant,

v.

SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA, INC., and
SAMSUNG TELECOMMUNICATIONS AMERICA, LLC,

Defendants-Appellees.

Appeal from the United States District Court for the
Northern District of California in case no. 11-CV-1846, Judge Lucy H. Koh.

**APPLE'S OPPOSITION TO MOTION FOR LEAVE TO FILE BRIEF FOR
AMICI CURIAE GOOGLE, INC., HTC CORP., HTC AMERICA, INC.,
RACKSPACE HOSTING, INC., RED HAT, INC., AND SAP AMERICA, INC.**

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May 7, 2013

Counsel for Plaintiff-Appellant Apple Inc.

CERTIFICATE OF INTEREST

Pursuant to Federal Circuit Rule 47.4, counsel of record for Plaintiff-Appellant Apple Inc. certifies as follows:

1. The full name of every party represented by us is:

Apple Inc.
2. The names of the real parties in interest represented by us are:

Not applicable
3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the parties represented by us are:

None.
4. The names of all law firms and the partners or associates that appeared for the parties represented by us in the trial court, or are expected to appear in this Court, are:

Morrison & Foerster LLP:

Deok K.M. Ahn	Harold J. McElhinny
Jason R. Bartlett	Andrew E. Monach
Charles S. Barquist	Erik J. Olson
Francis Chung-Hoi Ho	Taryn Spelliscy Rawson
Richard S.J. Hung	Christopher Leonard Robinson
Michael A. Jacobs	Jennifer L. Taylor
Esther Kim	Alison M. Tucher
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David B. Bassett	William F. Lee
James C. Burling	Andrew L. Liao
Jonathan G. Cedarbaum	Leah Litman
Robert D. Cultice	Joseph J. Mueller
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Christine E. Duh	Mark D. Selwyn
Mark D. Flanagan	Ali H. Shah
Mark C. Fleming	Victor F. Souto
Lauren B. Fletcher	James L. Quarles III
Richard Goldenberg	Timothy D. Syrett
Robert J. Gunther, Jr.	Robert Tannenbaum
Liv L. Herriot	Louis W. Tompros
Michael R. Heyison	Samuel Calvin Walden
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Derek Lam	Emily R. Whelan
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Taylor & Company Law Offices LLP:

Joshua Ryan Benson	Stephen E. Taylor
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Cooley LLP:

Benjamin George Damstedt	Timothy S. Teter
Jesse L. Dyer	

Bridges & Mavrakakis LLP:

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Dated: May 7, 2013

Respectfully submitted,

/s/ Michael A. Jacobs

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Apple opposes the motion and amended motion for leave to file a brief by amici Google, Inc., HTC Corp., HTC America, Inc., Rackspace Hosting, Inc., Red Hat, Inc., and SAP America, Inc. (ECF No. 55; ECF No. 60.)

The lead party on the brief, Google, Inc., admittedly has a direct interest in the outcome of this appeal. As the motion explains (ECF No. 55 at 4; ECF No. 60 at 4), Google is the developer of the Android operating system running on the Samsung smartphones that Apple seeks to enjoin in this case. That interest conflicts with the traditional role of an amicus as “an *impartial* friend of the court—not an *adversary party in interest in the litigation*.” *United States v. Michigan*, 940 F.2d 143, 165 (6th Cir. 1991) (emphasis in original).

Indeed, when amici have such a stake in the outcome of the case, courts have denied them leave to participate to prevent “an end run around court-imposed limitations on the length of parties’ briefs.” *Voices for Choices v. Ill. Bell Tel. Co.*, 339 F.3d 542, 544 (7th Cir. 2003) (Posner, J., in chambers); *Nat’l Org. for Women, Inc. v. Scheidler*, 223 F.3d 615, 617 (7th Cir. 2000) (denying request for leave to file amicus briefs because it was “an end run around [the court’s] order denying permission to file an oversized brief”); *see also Glassroth v. Moore*, 347 F.3d 916, 919 (11th Cir. 2003) (criticizing the use of amicus briefs “as a means of evading the page limitations on a party’s briefs”).

Accordingly, Apple respectfully requests that the Court deny the motion and amended motion by Google, et al., for leave to file an amicus brief.

Respectfully submitted,

/s/ Michael A. Jacobs

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May 7, 2013

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CERTIFICATE OF SERVICE

I hereby certify that I filed the foregoing document with the Clerk of the United States Court of Appeals for the Federal Circuit via the CM/ECF system and served a copy on counsel of record, this 7th day of May, 2013, by the CM/ECF system.

Dated: May 7, 2013

/s/ Michael A. Jacobs

Michael A. Jacobs
Attorney for Plaintiff-Appellant Apple Inc.