

concerning this motion. As of the time of filing, counsel for Apple had not indicated whether Apple will object to this motion. Counsel for Samsung has indicated that Samsung opposes this motion and intends to file a response.

Each of the Amici sought and received the Court's leave to participate in this appeal as *amicus curiae* after Reuters – intervenor in the district court on the limited issue of the sealing of documents at issue – announced that it would not participate in the appeal. The Coalition first moved to intervene as a party-appellee on the ground that, given Reuters' decision not to participate in the appeal, there would be no appellee and thus no other party to defend the district court's ruling and advocate in favor of more open access to judicial records. The Court denied the intervention motion and invited the Coalition to seek leave to participate as *amicus*.

As the parties' briefs demonstrate, Apple and Samsung's positions on the issue before the Court in this appeal are fully aligned. Though they are mortal enemies on the merits of the underlying patent dispute still pending in the district court, they are temporary allies on the questions raised here. Indeed, in their briefs, Apple and Samsung do not take issue with each other's arguments, but instead focus entirely on responding to arguments raised by Amici.

Without the participation of Amici in oral argument, the Court will not have the benefit of a true adversarial process. At oral argument, there will be no party set in opposition to Apple and Samsung's challenge to the district court's ruling on the documents at issue. There will be no appellee's voice to defend the ruling below or to advocate for the public and the press' right to access judicial records.

Amici ask that they be permitted to participate in oral argument in place of the missing appellee. Amici seek to designate a single counsel to argue jointly on their behalf. Amici also request that they be allotted time to argue equivalent to the combined time allotted to Apple and Samsung, so that Amici can have a fair and adequate opportunity to respond to each party's arguments.

In sum, the Court should allow Amici to participate in oral argument so the Court may have the benefit of a full and properly adversarial presentation of the arguments both for and against the district court's decision, including the important legal and public policy implications of the district court's order.

Conclusion

For the foregoing reasons, Amici request that the Court grant them leave to participate in oral argument, and permit the Coalition's counsel to argue on behalf of Amici jointly. Amici also request that the Court grant Amici time for argument equivalent to the combined time allotted to Apple and Samsung.

Dated: December 13, 2012

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies under penalty of perjury that on this 13th day of December 2012, a copy of the accompanying “JOINT MOTION OF AMICI CURIAE FOR LEAVE TO PARTICIPATE IN ORAL ARGUMENT,” was filed with the Clerk of the Court using the CM/ECF System, which will send notice of such filing to any of the following counsel registered as CM/ECF users at the time of filing:

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Additionally, a copy of the motion will be mailed to the above counsel on this date via United States mail (postage prepaid, first class mail).

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