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11 Attorneys for Plaintiff and  
 Counterclaim-Defendant APPLE INC.

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 14 UNITED STATES DISTRICT COURT  
 15 NORTHERN DISTRICT OF CALIFORNIA  
 16 SAN JOSE DIVISION  
 17

18 APPLE INC., a California corporation,

19 Plaintiff,

20 v.

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

24 Defendants.  
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Case No. 11-cv-01846-LHK

**APPLE'S REPORT REGARDING  
 EFFORTS TO MEET AND CONFER  
 ON FINAL JURY INSTRUCTIONS**

1 On July 23, 2012, the Court ordered “lead trial counsel [ ] to meet and confer in person  
2 regarding the final jury instructions.” (Dkt No. 1296 at 1.) The Court directed the parties to “file  
3 a revised joint submission of disputed and undisputed final jury instructions by August 6, 2012.”  
4 (*Id.* at 2.) On August 6, the parties reported that they had been conferring and had reduced the  
5 number of instructions remaining in dispute. The parties asked for a few more days to continue  
6 their talks, and the Court granted that extension. (8/6/12 Trial Tr. at 1285:9-1286:3.) The Court  
7 directed the parties to file their joint submission by Friday, August 10. (*Id.*) Since that time,  
8 although Apple has tried diligently to advance the process, Samsung has stymied those efforts.

9 Apple sent Samsung a revised set of proposed jury instructions on Sunday, August 5.  
10 Apple asked for Samsung’s counter-proposals that day, and repeated its request several times  
11 throughout the week. (Pernick Decl. Exhs. A-D, F-G.) Samsung kept telling Apple that its  
12 proposals were forthcoming. For the design patent and trade dress instructions in particular,  
13 Samsung stated numerous times that it would offer some sort of response to Apple’s proposed  
14 instructions. (*See* Pernick Decl. Exhs. D, E.) That is how things stood as of Thursday evening,  
15 August 9—the night before the parties’ joint submission was due.

16 Between 6:00 and 7:00 p.m. on Thursday evening, Samsung finally identified 56 jury  
17 instructions that it was proposing. (*See* Pernick Decl. Exhs. H, I.) That left Apple with just over  
18 24 hours to hold a lead counsel meet-and-confer session and to prepare the parties’ joint filing.  
19 Apple and Samsung agreed that lead counsel for the parties would meet on Friday evening after  
20 trial, and that Apple would coordinate the parties’ joint filing. (Pernick Decl., ¶¶ 9-10.) But  
21 Samsung stymied Apple again.

22 At the end of the Court day on Friday, Apple called Samsung to find out when and where  
23 Samsung wanted to hold the final lead trial meet-and-confer session. (*Id.*, ¶ 11.) Samsung  
24 declined. Samsung stated that it was impractical to meet at that point, and that the parties should  
25 continue their discussions over the weekend. (*Id.*, ¶ 12.) When Apple reminded Samsung that  
26 the Court had set a deadline, Samsung eventually agreed to a late-evening meeting but without  
27 Samsung’s lead counsel. (*Id.*, ¶ 12.) Apple informed Samsung that any such meeting would not  
28 comply with the Court’s order. (*Id.*, ¶ 12.)

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In light of Samsung’s failure to cooperate, Apple seeks the Court’s guidance regarding how to proceed. Apple stands ready to submit its proposed jury instructions to the Court, or to continue efforts to meet and confer toward a joint filing.

Dated: August 10, 2012

MORRISON & FOERSTER LLP

By:       /s/ Michael A. Jacobs        
Michael A. Jacobs

Attorneys for Plaintiff and  
Counterclaim-Defendant  
APPLE INC.