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

13 APPLE INC., a California corporation,
14 Plaintiff,
15 v.
16 SAMSUNG ELECTRONICS CO., LTD., a
17 Korean corporation; SAMSUNG
18 ELECTRONICS AMERICA, INC., a New
19 York corporation; and SAMSUNG
TELECOMMUNICATIONS AMERICA,
20 LLC, a Delaware limited liability company,
Defendants.

CASE NO. 12-cv-00630-LHK

**APPLE INC.'S SECOND SET OF REQUESTS
FOR PRODUCTION TO DEFENDANTS**

1 APPLE INC. (“Apple”) hereby requests, pursuant to Rules 26 and 34 of the Federal Rules of Civil
2 Procedure, that SAMSUNG ELECTRONICS CO., LTD.; SAMSUNG ELECTRONICS AMERICA,
3 INC.; and SAMSUNG TELECOMMUNICATIONS AMERICA, LLC, (“Samsung” or
4 “Defendants”) respond to Apple’s First Set of Requests for Production. Apple requests that
5 Defendants produce for inspection and copying the documents and things set forth below at the
6 offices of Gibson, Dunn & Crutcher, LLP, 1881 Page Mill Road, Palo Alto, CA 94304-1211, within
7 thirty (30) days, or such other time as the parties agree or the Court orders.

8 **DEFINITIONS**

9 The words and phrases used in these Requests shall have the meanings ascribed to them under
10 the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the
11 Northern District of California. In addition, the following terms shall have the meanings set forth
12 below whenever used in any Request.

13 1. “You” and/or “your” mean Defendants and all predecessors, successors, predecessors-
14 in-interest, successors-in-interest, subsidiaries, divisions, parents, and/or affiliates, past or present,
15 any companies that have a controlling interest in Defendants, and any current or former employee,
16 officer, director, principal, agent, consultant, sales representative, or attorney thereof.

17 2. “Accused Devices” means the Samsung Galaxy S II Skyrocket, Galaxy S II Epic 4G
18 Touch, Galaxy S II - T-Mobile, Galaxy S II - AT&T, Galaxy Nexus, Illusion, Captivate Glide,
19 Exhibit II 4G, Stratosphere, Transform Ultra, Admire, Conquer 4G, and Dart smartphones, the
20 Galaxy Player 4.0 and Galaxy Player 5.0 media players, and the Galaxy Tab 7.0 Plus and Galaxy Tab
21 8.9 tablets.

22 3. “Patents-in-Suit” means U.S. Patent Nos. 5,946,647; 6,847,959; 8,046,721; 8,074,172;
23 8,014,760; 5,666,502; 7,761,414; and 8,086,604.

24 4. “Document(s)” has the broadest possible meaning permitted by Federal Rules of Civil
25 Procedure Rules 26, 33 and 34 and the relevant case law, “Document(s)” also includes all drafts or
26 non-final versions, alterations, modifications, and amendments to any of the foregoing.

27 5. “Relating” means regarding, referring to, concerning, mentioning, reflecting,
28 pertaining to, evidencing, involving, describing, discussing, commenting on, embodying, responding

1 to, supporting, contradicting, containing or constituting (in whole or in part), as the context makes
2 appropriate.

3 **INSTRUCTIONS**

4
5 1. Each document is to be produced along with all non-identical drafts thereof in their
6 entirety, without abbreviation or redaction.

7 2. All documents should be produced as maintained in the ordinary course of business.

8 3. If you withhold any documents on a claim of privilege, you must provide a statement
9 of the claim of privilege and all facts relied upon in support of that claim as required by Rule 26(b)(5)
10 of the Federal Rules of Civil Procedure.

11 4. Documents responsive to each Request must be produced in full and subject to any
12 Request being narrowed by the parties' meeting and conferring regarding your corresponding
13 requests to Plaintiff, if applicable.

14 **REQUESTS FOR PRODUCTION**

15 **REQUEST NO. 92**

16 Documents sufficient to show the design, development, and implementation of the Accused
17 Devices.

18 **REQUEST NO. 93**

19 Documents sufficient to show the design, development, and implementation of the software
20 running on or used by the Accused Devices, including, but not limited to, each version of the Android
21 operating system utilized by each of the Accused Devices.

22 **REQUEST NO. 94**

23 Any and all instructions, manuals, guides, or other documentation for the Accused Devices.

24 **REQUEST NO. 95**

25 Documents sufficient to identify the individuals who contributed to, oversaw, or were
26 otherwise involved in the design, development, or implementation of the Accused Devices.
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1 **REQUEST NO. 96**

2 Source code and any other instructions utilized by or implemented on the Accused Devices,
3 including, but not limited to, source code for each version of the Android operating system and
4 applications utilized by each of the Accused Devices.

5 **REQUEST NO. 97**

6 Source code and any other instructions utilized by or implemented on the Accused Devices,
7 including, but not limited to, source code for the features and functionality used by the Accused
8 Devices that Apple has alleged infringe the Patents-in-Suit.

9 **REQUEST NO. 98**

10 All Documents relating to any analysis, review, consideration, evaluation, inspection, tear-
11 down report, or copying of any Apple product, feature, or functionality, including but not limited to
12 any comparisons between any Apple product, feature, or functionality and any actual or contemplated
13 features or functionality Samsung included or considered including with its smartphones, including
14 but not limited to the Accused Devices.

15 **REQUEST NO. 99**

16 All documents relating to any analysis, review, consideration, evaluation, inspection, tear-
17 down report, or copying of any Apple product relating to the features and functionality used by the
18 Accused Devices that Apple has alleged infringe the Patents-in-Suit.

19 **REQUEST NO. 100**

20 All Documents relating to any analysis, review, consideration, evaluation, or attempts to
21 design around or otherwise avoid infringement of any claim of the Patents-in-Suit.

22 **REQUEST NO. 101**

23 All Documents relating to the design or development of the Accused Devices that mention or
24 refer to Apple or Apple products, including but not limited to Documents relating to the design or
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1 development of the features and functionality of the Accused Devices that Apple has alleged infringe
2 the Patents-in-Suit, including communications among or with your personnel that discuss whether or
3 how to copy or implement any design, feature, or function of an Apple product.

4 **REQUEST NO. 102**

5 All Documents relating to the design or development of any Samsung smartphone or products
6 that use or incorporate the Android platform that mention or refer to Apple or Apple products,
7 including communications among or with your personnel that discuss whether or how to copy or
8 implement any design, feature, or function of an Apple product. Documents responsive to this
9 Request include, but are not limited to, Documents related to the redesign of any Samsung product in
10 light of Apple products.
11

12 **REQUEST NO. 103**

13 All Documents relating to the design or development of any Samsung smartphone or products
14 that use or incorporate the bada platform that mention or refer to Apple or Apple products, including
15 communications among or with your personnel that discuss whether or how to copy or implement
16 any design, feature, or function of an Apple product. Documents responsive to this Request include,
17 but are not limited to, Documents related to the redesign of any Samsung product in light of Apple
18 products.
19

20 **REQUEST NO. 104**

21 All Documents that comprise, refer, or relate to communications with third parties regarding
22 the design, development, and implementation of the features and functionality used by the Accused
23 Devices, including, but not limited to the features and functionality that Apple has alleged infringe
24 the Patents-in-Suit.
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26 **REQUEST NO. 105**

27 All Documents that comprise, refer, or relate to communications with Google Inc. regarding
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1 the design, development, and implementation of the features and functionality used by the Accused
2 Devices, including, but not limited to the features and functionality that Apple has alleged infringe
3 the Patents-in-Suit.

4 **REQUEST NO. 106**

5 All Documents that comprise, refer, or relate to Samsung's discussion, both internally and
6 with third-parties, of contributions to and efforts related to the design, development and
7 implementation of the Android platform.

8 **REQUEST NO. 107**

9 All Documents that comprise, refer, or relate to Samsung's discussion, both internally and
10 with third-parties, of contributions to and efforts related to the design, development and
11 implementation of the bada platform.

12 **REQUEST NO. 108**

13 All Documents that comprise, refer, or relate to Samsung's discussion of, both internally and
14 with third-parties, contributions to and efforts related to the design, development and implementation
15 of any version of the Android operating system that runs or has run on any of the Accused Devices.

16 **REQUEST NO. 109**

17 All Documents that comprise, refer, or relate to communications with or contributions by
18 third parties regarding the design, development, and implementation of the Accused Devices.

19 **REQUEST NO. 110**

20 All Documents that comprise, refer, or relate to communications with or contributions by
21 third parties regarding the design, development, and implementation of any Samsung products that
22 use or incorporate the Android platform.

23 **REQUEST NO. 111**

24 All Documents that comprise, refer, or relate to communications with or contributions by
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1 third parties regarding the design, development, and implementation of any Samsung products that
2 use or incorporate the bada platform.

3 **REQUEST NO. 112**

4 All Documents relating to your knowledge of each of the Patents-in-Suit, including but not
5 limited to when you first became aware of each of the Patents-in-Suit.
6

7 **REQUEST NO. 113**

8 All Documents, including source code, prototypes, models and products, that you contend
9 constitute or relate to prior art to the Patents-in-Suit.

10 **REQUEST NO. 114**

11 All Documents relating to any contention that the Accused Devices do not infringe any claim
12 of the Patents-in-Suit.

13 **REQUEST NO. 115**

14 All Documents relating to any contention that any claim of the Patents-in-Suit are invalid.

15 **REQUEST NO. 116**

16 All Documents relating to the invalidity, validity, unenforceability, or enforceability of the
17 Patents-in-Suit, including all Documents relating to any contention that you make that any of the
18 Patents-in-Suit are invalid or unenforceable.
19

20 **REQUEST NO. 117**

21 All Documents that embody, refer to, relate to, or comprise any study, analysis, review or
22 opinion (including opinions of counsel), conclusions, or contentions regarding the validity or
23 invalidity, infringement or non-infringement, enforceability or unenforceability, interpretation or
24 scope of any of the claims of any of the Patents-in-Suit or any related patents, regardless of from
25 whom such opinions, conclusions, or contentions were obtained, including without limitation, any
26 studies, reports, or competitive comparisons made with respect to acts done, products sold, methods
27
28

1 or systems used or services offered by Samsung, or by any third party.

2 **REQUEST NO. 118**

3 All Documents relied upon or considered by any declarants of Samsung filed in this case.

4 **REQUEST NO. 119**

5 All Documents Samsung intends to use for impeachment or examination of all declarants in
6 this case.

7 **REQUEST NO. 120**

8 All Documents considered or relied upon by any expert that Samsung retains in connection
9 with this case.

10 **REQUEST NO. 121**

11 All Documents Samsung intends to use for impeachment or examination of all experts in this
12 case.

13 **REQUEST NO. 122**

14 All Documents Samsung intends to use for impeachment or examination of any person
15 Samsung will seek to depose in connection with this case.

16 **REQUEST NO. 123**

17 All documents and things that Samsung intends to use as exhibits at any hearing in this case,
18 including, but not limited to, a *Markman* hearing, a hearing on a dispositive motion and trial.

19 **REQUEST NO. 124**

20 All Documents considered or relied on to respond to any interrogatory in this case.

21 **REQUEST NO. 125**

22 All Documents relating to any contention that Apple would not be irreparably harmed in the
23 absence of an injunction.

1 **REQUEST NO. 126**

2 All Documents relating to any contention that money damages would be adequate to
3 compensate Apple in this case.

4 **REQUEST NO. 127**

5 All Documents relating to any contention that the public interest would not be served by a
6 injunction in this case.

7 **REQUEST NO. 128**

8 All Documents relating to any contention that there is no nexus, relationship, or causal link
9 between the alleged infringement of the Patents-in-Suit in this case and the alleged harm to Apple
10 caused by that infringement.

11 **REQUEST NO. 129**

12 All Documents relating to any impact an injunction in this case would have on Defendants.

13 **REQUEST NO. 130**

14 All Documents relating to any contention that any of the features or functionality used by the
15 Accused Devices that Apple has alleged infringe the Patents-in-Suit, do not drive sales, or are not the
16 basis of consumer demand.

17 **REQUEST NO. 131**

18 All Documents relating to any advertising, promotions, actual or considered related to the
19 Accused Devices.

20 **REQUEST NO. 132**

21 Documents sufficient to show Samsung's actual sales and market share for the Accused
22 Devices, in terms of both revenue and unit volume, on a monthly, quarterly, and annual basis, from
23 the time each of the Accused Devices was first released, through trial.

1 **REQUEST NO. 133**

2 Documents sufficient to show Samsung's projected sales and market share for the
3 Accused Devices, in terms of both revenue and unit volume, on a monthly, quarterly, and annual
4 basis, for any period of time for which any such projections were prepared.
5

6 **REQUEST NO. 134**

7 All Documents that that comprise, refer, or relate to communications with any advertisers
8 regarding any of the Accused Devices.

9 **REQUEST NO. 135**

10 All Documents relating to marketing of the Accused Devices that discuss or refer directly or
11 indirectly to Apple or Apple products, including copies of all advertisements or other promotional
12 materials, marketing plans, market surveys, focus group studies, or other Documents related to testing
13 of advertisements or advertisement messaging.
14

15 **REQUEST NO. 136**

16 All Documents relating to any instances of consumer confusion in which Samsung was made
17 aware that a person confused an Apple product for one of the Accused Devices, or one of the
18 Accused Devices for an Apple product.

19 **REQUEST NO. 137**

20 All Documents relating to Samsung's policies for the retention of documents.
21

22 **REQUEST NO. 138**

23 All Documents relating to Samsung's policies for the retention of documents related to this
24 litigation, the Accused Devices or the Patents-in-Suit.

25 **REQUEST NO. 139**

26 All Documents relating to Samsung's policies for the destruction or overwriting of
27 documents.
28

1 **REQUEST NO. 140**

2 All Documents relating to Samsung's policies for the destruction or overwriting of documents
3 related to this litigation, the Accused Devices or the Patents-in-Suit.

4 **REQUEST NO. 141**

5 All Documents relating to the treatment of documents when a Samsung employee leaves the
6 employment of Samsung.

7 **REQUEST NO. 142**

8 All Documents relating to the treatment of documents when a Samsung employee's computer
9 is replaced or ceases to be used by that employee.

10 **REQUEST NO. 143**

11 All Documents relating to the suspension of destruction or overwriting of documents.

12 **REQUEST NO. 144**

13 All Documents relating to the suspension of destruction or overwriting of documents related
14 to this litigation, the Accused Devices or the Patents-in-Suit.

15 **REQUEST NO. 145**

16 All Documents relating to preventing spoliation of potential evidence.

17 **REQUEST NO. 146**

18 All Documents relating to preventing spoliation of potential evidence related to this litigation,
19 the Accused Devices or the Patents-in-Suit.

20 **REQUEST NO. 147**

21 All Documents relating to spoliation of potential evidence.

22 **REQUEST NO. 148**

23 All Documents relating to spoliation of potential evidence related to this litigation, the
24 Accused Devices or the Patents-in-Suit.

1 **REQUEST NO. 149**

2 All Documents relating to the creation or retention of backup and/or archive media.

3 **REQUEST NO. 150**

4 All Documents that refer to, relate to or evidence any communications between
5
6 Apple (or its representatives) and Samsung (or its representatives, or its affiliates) generally or
7 concerning any of the Patents-in-Suit or related patent applications of Apple, including without
8 limitation any discussion, consideration, or analysis by Samsung or its representatives or affiliates,
9 prior or subsequent to such communications, regarding any of the Patents-in-Suit, and whether
10 Samsung should or would license, buy, acquire or otherwise obtain rights under any of the Patents-in-
11 Suit or related patent applications of Apple.

12 **REQUEST NO. 151**

13 All Documents that refer to, relate to or evidence any consideration, negotiation,
14 recommendation, or proposal to license, buy, acquire or otherwise obtain rights under any of the
15 Patents-in-Suit or related patent applications of Apple.
16

17 **REQUEST NO. 152**

18 All Documents, including, without limitation, claim charts, opinions, tests and technical
19 analyses, relied upon or referred to in determining whether or not to assert any affirmative defenses
20 or counterclaim(s) in this action.
21

22 **REQUEST NO. 153**

23 All Documents relied upon or consulted in deciding whether to admit or deny
24 any allegation in Apple's Complaint in this action.

25 **REQUEST NO. 154**

26 All Documents that support, refute, or relate to any affirmative defenses asserted by Samsung
27 in this action.
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1 **REQUEST NO. 155**

2 All Documents that support, refute, or relate to any counterclaims asserted by Samsung in this
3 action.

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5
6 Dated: April 11, 2012

GIBSON, DUNN & CRUTCHER LLP

7
8 By: Sarah E. Simmons

9 *Attorneys for Apple Inc.*

CERTIFICATE OF SERVICE

I, Sarah Simmons, hereby certify that on this 11th day of April, 2012, I did cause Apple Inc.'s Second Set of Requests for Production to be served on the following listed below and in the manner so indicated.

By Electronic Mail

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Kevin P.B. Johnson
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Dated: April 11, 2012

/s/ Sarah E. Simmons
Sarah E. Simmons