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Richard W. Wieking
Clerk, U.S. District Court
Northern District of California
San Jose

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

**LHK
HRL**

In re Ex Parte Application of
SAMSUNG ELECTRONICS CO., LTD.

Case No. **CV 12 80275 MISC.**

Applicant,

For an Order Pursuant to 28
U.S.C. § 1782 Granting
Leave to Obtain Discovery
from Apple Inc. for Use in
Foreign Proceedings.

**[PROPOSED] ORDER GRANTING
SAMSUNG ELECTRONICS CO.,
LTD.'S EX PARTE APPLICATION
FOR AN ORDER PURSUANT TO
28 U.S.C. § 1782 GRANTING
LEAVE TO OBTAIN DISCOVERY
FOR USE IN FOREIGN
PROCEEDINGS**

FAXED

**[PROPOSED] ORDER GRANTING SAMSUNG'S EX PARTE APPLICATION FOR AN ORDER PURSUANT
TO 28 U.S.C. § 1782**

1 This matter comes before the Court on the Ex Parte Application of Samsung
2 Electronics Co. Ltd. (“Samsung”) for an Order Pursuant to 28 U.S.C. § 1782
3 Granting Leave to Obtain Discovery for Use in Foreign Proceedings (the
4 “Application”). The Application seeks documents from Apple Inc. in connection
5 with patent litigation pending between Samsung and Apple, Inc. and its affiliated
6 companies (collectively, “Apple”) in Japan. Apple was served with a copy of the
7 Application but has not opposed it.

8 The Court has fully considered the papers on file. Samsung’s application
9 satisfies the three statutory requirements under § 1782. The Application is filed in
10 the “district in which [the] person resides,” it seeks discovery “for use in a
11 proceeding in a foreign . . . tribunal,” and Samsung is an “interested person[] in the
12 foreign proceeding.” Furthermore, Samsung has satisfied the four factors
13 identified by the Supreme Court to guide courts’ discretion in analyzing
14 applications under § 1782. Intel Corp. v. Advanced Micro Devices, Inc., 542 U.S.
15 241, 256 (2004). Apple Inc.’s status as a participant in the Japanese foreign
16 proceedings supports granting Samsung’s application. Case law demonstrates the
17 foreign jurisdiction at issue is receptive to the type of discovery sought by
18 Samsung, and there is nothing to indicate the request is made to circumvent
19 limitations on discovery imposed by those foreign courts. Finally, the subpoena
20 appears narrowly tailored such that the documents sought would be relevant to
21 Samsung’s invalidity defenses in the Japanese Actions and compliance would not
22 be unduly intrusive or burdensome.

23 There is nothing at this point that leads the Court to believe Samsung’s
24 request is a “fishing expedition” or intended to be a vehicle for harassment.
25 Therefore, the Court GRANTS Samsung’s application.

26 **IT IS HEREBY ORDERED** that Samsung is granted leave to issue a
27 subpoena for documents in substantially the form as attached as Exhibit 2 to the
28 Declaration of Hideaki Kobayashi filed in support of the Application, directing

1 Apple Inc. to produce the documents requested in the subpoena at the offices of
2 Steptoe & Johnson LLP, 2121 Avenue of the Stars, Suite 2800, Los Angeles,
3 California 90067, or another location mutually agreeable to Samsung and Apple
4 Inc.

5 It is further **ORDERED** that copies of the Application and Memorandum in
6 Support thereof and this Order shall be served upon Apple Inc., 1 Infinite Loop,
7 Cupertino, California, 95014.

8 This order is made without prejudice to any motion to quash by Apple Inc.
9 Any motion seeking such relief shall be filed under this case number.

10 **IT IS SO ORDERED.**

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Dated: _____
United States District Court Judge