

EXHIBIT

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**SUBJECT TO PROTECTIVE ORDER
CONTAINS CONFIDENTIAL INFORMATION**

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*Attorneys for Plaintiff and
Counterclaim-Defendant Apple Inc.*

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

APPLE INC., a California corporation,

Plaintiff,

vs.

SAMSUNG ELECTRONICS CO., LTD., a
Korean business entity, SAMSUNG
ELECTRONICS AMERICA, INC., a New
York corporation, and SAMSUNG
TELECOMMUNICATIONS AMERICA,
LLC, a Delaware limited liability company,

Defendants.

Civil Action No. 11-CV-01846-LHK

**APPLE INC.'S OBJECTIONS AND
RESPONSES TO SAMSUNG'S FOURTH
SET OF INTERROGATORIES**

**CONFIDENTIAL UNDER THE
PROTECTIVE ORDER**

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INTERROGATORY NO. 70:

Separately for each APPLE TRADE DRESS, state fully and in detail all facts that support YOUR contention that SAMSUNG is diluting or has diluted such trade dress.

RESPONSE TO INTERROGATORY NO. 70

Apple objects to the phrase “fully and in detail” as vague and ambiguous. Apple objects to this Interrogatory as unduly burdensome, overbroad, and impracticable to the extent that it requests Apple to state “all facts” supporting Apple’s contention “fully and in detail,” especially given the late date in the discovery period at which this Interrogatory was propounded. Apple further objects to this Interrogatory to the extent it seeks information that: (i) would require Apple to draw a legal conclusion to respond; (ii) is outside of Apple’s possession, custody, or control; (iii) can be obtained as easily by Samsung, is already in Samsung’s possession, or is publicly available; or (iv) is subject to a confidentiality or nondisclosure agreement or governed by a protective order preventing its production.

Subject to and incorporating its General Objections and its specific objections, Apple responds as follows with respect to the Samsung products accused in Apple’s Amended Complaint:

Samsung is diluting Apple’s Original iPhone Trade Dress, iPhone 3G Trade Dress, iPhone 4 Trade Dress, iPhone Trade Dress, iPad Trade Dress, iPad 2 Trade Dress and the trade dress registered in U.S. Trademark Reg. Nos. 3,470,983, 3,457,218, and 3,475,327 by advertising and selling a wide variety of lookalike products, including without limitation Galaxy,

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Galaxy S, and Galaxy SII products such as Captivate, Continuum, Droid Charge, Epic 4G, Fascinate, Galaxy Ace, Galaxy Prevail, Galaxy S (i9000), Galaxy S 4G, Galaxy S II (AT&T Edition, 4G), Galaxy S II (i9100), Galaxy S II (T-Mobile edition), Galaxy S II Epic 4G Touch, Galaxy S II Skyrocket (4G LTE), Galaxy S Showcase (i500), Infuse 4G, Mesmerize, Vibrant, Galaxy Tab 7.0, Galaxy Tab 7.0 Plus, Galaxy Tab 10.1, and Galaxy Tab 10.1 LTE. These products were intentionally designed to look like Apple products in their hardware and user interface design. By offering them for sale and selling them in the U.S., Samsung has diluted and will continue to dilute the strength of Apple's distinctive trade dress in its products.

Many of Samsung's Galaxy phones embody a combination of several elements of the Original iPhone Trade Dress, including at least the following: Captivate, Continuum, Droid Charge, Epic 4G, Fascinate, Galaxy Prevail, Galaxy S (i9000), Galaxy S 4G, Galaxy S II (AT&T Edition, 4G), Galaxy S II (i9100), Galaxy S II (T-Mobile edition), Galaxy S II Epic 4G Touch, Galaxy S II Skyrocket (4G LTE), Galaxy S Showcase (i500), Infuse 4G, Mesmerize, and Vibrant. These products were intentionally designed to look like Apple products in their hardware and user interface design. By offering them for sale and selling them in the U.S., Samsung has diluted and will continue to dilute the strength of the Original iPhone Trade Dress.

Many of Samsung's Galaxy phones embody a combination of several elements of the iPhone 3G Trade Dress, including at least the following: Captivate, Continuum, Droid Charge, Epic 4G, Fascinate, Galaxy Prevail, Galaxy S (i9000), Galaxy S 4G, Galaxy S II (AT&T Edition, 4G), Galaxy S II (i9100), Galaxy S II (T-Mobile edition), Galaxy S II Epic 4G Touch, Galaxy S II Skyrocket (4G LTE), Galaxy S Showcase (i500), Infuse 4G, Mesmerize, and Vibrant. These products were intentionally designed to look like Apple products in their hardware and user interface design. By offering them for sale and selling them in the U.S., Samsung has diluted and will continue to dilute the strength of the iPhone 3G Trade Dress.

Many of Samsung's Galaxy phones embody a combination of several elements of the iPhone Trade Dress, including at least the following: Captivate, Continuum, Droid Charge, Epic

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1 4G, Fascinate, Galaxy Prevail, Galaxy S (i9000), Galaxy S 4G, Galaxy S II (AT&T Edition, 4G),
 2 Galaxy S II (i9100), Galaxy S II (T-Mobile edition), Galaxy S II Epic 4G Touch, Galaxy S II
 3 Skyrocket (4G LTE), Galaxy S Showcase (i500), Infuse 4G, Mesmerize, and Vibrant. These
 4 products were intentionally designed to look like Apple products in their hardware and user
 5 interface design. By offering them for sale and selling them in the U.S., Samsung has diluted
 6 and will continue to dilute the strength of the iPhone Trade Dress.

7
 8 Many of Samsung's Galaxy phones embody a combination of several elements of the
 9 trade dress registered in U.S. Trademark Reg. No. 3,470,983, including at least the following:
 10 Captivate, Continuum, Droid Charge, Epic 4G, Fascinate, Galaxy Prevail, Galaxy S (i9000),
 11 Galaxy S 4G, Galaxy S II (AT&T Edition, 4G), Galaxy S II (i9100), Galaxy S II (T-Mobile
 12 edition), Galaxy S II Epic 4G Touch, Galaxy S II Skyrocket (4G LTE), Galaxy S Showcase
 13 (i500), Infuse 4G, Mesmerize, and Vibrant. These products were intentionally designed to look
 14 like Apple products in their hardware and user interface design. By offering them for sale and
 15 selling them in the U.S., Samsung has diluted and will continue to dilute the strength of the
 16 registered trade dress.

17 Many of Samsung's Galaxy phones embody a combination of several elements of the
 18 trade dress registered in U.S. Trademark Reg. No. 3,457,218, including at least the following:
 19 Captivate, Continuum, Droid Charge, Epic 4G, Fascinate, Galaxy Prevail, Galaxy S (i9000),
 20 Galaxy S 4G, Galaxy S II (AT&T Edition, 4G), Galaxy S II (i9100), Galaxy S II (T-Mobile
 21 edition), Galaxy S II Epic 4G Touch, Galaxy S II Skyrocket (4G LTE), Galaxy S Showcase
 22 (i500), Infuse 4G, Mesmerize, and Vibrant. These products were intentionally designed to look
 23 like Apple products in their hardware and user interface design. By offering them for sale and
 24 selling them in the U.S., Samsung has diluted and will continue to dilute the strength of the
 25 registered trade dress.

26 Many of Samsung's Galaxy phones embody a combination of several elements of the
 27 trade dress registered in U.S. Trademark Reg. No. 3,475,327, including at least the following:
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1 Captivate, Continuum, Droid Charge, Epic 4G, Fascinate, Galaxy Prevail, Galaxy S (i9000),
2 Galaxy S 4G, Galaxy S II (AT&T Edition, 4G), Galaxy S II (i9100), Galaxy S II (T-Mobile
3 edition), Galaxy S II Epic 4G Touch, Galaxy S II Skyrocket (4G LTE), Galaxy S Showcase
4 (i500), Infuse 4G, Mesmerize, and Vibrant. These products were intentionally designed to look
5 like Apple products in their hardware and user interface design. By offering them for sale and
6 selling them in the U.S., Samsung has diluted and will continue to dilute the strength of the
7 registered trade dress.

8 Many of Samsung's Galaxy phones embody a combination of several elements of the
9 iPhone 4 Trade Dress, including at least the following: Galaxy Ace. These products were
10 intentionally designed to look like Apple products in their hardware and user interface design.
11 By offering them for sale and selling them in the U.S., Samsung has diluted and will continue to
12 dilute the strength of the iPhone 4 Trade Dress.

13 Many of Samsung's Galaxy tablet computers embody a combination of several elements
14 of the iPad Trade Dress, including at least the following: Galaxy Tab 7.0, Galaxy Tab 7.0 Plus,
15 Galaxy Tab 10.1, and Galaxy Tab 10.1 LTE. These products were intentionally designed to look
16 like Apple products in their hardware and user interface design. By offering them for sale and
17 selling them in the U.S., Samsung has diluted and will continue to dilute the strength of the iPad
18 Trade Dress.

19 Many of Samsung's Galaxy tablet computers embody a combination of several elements
20 of the iPad 2 Trade Dress, including at least the following: Galaxy Tab 7.0, Galaxy Tab 7.0
21 Plus, Galaxy Tab 10.1, and Galaxy Tab 10.1 LTE. These products were intentionally designed
22 to look like Apple products in their hardware and user interface design. By offering them for
23 sale and selling them in the U.S., Samsung has diluted and will continue to dilute the strength of
24 the iPad 2 Trade Dress.

25 Samsung threatens to dilute the distinctiveness of Apple's highly distinctive designs by
26 producing and promoting lookalike products. Further, Apple's reputation as an innovator in
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1 design may be diminished if other companies are selling products with similar designs. Apple
2 has a well-established reputation of coming out with remarkable new products and designs that
3 look very different from what has come before. If consumers can buy products with similar
4 designs from other companies, Apple's design will no longer stand out from the crowd of
5 competing products. Eventually design will no longer be a compelling strength for Apple.

6 Facts that support Apple's contention that Samsung's Galaxy, Galaxy S, and Galaxy SII
7 smartphone and tablet computer products have diluted and will continue to dilute the Apple trade
8 dress at issue in this lawsuit include, but are not limited to, facts relating to (i) the unique
9 appearance of the iPhone, iPod touch, and iPad products, (ii) pre-launch publicity for the iPhone,
10 iPod touch, and iPad products, (iii) Apple's extensive advertising of the iPhone, iPod touch, and
11 iPad products, (iv) unsolicited third-party press for the iPhone, iPod touch, and iPad products,
12 including positive reviews and press accolades, (v) the iPhone, iPod touch, and iPad products'
13 appearance in popular media, (vi) the widespread use of the iPhone, iPod touch, and iPad
14 products by well known political, sports, and entertainment figures, (vii) design awards received
15 by Apple for the design of the iPhone, iPod touch, and iPad products, (viii) sales of the iPhone,
16 iPod touch, and iPad products, (ix) Samsung's extensive advertisements of the Galaxy, Galaxy S,
17 and Galaxy SII smartphone and tablet computer products, (x) third-party reviews of Samsung's
18 Galaxy, Galaxy S, and Galaxy SII smartphone and tablet computer products, including reviews
19 comparing Samsung's smartphone and tablet computer products to Apple's products, and
20 (xi) Samsung's sales of the Galaxy, Galaxy S, and Galaxy SII smartphone and tablet computer
21 products.
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1 Dated: March 10, 2012

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on March 10, 2012 by electronic mail upon the following:

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