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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,

v.

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

Defendants.

Case No. 11-cv-01846-LHK

**DECLARATION OF JASON R.
BARTLETT IN SUPPORT OF
APPLE'S OPPOSITION TO
SAMSUNG'S MOTION FOR
ADVERSE INFERENCE JURY
INSTRUCTION**

1 I, JASON R. BARTLETT, declare as follows:

2 1. I am a partner in the law firm of Morrison & Foerster LLP, counsel for Apple Inc.
3 (“Apple”). I am licensed to practice law in the State of California and admitted to practice
4 before this Court. I have personal knowledge of the matters stated herein or understand them to
5 be true from members of my litigation team. I make this declaration in support of Apple’s
6 Opposition to Samsung’s Motion for Adverse Inference Jury Instruction.

7 2. In conjunction with persons working under my direction, I analyzed Apple’s
8 production of email. In particular, I determined the total number of email sent by, received by,
9 or copying certain Apple employees and the portion of such email sent before and after
10 August 23, 2010. The results of my analysis of the email Apple produced are as follows:

Custodian	Total Email	Total Pre-8/23/10 Email	Percentage
Stringer	519	388	75%
Satzger	133	133	100%
Whang	149	82	55%
Ive	688	522	76%
Rohrbach	103	50	49%
Forstall	1027	866	84%
Nishibori	136	102	75%
Lemay	1029	903	88%
Jobs	1670	1183	71%
TOTAL	5454	4229	78%

18 3. Mark Buckley is a financial analyst who prepares financial information obtained
19 from Apple’s Finance department for production in litigation. He regularly testifies as Apple’s
20 corporate representative in depositions. In meet and confer sessions and correspondence Apple
21 disclosed the scope of its finance-related document production. Attached as **Exhibit 1** are
22 excerpts from the February 23, 2012 deposition of Beth Kellermann in which she testified with
23 respect to Mark Buckley specifically that his computer’s hard drive would not be searched but
24 instead he would assemble relevant financial information from Apple’s centralized systems of
25 record. Attached as **Exhibit 2** is a letter I sent to Diane Hutnyan on March 15, 2012 detailing the
26 scope of Apple’s production of financial information.

1 4. Attached as **Exhibit 3** is a letter I sent to Diane Hutnyan on March 14, 2012
2 addressing Apple's production of documents from model shop employees.

3 5. Documents relating to patents-in-suit on which Mr. Hoellwarth worked as outside
4 counsel prior to joining Apple were produced in this action from the files of his former
5 employer.

6 6. Pursuant to the Court's order of September 28, beginning in October 2011 and
7 continuing through February 2012, Apple served transparency disclosures identifying, on a
8 witness-by-witness basis, the search terms and date limiting parameters, if any, it used to search
9 Apple's electronic records.

10 7. Based on information provided to me from Apple, Brian Huppi left Apple in April
11 2010 and was re-hired on January 30, 2012. He received a document retention notice in
12 connection with this action in February 2012. Attached to this declaration as **Exhibit 4** is a true
13 and correct copy of excerpts from the deposition of Brian Huppi taken on October 18, 2011 in
14 this action.

15 8. Attached to this declaration as **Exhibit 5** is a true and correct copy of excerpts
16 from a letter from me to Marissa Ducca dated November 2, 2011 that describes the document
17 collection procedures used by Apple in this action.

18 9. Attached to this declaration as **Exhibit 6** is a true and correct copy of excerpts
19 from the deposition of Douglas Satzger taken on November 8, 2011 in this action.

20 10. Attached to this declaration as **Exhibit 7** is a true and correct copy of excerpts
21 from the deposition of Chris Harris taken on March 6, 2012 in this action.

22 11. Attached to this declaration as **Exhibit 8** is a true and correct copy of excerpts
23 from the deposition of Mark Lee taken on February 28, 2012.

24 12. Attached to this declaration as **Exhibit 9** is a true and correct copy of *Libertarian*
25 *Paternalism Is Not an Oxymoron* by Cass R. Sunstein and Richard H. Thaler, 70 U. Chi. L. Rev.
26 1159 (2003).

27 13. Attached to this declaration as **Exhibit 10** is a true and correct copy of excerpts
28 from the deposition of Evans Hankey, taken on March 15, 2012.

