

1 QUINN EMANUEL URQUHART & SULLIVAN, LLP

Charles K. Verhoeven (Bar No. 170151)

2 charlesverhoeven@quinnemanuel.com

50 California Street, 22nd Floor

3 San Francisco, California 94111

Telephone: (415) 875-6600

4 Facsimile: (415) 875-6700

5 Kevin P.B. Johnson (Bar No. 177129)

kevinjohnson@quinnemanuel.com

6 Victoria F. Maroulis (Bar No. 202603)

victoriamaroulis@quinnemanuel.com

7 555 Twin Dolphin Drive, 5th Floor

Redwood Shores, California 94065-2139

8 Telephone: (650) 801-5000

Facsimile: (650) 801-5100

9

10 Michael T. Zeller (Bar No. 196417)

michaelzeller@quinnemanuel.com

11 865 S. Figueroa St., 10th Floor

Los Angeles, California 90017

12 Telephone: (213) 443-3000

Facsimile: (213) 443-3100

13

14 Attorneys for SAMSUNG ELECTRONICS CO.,

LTD., SAMSUNG ELECTRONICS AMERICA,

15 INC. and SAMSUNG

TELECOMMUNICATIONS AMERICA, LLC

16

17 UNITED STATES DISTRICT COURT

18 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

19

20 APPLE INC., a California corporation,

21 Plaintiff,

22 vs.

23 SAMSUNG ELECTRONICS CO., LTD., a

Korean business entity; SAMSUNG

24 ELECTRONICS AMERICA, INC., a New

York corporation; SAMSUNG

25 TELECOMMUNICATIONS AMERICA,

LLC, a Delaware limited liability company,

26

27 Defendant.

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CASE NO. 11-cv-01846-LHK

**MOTION TO SHORTEN TIME
FOR BRIEFING AND HEARING**

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NOTICE OF MOTION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that Defendants Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung Telecommunications America, LLC (collectively “Samsung”) shall and hereby do move the Court, pursuant to Civil Local Rules 6-1(b) and 6-3, to shorten time for briefing on its accompanying Motion for Stay of August 24, 2012 Judgment Under *Fed. R. Civ. P.* 62(b).

This motion is based on this notice of motion and supporting memorandum, and such other written or oral argument as may be presented at or before the time this motion is taken under submission by the Court.

RELIEF REQUESTED

Samsung seeks to shorten time for briefing on Samsung’s Motion for Stay of August 24, 2012 Judgment Under *Fed. R. Civ. P.* 62(b).

DATED: August 27, 2012

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

By /s/ Victoria F. Maroulis
Charles K. Verhoeven
Kevin P.B. Johnson
Victoria F. Maroulis
Michael T. Zeller

Attorneys for SAMSUNG ELECTRONICS CO.,
LTD., SAMSUNG ELECTRONICS AMERICA,
INC., and SAMSUNG
TELECOMMUNICATIONS AMERICA, LLC

MEMORANDUM

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2 The Court entered judgment on August 24, 2012, the day of the jury's verdict. The Federal
3 Rules provide for an automatic stay of that Judgment for a period of 14 days. *Fed. R. Civ. P.*
4 62(a). The Rules also provide for a mandatory stay of execution upon the filing of an appeal and
5 posting of an appropriate bond. *Fed. R. Civ. P.* 62(d). Samsung's appeal is not due, however,
6 until post-trial motions are decided. *Fed. R. App. P.* 4(a)(4). To provide for a continuing stay of
7 execution during the interim period (1) after Rule 62(a)'s automatic stay expires and (2) before
8 Rule 62(d)'s mandatory stay takes effect, Samsung has filed a motion under *Fed. R. Civ. P.* 62(b)
9 for stay of execution of the Judgment until resolution of Samsung's post-trial motions, including
10 without limitation motions under Rules 50, 52(b), 59, and 60 ("Motion for Stay").
11

12 In accordance with Local Rules 6-1(b) and 6-3, Samsung hereby moves the Court to
13 shorten time for the briefing and hearing schedule for its concurrently filed Motion for Stay.
14 Specifically, Samsung requests that:
15

- 16 1. Apple's opposition to Samsung's Motion for Stay be filed on or before Wednesday,
17 August 29, 2012;
- 18 2. Samsung's reply be filed on or before Thursday, August 30, 2012; and
- 19 3. The Court decide Samsung's Motion for Stay without oral argument.
20

21 A shortened briefing schedule on Samsung's Motion for Stay is necessary and in the
22 interest of justice because, if it does not obtain the relief requested in its Motion for Stay, Samsung
23 will need to file a notice of appeal, arrange an appellate bond and seek Court approval of that bond
24 to obtain an automatic stay pending appeal under *Fed. R. Civ. P.* 62(d), all before the September 7,
25 2012 expiration of the 14 day stay under *Fed. R. Civ. P.* 62(a). The normal briefing and hearing
26 schedule would essentially render Samsung's Motion for Stay meaningless, since if the Motion to
27 Stay is not granted promptly, Samsung will have to proceed with obtaining a *Fed. R. Civ. P.* 62(d)
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1 stay pending appeal to ensure the Judgment cannot be enforced before the appeal is decided. This
2 would cause Samsung to incur substantial cost and burden that would be potentially unnecessary if
3 the Court grants Samsung's Motion for Stay and rules in favor of Samsung on one or more of its
4 post-trial motions.

5
6 It would also create needless procedural confusion to require Samsung to file its notice of
7 appeal prior to the expiration of the automatic 14 day stay under *Fed. R. Civ. P.* 62(a) in order to
8 obtain a further stay. Samsung intends to file post-trial motions within the time provided under
9 the Rules. If it is required to file a notice of appeal by September 7, 2012, jurisdiction will first be
10 transferred to the appellate court, and then, upon the filing of post-trial motions, back to the
11 district court for their resolution. *See Stone v. I.N.S.*, 514 U.S. 386, 402-403 (1995) ("The
12 majority of post-trial motions, such as Rule 59, render the underlying judgment nonfinal . . . when
13 filed after the notice of appeal (thus divesting the appellate court of jurisdiction)."). The Court
14 should shorten time for briefing so that it can rule on the Motion for Stay under Rule 62(b) before
15 Samsung is forced to file an early notice of appeal to obtain a Rule 62(d) stay, permitting a more
16 orderly administration of justice with respect to Samsung's post-trial motions and subsequent
17 appellate proceedings.

18
19 Counsel for Samsung contacted Apple's counsel in an effort to reach a stipulation to the
20 briefing and hearing schedule outlined above. *See Declaration of Victoria Maroulis in Support of*
21 *Samsung's Motion to Shorten Time*, filed concurrently. Apple did not agree to Samsung's
22 proposed schedule.

23 24 **CONCLUSION**

25 For the foregoing reasons, Samsung respectfully requests that the Court grant Samsung's
26 Motion to Shorten Time for Briefing and Hearing on Samsung's Motion for Stay.

1 DATED: August 27, 2012

Respectfully submitted,

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