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14   UNITED STATES DISTRICT COURT

15   NORTHERN DISTRICT OF CALIFORNIA

16   SAN JOSE DIVISION

APPLE INC., a California corporation,	Case No. 11-cv-01846-LHK (PSG)
Plaintiff,	**APPLE'S RESPONSE TO SAMSUNG'S MOTION TO STAY DAMAGES JUDGMENT PENDING RESOLUTION OF POST-TRIAL MOTIONS**
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.	

1   Samsung contends that the damages judgment based on the jury verdict of approximately

2 $1.049 billion should be stayed until post-trial motions are resolved. Samsung relies on Federal

3 Rule of Civil Procedure 62(b), which provides that "[o]n appropriate terms for the opposing

4 party's security," the Court may stay execution of a judgment pending resolution of post-trial

5 motions (Dkt. No. 1941 at 4.) Samsung also asserts that Rule 62(d) entitles Samsung to stay the

6 judgment by filing a notice of appeal and posting a bond. (*Id.*) Samsung requests that the Court

7 issue a stay without any security, but states that "Samsung is prepared to post a bond in the full

8 amount of the jury's verdict" as a condition to a stay. (*Id.* at 6.)

9   Apple does not oppose a stay if Samsung posts an adequate bond, but opposes a stay

10 without a bond. As Samsung notes, Rule 62(b) conditions a stay pending resolution of post-trial

11 motions "[o]n appropriate terms for the opposing party's security." Fed. R. Civ. P. 62(b). This is

12 consistent with Rule 62(d), which authorizes a stay pending appeal on the filing of "a supersedeas

13 bond." Fed. R. Civ. P. 62(d). Having cited Rules 62(b) and (d) as the basis for its motion,

14 Samsung cannot plausibly argue that a stay should be granted without the required security.

15   Samsung contends that it should not be required to post a bond because the precise

16 amount of the judgment may be adjusted and a bond will involve some costs. (Dkt. No. 1941 at

17 4-6.) Samsung cites no authority, however, for waiving a bond on these grounds, which could

18 apply in every case. Nor does Samsung explain why the amount of the bond cannot be adjusted

19 later, or why this Court should stay the judgment without requiring Samsung to provide security.

20   "Appropriate terms" for Apple's security include, at a minimum, a bond for the full

21 amount of the jury verdict.[1] An appropriate proposed order is submitted herewith.

22

23 Dated: August 31, 2012   MORRISON & FOERSTER LLP

24   By: */s/ Michael A. Jacobs*
                            Michael A. Jacobs
25   Attorneys for Plaintiff APPLE INC.

26

27 [1] Apple is entitled to a bond for the full amount of the judgment, interest, costs, and other
damages from delay. Apple limits its request for a bond pending post-trial motions to the amount
28 of the verdict, but reserves the right to seek additional amounts after those motions are resolved.

APPLE'S RESPONSE TO SAMSUNG'S MOTION FOR STAY OF DAMAGES JUDGMENT
CASE NO. 11-CV-01846-LHK (PSG)   1
sf-3189416