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 12 Attorneys for Plaintiff and
 13 Counterclaim-Defendant APPLE INC.

14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA
 16 SAN JOSE DIVISION

17
 18 APPLE INC., a California corporation,

19 Plaintiff,

20 v.

21 SAMSUNG ELECTRONICS CO., LTD., a
 Korean corporation; SAMSUNG
 22 ELECTRONICS AMERICA, INC., a New
 York corporation; and SAMSUNG
 23 TELECOMMUNICATIONS AMERICA,
 LLC, a Delaware limited liability company,

24 Defendants.

Case No. 11-cv-01846-LHK

**DECLARATION OF CYNDI WHEELER IN
 SUPPORT OF SAMSUNG'S
 ADMINISTRATIVE MOTION TO FILE
 DOCUMENTS UNDER SEAL**

1 I, Cyndi Wheeler, hereby declare as follows:

2 1. I am an attorney for Apple Inc. (“Apple”). I submit this declaration in support of
3 Samsung’s Administrative Motion to File Under Seal (Dkt. No. 1990) pursuant to Local Rules 7-
4 11 and 79-5. I have personal knowledge of the matters set forth below. If called as a witness I
5 could and would competently testify as follows.

6 2. Samsung requested to seal four documents that contain information Apple
7 designated as confidential: Exhibits 13, 14, 18, and 28 to the Pierce Declaration.

8 3. Apple does not maintain a claim of confidentiality on Exhibits 13 or 18 to the
9 Pierce Declaration.

10 4. Exhibit 14 to the Pierce Declaration consists of PX25A1, an admitted trial exhibit
11 summarizing Apple’s damages calculations. The Court has already ordered that this exhibit may
12 be sealed in part. (Dkt. No. 1649 at 6-7.) The Court ordered Apple to file its proposed redactions
13 by 8:00 a.m. the day before the redacted document would be introduced so the Court could
14 approve the redactions. (*Id.*) Apple filed its proposed redactions (Dkt. No. 1691), and the Court
15 approved them. (Trial Tr. 1993:18-19.)¹

16 5. Apple’s Court-approved redactions to PX25A1 cover only capacity information.
17 As the Court agreed, such information relating to Apple’s production and supply capacity is trade
18 secret and is properly sealed:

19 [D]isclosure of this information would cause substantial
20 competitive harm to Apple. Competitors and suppliers armed with
21 knowledge of Apple’s capacity would be able to alter their business
22 and pricing models to gain an unfair advantage over Apple in such
23 a way that would harm its competitive standing. Suppliers, for
24 instance, could predict when Apple would most need to increase
25 supply and leverage this knowledge to exact substantial price
26 increases. Similarly, competitors could lower their prices during
27 periods when Apple has excess capacity and is therefore most
28 vulnerable to a price cut. Although Apple seeks to seal *past*
capacity data, such data is cyclical and would allow competitors
and suppliers to discover the patterns in Apple’s capacity that
would make it easy to predict Apple’s current and future capacity
constraints.

¹ The exhibit number is mistranscribed as “PX 2581” rather than “PX25A1.”

1 Dkt. No. 1649 at 4 (internal quotations and citations omitted).

2 6. Exhibit 28 to the Pierce Declaration consists of DX645, an admitted trial exhibit
3 containing Apple iOS source code. The Court has already ordered that this exhibit may be sealed.
4 (Dkt. No. 1649 at 8.) As the Court held, source code is undoubtedly a trade secret. (*Id*; *see also*
5 Dkt. Nos. 1504, 1505 (previously filed declarations confirming confidentiality of Apple source
6 code).) Apple derives independent economic value from its source code and goes to
7 extraordinary lengths to maintain its secrecy and security. (Dkt. Nos. 1504 ¶¶ 5-8, 1505 ¶¶ 4-9.)
8 If Apple's source code were subject to disclosure and copying, it would amount to a transfer of
9 Apple's investment in developing the iOS source code from it to a competitor, providing an
10 unfair competitive advantage. (Dkt. No. 1505 ¶¶ 6-9.)

11 7. The above information is highly confidential and trade secret. If disclosed, the
12 information in the materials described above could be used by Apple's competitors to Apple's
13 disadvantage. The requested relief is necessary and narrowly tailored to protect the
14 confidentiality of this information.

15 I declare under penalty of perjury that the foregoing is true and correct. Executed this
16 24th day of September, 2012 at Dusseldorf, Germany.

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18 /s/ Cyndi Wheeler
19 Cyndi Wheeler
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