

1 HAROLD J. MCELHINNY (CA SBN 66781)
 hmcclhinny@mofo.com
 2 MICHAEL A. JACOBS (CA SBN 111664)
 mjacobs@mofo.com
 3 JENNIFER LEE TAYLOR (CA SBN 161368)
 jtaylor@mofo.com
 4 ALISON M. TUCHER (CA SBN 171363)
 atucher@mofo.com
 5 RICHARD S.J. HUNG (CA SBN 197425)
 rhung@mofo.com
 6 JASON R. BARTLETT (CA SBN 214530)
 jasonbartlett@mofo.com
 7 MORRISON & FOERSTER LLP
 425 Market Street
 8 San Francisco, California 94105-2482
 Telephone: (415) 268-7000
 9 Facsimile: (415) 268-7522

WILLIAM F. LEE
 william.lee@wilmerhale.com
 WILMER CUTLER PICKERING
 HALE AND DORR LLP
 60 State Street
 Boston, MA 02109
 Telephone: (617) 526-6000
 Facsimile: (617) 526-5000

MARK D. SELWYN (SBN 244180)
 mark.selwyn@wilmerhale.com
 WILMER CUTLER PICKERING
 HALE AND DORR LLP
 950 Page Mill Road
 Palo Alto, California 94304
 Telephone: (650) 858-6000
 Facsimile: (650) 858-6100

10
 11 Attorneys for Plaintiff and
 Counterclaim-Defendant APPLE INC.

12
 13
 14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA
 16 SAN JOSE DIVISION

17 APPLE INC.,
 18 Plaintiff,
 19 v.
 20 SAMSUNG ELECTRONICS CO., LTD., a
 Korean business entity; SAMSUNG
 21 ELECTRONICS AMERICA, INC., a New York
 corporation; SAMSUNG
 22 TELECOMMUNICATIONS AMERICA, LLC, a
 Delaware limited liability company,
 23 Defendants.
 24

Case No. 11-cv-01846-LHK (PSG)

**DECLARATION OF JASON R.
 BARTLETT IN SUPPORT OF
 APPLE'S OPPOSITION TO
 SAMSUNG'S MOTION TO
 ENFORCE VARIOUS COURT
 ORDERS**

25
 26 **SUBMITTED UNDER SEAL**
EXHIBITS B, D, F, G and H SUBMITTED UNDER SEAL
 27
 28

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

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

7 2. Apple finished producing all designer sketchbooks it could find relating to the
8 patents-in-suit by December 30, 2011. Apple discovered five additional sketchbooks belonging
9 to Apple designer Bart Andre after December 30, and immediately inspected the sketchbooks to
10 identify pages relevant to the asserted designs. Apple produced the twenty-two unredacted pages
11 of content it identified as relevant, as well as additional redacted pages and covers, on January 9,
12 2012. On information and belief, Apple has now produced sketchbooks relating to all design
13 patents-in-suit.

14 3. Apple disclosed on November 15, 2011 that it used a 2003 date cut-off in
15 connection with Industrial Designer document productions. A true and correct copy of portions
16 of Apple’s transparency disclosures is attached as Exhibit A, showing that individuals Samsung
17 knew to be industrial designers were given a search term list with a date limitation of “June 1,
18 2003 to April 30, 2011.” A true and correct copy of a letter sent by Apple to Samsung on January
19 5, 2012 summarizing Apple’s position on a number of discovery issues, including a summary of
20 the correspondence and discussions on sketchbook productions, is attached as Exhibit B.
21 Irrelevant information relating to a license agreement and internal code names for projects has
22 been redacted to avoid unnecessary issues in Apple’s motion to file under seal in both Exhibits A
23 and B.

24 4. Apple began producing computer-aided design (“CAD”) files during the
25 preliminary injunction phase of this case. On information and belief, Apple has produced all
26 CAD files, including all drafts, all sketches, and all design models that it has been able to find that
27 industrial designers created or had created when they were designing the products at issue. By
28 December 31, Apple had produced industrial design CAD files covering all announced

1 generations of iPhone, iPod touch, and iPad, as well as CAD relating to the 035 model that
2 Samsung requested. Attached as Exhibit C is a true and correct copy of an Apple CAD file that
3 was produced to Samsung bearing the Bates label APLNDC-NCC00000119.

4 5. Samsung notified Apple on January 4, 2012 that it was unable to open two CAD
5 files that Apple had produced. On January 7, 2012, Apple responded that while it was
6 investigating the issue, it would provide the CAD in PDF form. A true and correct copy of this e-
7 mail exchange is attached as Exhibit D.

8 6. Apple sent a letter to Samsung on January 13, 2012 explaining that the above-
9 referenced CAD files should be opened by choosing File→Open from the relevant software
10 application, as opposed to double-clicking the file icons. A true and correct copy of this letter is
11 attached as Exhibit E.

12 7. On January 9, 2012, Apple provided notice to Samsung that it would make its
13 design models available for inspection on January 13. A true and correct copy of this letter is
14 attached as Exhibit F. On information and belief, the production was unprecedented in Apple's
15 experience. More than a thousand models, plus assorted partial models and parts, were boxed,
16 covered in shrouds, and transported by a team of movers to a guarded hotel conference room for
17 Samsung's inspection. Apple included an enormous variety of models in the production. Some
18 models were only incrementally different from Apple's iconic products. Others were vastly
19 different mockups of products that only vaguely resemble anything Apple has released in the past.
20 Samsung attended this inspection and Apple agreed via e-mail to provide additional days for
21 inspection. A true and correct copy of this e-mail exchange is attached as Exhibit G.

22 8. Apple has canvassed individuals working on touch hardware, design, operating
23 system software, core driver software, and product design to identify any working prototypes, and
24 has asked that Samsung do the same. Samsung has not responded to this request. On information
25 and belief, many Apple engineers have old dead parts sitting in desk drawers, on shelves, or in
26 boxes. It would be an enormous burden to Apple to collect, transport, and present for inspection
27 non-working prototype pieces and parts.
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ATTESTATION OF E-FILED SIGNATURE

I, Michael A. Jacobs, am the ECF User whose ID and password are being used to file this Declaration. In compliance with General Order 45, X.B., I hereby attest that Jason R. Bartlett has concurred in this filing.

Dated: January 17, 2012

/s/ Michael A. Jacobs
Michael A. Jacobs