

# **EXHIBIT 10**

**FILED UNDER SEAL**

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*By Email* (rachelkassabian@quinnemanuel.com)

Rachel Herrick Kassabian  
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Re: *Apple v. Samsung*, Case No. 11-cv-1846-LHK (PSG) (N.D. Cal.)  
**CONFIDENTIAL—Attorneys' Eyes Only—Contains information subject to  
Protective Order**

Dear Rachel:

We write to follow up on our letters of December 19, 2011, December 26, 2011, and January 18, 2012 regarding Samsung's failure to produce relevant financial documents. This will also follow up on the discussions of counsel during Tuesday's deposition of Tim Sheppard on this topic.

Apple has repeatedly asked Samsung to produce comprehensive financial information, tied to the general ledger, that shows Samsung's U.S. and worldwide revenue, unit sales, selling prices, costs, and profits. Samsung previously represented that it had produced relevant financial information. Apple's review of the production, however, revealed that the production of financial documents was deficient and incomplete.

In its letter of January 18<sup>th</sup>, Apple again asked Samsung to produce financial documents (or identify relevant Bates numbers) by January 23<sup>rd</sup>, in advance of Tim Sheppard's January 24<sup>th</sup> deposition. Indeed, Apple even filed a motion to compel to require production by that date. Samsung promised Apple and the Court that it would produce the requested financial documents by February 3<sup>rd</sup>, and that it "ha[d] no intention of withholding relevant financial information."

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We learned in Mr. Sheppard's deposition that there are in fact a host of further responsive materials that have not yet been produced. All of the following should be produced **by February 3, 2012** consistent with Samsung's written representations to Apple and the Court:

Missing Document(s)	Sheppard Deposition Testimony Reference (exemplary page numbers)
Monthly, quarterly, and annual internal financial statements for STA, SEA, and SEC including balance sheets, income statements, and profit and loss statements for the years 2009-2011	28-29, 32-34
Monthly, quarterly and annual "flux analysis" documents for STA (and assuming common practices SEA and SEC) for the years 2009-2011.	28-29, 30-31
Monthly, quarterly and annual audited financial statements for STA, SEA, and SEC (including, where they exist, the audit letter or certification from KPMG and/or applicable auditor) for 2009 to 2011	14, 15, 33, 42
Monthly and quarterly balance sheet "flux analysis" documents for STA (and assuming common practices SEA and SEC) for 2009-2011.	33-34
Monthly close reports for STA and SEA for 2009 to 2011	36-37
A report tied to SAP reflecting U.S. wireless terminal sales for the company as a whole and by accused product (SKU) broken down by customer, and by month in quantity and dollars, from 2009 to the present.	42-44
Report of STA and SEA tablet U.S. sales in total and by accused product (SKU), broken down by customer and by month in quantity and dollars, from 2009 to the present	42-44
Documents, reports or communications from SEC showing STA's and SEA's consolidated profits or profit targets for the companies as a whole and for any classification that includes products as used for purposes of measuring performance in MBOs or other management incentives	93-95
Any documents reflecting MBO targets that refer to the profitability of any accused products	93-95
The STA Business Plan for 2012 (and all drafts)	54-55
Any document reflecting a forecast for sales of accused products as used to prepare or to implement the STA Business Plan for 2012.	54-55

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Missing Document(s)	Sheppard Deposition Testimony Reference (exemplary page numbers)
Monthly reports on performance against STA's Business Plan including any reports following the format of the STA Business Plan but showing <i>actual</i> and forecasted results, by month and by year from 2009 to the present	54-56, 60-61
"Pumi" reports or alternately-named equivalent reports (including all parts of such reports that reflect quarterly sales, unit volumes, revenue forecasts, and a calculation of profits by product) from 2009 to the present	74-79
Any communication that accompanies the transmission of "Pumi" reports from SEC to STA or SEA.	74-79
Spreadsheets with the unit, revenue and market share data that underlies the weekly sales reports presentations in the format of Exhibit No. 1246.	97-101
SEA and STA's U.S. tax returns for the years 2009 through 2011	122
All information submitted to IRS in compliance with STA and SEA's Advance Pricing Agreement (Exhibit No. 1247), including all "Annual Reports" and quarterly reports	115-17, 122-23
All information submitted to IRS as part renegotiation/renewal of Advance Pricing Agreement	116-121, 122-124
Complete STA and SEA chart of accounts (listing of the general ledger account in the SAP system for STA or SEA)	83-84
All reimbursement or cost-sharing agreements between SEC and STA or SEA, e.g. the agreement that provides for SEC's reimbursement of all R&D expenses incurred by or at STA	82-83
All documents or information provided to or submitted to SEC to obtain cost plus 5% reimbursement by SEC or R&D expenses from 2009 to the present.	82-83

The list above is not intended to be exhaustive, and nothing should be withheld merely because it is not included in the list.

**Availability of the Information from SAP Database:** In addition, where the above items are not already included in an existing report, Mr. Sheppard testified that the data Apple seeks is maintained and easily accessible via Samsung's accounting database, SAP. (*See, e.g., Sheppard Dep. 29:3-11, 31:16-32:13.*) Samsung has previously confirmed that it will

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produce information contained in this database. We therefore expect production on the time frame previously promised.

**Custodians:** Furthermore, Mr. Sheppard also named individuals who hold financial responsibilities at STA and SEC. They are likely custodians of responsive documents, but Samsung has not produced documents sourced to them. The individuals are:

- Esther Lee (18:20-18:24)
- Justin Lee (21:19-22:9)
- Joseph Cheong (8:25-9:12)
- Christina Shin and her team (39:16-21)
- Ji-Ung (23:14-18)

Please confirm that Samsung has searched or will search the materials in the possession of these custodians, and produce documents and materials responsive to Apple's requests from them.

To the extent Samsung does not remedy the issues set forth above by **February 3, 2012**, Apple will raise these issues at the upcoming lead counsel meeting on Monday, January 30, 2012. We hope there is no need for motion practice.

Sincerely,

*/s/ Erik J. Olson*

Erik J. Olson

cc: Samuel Maselli  
S. Calvin Walden  
Peter Kolovos