

# Exhibit A

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12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14 SAN JOSE DIVISION  
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16 APPLE INC., a California corporation,

17 Plaintiff,

18 v.

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

23 Defendants.  
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Case No. 11-cv-01846-LHK

**APPLE'S BRIEF IN RESPONSE TO  
SAMSUNG'S REQUEST FOR  
ADDITIONAL DEPOSITIONS**

1 Samsung's opposition to Apple's Motion to Compel Depositions of Samsung Declarants  
2 (Dkt. No. 2082) contains within it an improper, un-noticed motion by Samsung proposing relief  
3 never even raised by Samsung in meet and confer discussions. Apple waived reply on its own  
4 motion, but provides this pleading solely to address Samsung's improper cross motion.

5 Samsung's opposition requests new depositions of four declarants who submitted  
6 declarations with Apple's motions on September 21, five weeks ago. The request is untimely and  
7 in addition misstates or conceals important facts about the declarants.

8 First, in order to claim that Apple declarant Marylee Robinson was an improper, entirely  
9 new declarant, Samsung deliberately conceals from the Court that Ms. Robinson works at Invotex  
10 with Mr. Musika, a fact that is clearly reflected in her declaration. (Dkt. No. 1982-71 ¶ 3.) As set  
11 out in her declaration, she rather than Mr. Musika gave a declaration regarding utility patents,  
12 supplemental damages and interest calculations because Mr. Musika is seriously ill, which made  
13 him unavailable to Apple at the time of her declaration. (*Id.* ¶ 4.) Due to the same medical  
14 condition, Mr. Musika is not available to be deposed now. Further, as Ms. Robinson noted, her  
15 statements regarding the importance of the Apple's technology derive from Mr. Musika's March  
16 22, 2012 expert report. (*Id.* ¶¶ 9, 29, 30.) Ms. Robinson is not a "new" expert and the opinions  
17 that she set out about Apple's technology are not new.

18 Second, Samsung claims that the content of Apple's declarations from Dr. Winer and Mr.  
19 Schiller were new and allegedly in conflict with prior testimony. This is wrong. The declarations  
20 relied on information that was already in the trial record or disclosed previously to Samsung.  
21 (*Compare* Dkt. No. 1986 *and* Tr. 1502:3-1505:10, 1506:12-1507:9, 1510:1-23, 1518:20-1519:10,  
22 1519:14-1522:8, 1570:1-17, 1571:3-24; *See* Dkt No. 1985-0 ¶¶ 10-13 (citing trial testimony);  
23 *compare id.* ¶¶ 3-9, 14-15 *and* Tr. 596:23-597:15, 602:24-603:24, 612:6-613:17, 614:7-617:6,  
24 627:1-629:9, 639:8-640:3, 656:18-657:6, 658:17-659:1, 660:17-661:22, 663:20-665:24.) Notably,  
25 Samsung did not make either argument in the opposition brief it already filed.

26 Third, Samsung has no purpose for any depositions other than delay. Samsung had five  
27 weeks to decide if discovery was needed and it chose not to ask for any. Samsung has already  
28 filed its brief on permanent injunction issues and has no use for any testimony it would obtain in

1 depositions. Samsung has no sur-reply. Having made its strategic choice, Samsung should not be  
2 permitted to derail these proceedings to undo it.

3 Further depositions from Apple witnesses are not necessary and, in any case, Mr. Musika  
4 cannot appear for an additional deposition due to his illness, which was already disclosed.

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6 Dated: October 28, 2012

MORRISON & FOERSTER LLP

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By: /s/ Michael A. Jacobs

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Michael A. Jacobs

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Attorneys for Plaintiff  
APPLE INC.

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