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9 Attorneys for Plaintiff and  
Counterclaim-Defendant APPLE INC.

10  
11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA  
13 SAN JOSE DIVISION

14  
15 APPLE INC., a California corporation,

16 Plaintiff,

17 v.

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

21 Defendants.

Case No. 11-cv-01846-LHK

**APPLE'S EMERGENCY MOTION  
TO STAY ENFORCEMENT OF  
ORDER DENYING MOTION TO  
REMOVE INCORRECTLY FILED  
DOCUMENT (DKT. NO. 2167) AS TO  
DKT. NO. 1403**

1 Pursuant to Local Rule 7-11, Apple brings this emergency motion to request that this  
 2 Court stay the enforcement of its November 29, 2012 Order Re: Incorrectly Filed Documents  
 3 (Dkt. 2167) with regards to its denial of Dkt. No. 1403.

4 Dkt. No. 1403 is Apple's motion to remove Exhibits 6 and 7 to the Declaration of Joby  
 5 Martin in Support of Samsung's Daubert motion. Those exhibits mistakenly were filed publicly  
 6 as Dkt. Nos. 1385-1 and 1385-2 and subsequently locked down.

7 In denying Apple's motion to remove these two exhibits, the Court noted that it had  
 8 previously denied Apple's motion to seal these documents on August 9, 2012 (Dkt. No 1649).  
 9 The August 9 sealing order currently is on appeal at the Federal Circuit, however, and Apple's  
 10 appeal specifically includes the two documents at issue here. (*See* Fed. Cir. Case No. 12-1600,  
 11 Dkt. No. 42-1, at 27-28 (setting out in list of documents at issue in appeal Exhibits 6 and 7 to  
 12 Martin Declaration in Support of Samsung's Motion to Exclude Opinions of Certain of Apple's  
 13 Experts).)

14 Apple therefore requests that the Court continue its practice of staying the effect of orders  
 15 regarding sealing pending the appeal. (*See, e.g.*, Dkt. No. 2168 at 8, 9; Dkt. No. 2047 at 7.) As  
 16 the Court has previously held, once information is publicly filed, "what once may have been trade  
 17 secret no longer will be. Thus, the parties may be irreparably injured absent a stay. In contrast,  
 18 the public interest, which favors disclosure of relevant information in order to understand the  
 19 proceedings, is not unduly harmed by a short stay." (Dkt. No. 2168 at 9; *accord* 2047 at 7.)

20 Counsel for Samsung was unable to confirm its non-opposition to this Motion for Stay as  
 21 of the filing of this motion.<sup>1</sup>

22 Dated: November 29, 2012

MORRISON & FOERSTER LLP

23 By: /s/ Michael A. Jacobs  
 24 MICHAEL A. JACOBS

25 Attorneys for Plaintiff APPLE INC.

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 27 <sup>1</sup> Declaration of Nathan B. Sabri ISO Emergency Motion to Stay Enforcement of Order  
 28 Denying Motion to Remove Incorrectly Filed Document ¶ 2.