

1 QUINN EMANUEL URQUHART & SULLIVAN, LLP
Charles K. Verhoeven (Cal. Bar No. 170151)
2 charlesverhoeven@quinnemanuel.com
50 California Street, 22nd Floor
3 San Francisco, California 94111
Telephone: (415) 875-6600
4 Facsimile: (415) 875-6700

5 Kathleen M. Sullivan (Cal. Bar No. 242261)
kathleensullivan@quinnemanuel.com
6 Kevin P.B. Johnson (Cal. Bar No. 177129)
kevinjohnson@quinnemanuel.com
7 Victoria F. Maroulis (Cal. Bar No. 202603)
victoriamaroulis@quinnemanuel.com
8 555 Twin Dolphin Drive 5th Floor
Redwood Shores, California 94065
9 Telephone: (650) 801-5000
Facsimile: (650) 801-5100

10 Susan R. Estrich (Cal. Bar No. 124009)
susanestrich@quinnemanuel.com
11 Michael T. Zeller (Cal. Bar No. 196417)
michaelzeller@quinnemanuel.com
12 865 S. Figueroa St., 10th Floor
Los Angeles, California 90017
13 Telephone: (213) 443-3000
14 Facsimile: (213) 443-3100
Attorneys for SAMSUNG ELECTRONICS
15 CO., LTD., SAMSUNG ELECTRONICS
AMERICA, INC. and SAMSUNG
16 TELECOMMUNICATIONS AMERICA, LLC

17
18 UNITED STATES DISTRICT COURT

19 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

20 APPLE INC., a California corporation,

21 Plaintiff,

22 vs.

23 SAMSUNG ELECTRONICS CO., LTD., a
Korean business entity; SAMSUNG
24 ELECTRONICS AMERICA, INC., a New
York corporation; SAMSUNG
25 TELECOMMUNICATIONS AMERICA,
LLC, a Delaware limited liability company,

26 Defendants.
27

CASE NO. 11-cv-01846-LHK

**SAMSUNG’S MOTION TO STAY THE
EFFECT OF PORTIONS OF THE
COURT’S DECEMBER 10 ORDER
GRANTING IN PART AND DENYING IN
PART MOTIONS TO FILE UNDER SEAL
(DKT. NO. 2190)**

1 Pursuant to Civil Local Rule 7-11 and Federal Rule of Civil Procedure 62(c), Defendants
2 Samsung Electronics Co. Ltd., Samsung Electronics America, Inc., and Samsung
3 Telecommunications America, LLC (“STA”) (collectively, “Samsung”) hereby bring this motion
4 to request that the Court stay the effect of its December 10, 2012 Order Granting in Part and
5 Denying in Part Motions to File Documents Under Seal (Dkt. No. 2190) with regard to its denial
6 of Apple’s motion to file under seal:

- 7 1. Exhibit 2 to the Reply Declaration of Marylee Robinson in Support of Apple’s
8 Motions for a Permanent Injunction, for Damages Enhancement, for Supplemental
9 Damages, and for Prejudgment Interest (“Exhibit 2”).¹

10 In denying Apple’s motion to seal Exhibit 2, the Court noted, as it has previously, that it
11 does not find product-specific sales data sufficiently confidential to seal under the “compelling
12 reasons” standard. (Dkt. No. 2190 at 4-5; *see also, e.g.*, Dkt. No. 2168 at 8-9, 12-13; Dkt. No.
13 1649.) Since Samsung has appealed a previous order denying Samsung’s motion to seal similar
14 financial information, including product-specific sales and profit data, to the Federal Circuit, the
15 Court should stay the effect of its Order pending the Federal Circuit’s resolution of the appeal.
16 (*See* Dkt. Nos. 1649; 1722; and 2168 at 8-9; *see also Apple Inc. v. Samsung Elecs. Co., Ltd., et al.*,
17 Case No. 2012-1600, -1606 (Fed. Cir.) Dkt. Nos. 6 at 15-18; 39-1 at 2; and 46-1 at 8.)

18 “The outcome of the appeal of the Court’s August 9 order bears on the” Court’s December
19 10 Order. (Dkt. No. 2168 at 8.) The data included in Exhibit 2 is of the same type as, albeit not
20 identical to, the data included in documents at issue on appeal. Absent a stay, Samsung will be
21 irreparably harmed and “deprived of any remedy” should the Federal Circuit disagree with this
22 Court and find product-specific sales data sealable. (*Id.* at 9.) As the Court as recognized,
23 “[w]hen the information is publicly filed, what once may have been trade secret no longer will
24 be.” (*Id.*) The Court should thus stay the disclosure of Exhibit 2. *See* Fed. R. Civ. P. 62(c);
25

26
27 ¹ Apple does not oppose Samsung’s motion. (Declaration of Jon Steiger in Support of
28 Samsung’s Motion to Stay, Ex. 1.)

1 *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987); *Standard Havens Prods. v. Gencor Indus.*, 897
2 F.2d 511, 512 (Fed. Cir. 1990).

3 **Conclusion**

4 For the foregoing reasons, Samsung respectfully requests that the Court stay the disclosure
5 of Exhibit 2 pending the Federal Circuit resolution of Samsung’s appeal of the August 9 order.

6
7 DATED: December 18, 2012

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

8
9
10 By /s/ Victoria Maroulis
11 Charles K. Verhoeven
12 Kevin P.B. Johnson
13 Victoria F. Maroulis
14 Michael T. Zeller
15 Attorneys for SAMSUNG ELECTRONICS CO.,
16 LTD., SAMSUNG ELECTRONICS AMERICA,
17 INC., and SAMSUNG
18 TELECOMMUNICATIONS AMERICA, LLC
19
20
21
22
23
24
25
26
27
28