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10 Attorneys for Non-Party,
11 IDC RESEARCH, INC.

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

15 APPLE, INC., a California corporation,
16 Plaintiff,

17 v.

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

24 Defendants.

Case No.: 11-CV-01846-LHK

**DECLARATION OF CRAWFORD DEL
PRETE IN SUPPORT OF NON-PARTY
IDC RESEARCH, INC.'S
ADMINISTRATIVE MOTION TO SEAL**

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PUBLIC VERSION

1 I, Crawford Del Prete, declare as follows:

2 1. I am Executive Vice President, Worldwide Research Products and Chief Research
3 Officer for IDC Research, Inc. (d.b.a. International Data Corporation) ("IDC"). I work at the
4 company's headquarters in Framingham, Massachusetts. I submit this declaration in support of
5 IDC's Administrative Motion to Seal. I know the following to be true of my own personal
6 knowledge and, if called upon as a witness, could and would testify competently thereto.

7 2. IDC is a provider of market intelligence, advisory services, and events for the
8 information technology, telecommunications, and consumer technology markets. Among the
9 services provided, IDC distributes "trackers," which provide up-to-date market size, vendor share
10 and forecasts for hundreds of technology markets around the globe. More than 1,000 IDC analysts
11 provide global, regional, and local expertise on technology and industry opportunities and trends in
12 over 110 countries worldwide. For more than 48 years, IDC has provided strategic insights to help
13 our clients achieve their key business objectives.

14 3. IDC's "Worldwide Quarterly Mobile Phone Tracker" fills the demand for detailed
15 and timely information on the total mobile phone and smartphone markets for handset vendors,
16 software developers, service providers, component suppliers, and investors. It provides insightful
17 analysis through quarterly market share data by region.

18 4. The geographic scope of the Worldwide Quarterly Mobile Phone Tracker is:

- 19 a. Asia/Pacific (excluding Japan), available by 14 countries
- 20 b. Canada
- 21 c. Central and Eastern Europe, available by 6 countries
- 22 d. Japan
- 23 e. Latin America, available by 11 countries
- 24 f. Middle East and Africa, available by 10 countries
- 25 g. United States
- 26 h. Western Europe, available by 16 countries.

27 5. IDC's tracker data is developed using a rigorous methodology that includes well-
28 planned and well-coordinated local, regional, and worldwide data cross-checks, combined with a

1 proprietary advanced data consolidation and data analysis platforms managed by IDC's Worldwide
2 Tracker organization. Data sources used in the process of determining IDC's tracker numbers
3 include, but are not limited to,

- 4 a. In country local vendor interviews
- 5 b. Distribution data feeds
- 6 c. Worldwide and regional vendor guidance
- 7 d. ODM data
- 8 e. In-country local channel partner discussions
- 9 f. Import records
- 10 g. Feedback from component suppliers
- 11 h. Vendor briefings and public financial reports.

12 6. In short, each edition of IDC's Worldwide Quarterly Mobile Phone Tracker
13 represents extensive work product that resulted from countless hours of employee time.

14 7. It is extremely important to IDC's business that access to its trackers, including the
15 Worldwide Quarterly Mobile Phone Tracker, be limited to customers that have paid for it. Toward
16 that end, IDC includes standard language in each of its customer contracts that requires the
17 customer to obtain IDC's express written permission before the customer distributes, promotes, or
18 otherwise uses a tracker for any use external to the customer. A true and correct copy of IDC's
19 General Terms and Conditions, which contains that contractual obligation, is attached hereto as
20 Exhibit A.

21 8. Apple purchased from IDC a version of the "Worldwide Quarterly Mobile Phone
22 Tracker 2012Q2" (the "Tracker"), subject to the standard language requiring the customer to obtain
23 IDC's express written permission before the customer distributes, promotes, or otherwise uses a
24 tracker for any use external to the customer.

25 9. IDC has repeatedly advised the parties of the highly sensitive nature of the Tracker,
26 and has consistently withheld consent for both Apple and Samsung to disclose it publicly, either in a
27 public filing or at a trial or hearing in this litigation, or any other forum.

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1 10. IDC gave its permission for Apple to produce and use the Tracker in response to a
2 discovery request from Samsung in this litigation, on the express condition that the material be
3 marked “Highly Confidential—Attorney’s Eyes Only.” A true and correct copy of the “Fourth
4 Amended Content Use Agreement” entered into by Apple and IDC with respect to the Tracker is
5 attached hereto as Exhibit B.

6 11. Pursuant to the Agreement between Apple and IDC, IDC’s consent to use the
7 Tracker in the litigation is “**null and void** if at any time, for any reason, the IDC Content is no
8 longer afforded the protections set forth in the Protective Order” A true and correct copy of
9 the “Content Use Agreement” entered into by Apple and IDC with respect to the Tracker is attached
10 hereto as Exhibit C.

11 12. It is IDC’s understanding that Apple, consistent with its contractual obligations to
12 IDC, produced the Tracker to Samsung under the highest level of protection allowed under the
13 Protective Order.

14 13. I am informed that, rather than withdrawing the document following the Court’s
15 denial of its motion to file it under seal, which IDC has requested Samsung do, Samsung has
16 notified IDC that it now intends to file the Tracker as a public document.

17 14. Public disclosure of the Tracker, for example by its filing in this matter as a
18 publically available document, would materially and adversely impact IDC’s commercial interests
19 in at least two ways.

20 15. First, should these materials be made public, prospective customers would have no
21 need to purchase them from IDC. The current list price for the Tracker purchased from IDC by
22 Apple is over \$400,000. The data and analysis contained therein remains extremely current, and it
23 is therefore especially valuable to IDC and its potential customers.

24 16. Second, public disclosure of the Tracker would provide a windfall to IDC’s
25 competitors and thereby place IDC at a competitive disadvantage. Again, these materials represent
26 extensive work product that resulted from countless hours of employee time. Disclosure of the
27 Tracker would give this information away to IDC’s competitors, and thereby enable them to, at no
28 cost, benefit from IDC’s hard work and investment.

Exhibit A

**Confidential Exhibit
(Being Lodged
Under Seal)**

Exhibit B

**Confidential Exhibit
(Being Lodged
Under Seal)**

Exhibit C

**Confidential Exhibit
(Being Lodged
Under Seal)**