

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

5 Kathleen M. Sullivan (Bar No. 242261)  
kathleensullivan@quinnemanuel.com  
6 Kevin P.B. Johnson (Bar No. 177129)  
kevinjohnson@quinnemanuel.com  
7 Victoria F. Maroulis (Bar No. 202603)  
victoriamaroulis@quinnemanuel.com  
8 555 Twin Dolphin Drive, 5<sup>th</sup> Floor  
Redwood Shores, California 94065-2139  
9 Telephone: (650) 801-5000  
Facsimile: (650) 801-5100

10 Susan R. Estrich (Bar No. 124009)  
susanestrich@quinnemanuel.com  
11 Michael T. Zeller (Bar No. 196417)  
michaelzeller@quinnemanuel.com  
12 865 S. Figueroa St., 10th Floor  
13 Los Angeles, California 90017  
Telephone: (213) 443-3000  
14 Facsimile: (213) 443-3100

15 Attorneys for SAMSUNG ELECTRONICS  
16 CO., LTD., SAMSUNG ELECTRONICS  
AMERICA, INC. and SAMSUNG  
17 TELECOMMUNICATIONS AMERICA, LLC

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

27 Defendants.

CASE NO. 11-cv-01846-LHK

**SAMSUNG’S PARTIAL OPPOSITION TO  
IDC’S ADMINISTRATIVE MOTION TO  
SEAL**

Judge: Hon. Lucy H. Koh

1 Third-party IDC Research, Inc. (“IDC”) has filed an Administrative Motion to Seal Exhibit  
2 199 to the Declaration of Michael Wagner in Support of Samsung’s Opposition to Apple’s Motion  
3 for Permanent Injunction and Damages Enhancement (“Exhibit 199”), which consists of a  
4 worldwide quarterly mobile phone tracker for the second quarter of 2012. While Samsung does  
5 not oppose IDC’s request that the Court permit Samsung to file Exhibit 199 under seal, Samsung  
6 opposes any order that “require[s] Samsung to [] not file the tracker at all.” (Mot. at 3.)

7 *First*, contrary to IDC’s suggestion (Mot. at 4-5), Samsung’s proposed filing complies fully  
8 with the Protective Order. The Protective Order requires a party to file a motion to seal documents  
9 designated “Highly Confidential – Attorneys’ Eyes Only” and permits filing in the public record  
10 pursuant to a court order. (Dkt. No. 687 ¶ 15.) Samsung moved to seal Exhibit 199 pursuant to  
11 Civil Local Rule 79-5 (Dkt. No. 2064 at 2) and now intends to file the document publicly as it  
12 must pursuant to the Court’s Order denying Samsung’s motion. (Dkt. No. 2168 at 8.) As the  
13 Protective Order explicitly states, “[n]othing in this Order shall be construed to prejudice any  
14 Party’s right to use any Protected Material in court or in any court filing with consent of the  
15 Producing Party *or by order of the Court.*” (Dkt. No. 687 ¶ 4(c) (emphasis added).)

16 *Second*, as the Court has noted, Apple’s “extraordinary request” for permanent injunction  
17 had to “be evaluated in light of the full available record.” (Dkt. No. 2093 at 2.) Apple sought to  
18 enjoin Samsung from “making, using, offering to sell, selling within the United States, or  
19 importing into the United States” no fewer than 26 products, relying in part on market share data.  
20 (See Dkt. No. 1982 at 1-5; Dkt. No. 2197 at 1-2.) Samsung’s relied on the market share data  
21 included in Exhibit 199 in opposing Apple’s Permanent Injunction Motion. (Dkt. No. 2054 at 22.)  
22 The necessity of a complete record has not been obviated by the Court’s Order denying Apple’s  
23 motion because Apple has appealed that Order to the Federal Circuit. (Dkt. No. 2203.) Samsung  
24 is entitled to rely on the complete record in opposing Apple’s appeal.

25 For the foregoing reasons, Samsung respectfully requests that the Court permit Samsung to  
26 file Exhibit 199.

27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

DATED: December 26, 2012

QUINN EMANUEL URQUHART & SULLIVAN, LLP

By           /s/ Victoria F. Maroulis            
Victoria F. Maroulis  
Attorney for SAMSUNG ELECTRONICS  
CO., LTD., SAMSUNG ELECTRONICS  
AMERICA, INC. and SAMSUNG  
TELECOMMUNICATIONS AMERICA, LLC