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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 (PSG)

**DECLARATION OF MICHAEL A.
JACOBS IN SUPPORT OF APPLE'S
ADMINISTRATIVE MOTION
SEEKING AN APRIL 3 CASE
MANAGEMENT CONFERENCE**

1 I, Michael A. Jacobs, do hereby declare as follows:

2 1. I am a partner at the law firm of Morrison & Foerster LLP, attorneys of record in
3 this action for plaintiff Apple Inc. (“Apple”). I submit this declaration in support of Apple’s
4 Administrative Motion Seeking an April 3 Case Management Conference. Unless otherwise
5 indicated, I have personal knowledge of the matters set forth below. If called as a witness I could
6 and would testify competently as follows.

7 2. On March 8 and 11, I held telephone conferences with Samsung’s counsel to meet
8 and confer about appropriate proceedings in light of the Court’s March 1, 2013 order. We have
9 also exchanged multiple e-mails over the same period to address the same topics. During these
10 discussions, I conveyed Apple’s belief that the March 1 Order re Damages is not itself appealable.
11 Based on a recent e-mail in which Samsung informed Apple that it will “not be seeking relief
12 from Court under 1292(b),” Samsung apparently agrees. I further conveyed Apple’s belief that,
13 were the Court to certify the new trial order for interlocutory review, the likely result would be a
14 remand without a substantive decision, thereby delaying a conclusion to these proceedings. The
15 parties have exchanged cases on appealability and Apple has provided a draft of a written
16 statement reflecting its analysis.

17 3. On Saturday, March 16, Samsung indicated that it will file a motion that seeks
18 entry of partial judgment under Rule 54(b). Apple believes that attempting appellate review
19 through that vehicle would also likely lead only to a remand with no substantive decision, and
20 hence will oppose such a motion. Apple intends to file its response as quickly as possible without
21 waiting for the expiration of normal motion deadlines.

22 4. In the course of the meet and confer process, Apple asked Samsung to agree to
23 request a prompt case management conference and provided to Samsung a draft of a joint
24 statement as contemplated by local Rule 16-10(d). Samsung declined a conference until no
25 earlier than late April, declined to file a joint statement, and declined to discuss a schedule for a
26 new trial or how a new trial will proceed, even assuming that appellate review is not possible,
27 labeling all such discussions “premature.”
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5. Based on our review of publicly available information, we have determined that since the completion of the trial in this case, Samsung introduced the Galaxy S II (Net10 and Straight Talk) smartphone that is depicted in Apple's Administrative Motion.

Dated: March 18, 2013

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