

1 HAROLD J. MCELHINNY (CA SBN 66781)
hmcclhinny@mofo.com
2 MICHAEL A. JACOBS (CA SBN 111664)
mjacobs@mofo.com
3 RACHEL KREVANS (CA SBN 116421)
rkrevans@mofo.com
4 JENNIFER LEE TAYLOR (CA SBN 161368)
jtaylor@mofo.com
5 MORRISON & FOERSTER LLP
425 Market Street
6 San Francisco, California 94105-2482
Telephone: (415) 268-7000
7 Facsimile: (415) 268-7522

WILLIAM F. LEE
william.lee@wilmerhale.com
WILMER CUTLER PICKERING
HALE AND DORR LLP
60 State Street
Boston, MA 02109
Telephone: (617) 526-6000
Facsimile: (617) 526-5000

MARK D. SELWYN (SBN 244180)
mark.selwyn@wilmerhale.com
WILMER CUTLER PICKERING
HALE AND DORR LLP
950 Page Mill Road
Palo Alto, California 94304
Telephone: (650) 858-6000
Facsimile: (650) 858-6100

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9 Attorneys for Plaintiff and
Counterclaim-Defendant APPLE INC.

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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
19 Korean business entity; SAMSUNG
ELECTRONICS AMERICA, INC., a New York
20 corporation; SAMSUNG
TELECOMMUNICATIONS AMERICA, LLC, a
21 Delaware limited liability company,
22 Defendants.

Case No. 11-cv-01846-LHK (PSG)

**APPLE’S MOTION FOR LEAVE
TO FILE MOTION FOR
RECONSIDERATION OF ORDER
GRANTING NEW DAMAGES
TRIAL ON GALAXY SII AT&T
AND INFUSE 4G**

1 Contemporaneous with this filing, Apple has opposed Samsung's request for entry of
2 judgment pursuant to Rule 54(b). If despite that opposition, the Court intends to enter a judgment
3 pursuant to Rule 54(b), Apple moves pursuant to Civil Local Rule 7-9(a) for leave to file a
4 motion for partial reconsideration of the Court's March 1 Order (Dkt. 2271) and for reinstatement
5 of the jury award of \$85,287,330 for the Galaxy S II AT&T and Infuse 4G, two of the Samsung
6 products for which the Court ordered a new trial on damages. Apple seeks leave to move for
7 partial reconsideration pursuant to Local Rule 7-9(b)(3), for the reasons explained below.

8 The Court ordered a new trial because it believed that at least some sales of these products
9 came before Apple's April 15, 2011 complaint, which the Court held gave Samsung notice of its
10 infringement of the D'677 Patent. (Dkt. 2271 at 22:23-24.) In fact, Samsung stipulated in the
11 pretrial order that all sales of the Galaxy S II and Infuse 4G began *after* April 15, 2011. (Dkt.
12 1189 at 11-12.) As the Court recognized, notice in the complaint gave Apple a right to recover
13 Samsung's profits from sales of these two products after this date. Apple's opposition at pages 15
14 to 17 includes further discussion of the basis for and undisputed facts supporting Apple's request.
15 To the extent that the Court now confirms the jury's verdict for the Galaxy S II AT&T and Infuse
16 4G pursuant to this motion, supplemental damages should also be added for the Galaxy S II
17 AT&T in light of the March 22, 2013 Declaration of Corey Kerstetter, confirming that additional
18 sales of a version of this model occurred after the jury entered its verdict. (Dkt. No. 2286 ¶¶ 4-5.)
19 Reconsideration of the new trial on these products is warranted under Civil Local Rule 7-9(b)(3)
20 due to the error regarding the date of first sale for these products in light of stipulated facts.

21 Accordingly, Apple respectfully requests that the Court grant Apple leave to file a motion
22 for reconsideration and that the Court reconsider its March 1 Order as to these two products,
23 reinstate the jury award of \$40,494,356 for the Galaxy SII AT&T, and \$44,792,974 for the Infuse
24 4G and calculate supplemental damages for the Galaxy S II AT&T.

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Dated: March 26, 2013

MORRISON & FOERSTER LLP

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

Attorneys for Plaintiff
APPLE INC.