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Samsung Electronics America, Inc., and Samsung
14 Telecommunications America, LLC

15 UNITED STATES DISTRICT COURT

16 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

17 APPLE INC., a California corporation,

18 Plaintiff,

19 vs.

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

24 Defendants.
25

CASE NO. 11-cv-01846-LHK

**SAMSUNG ENTITIES' ANSWER,
AFFIRMATIVE DEFENSES, AND
COUNTERCLAIMS TO APPLE INC.'S
AMENDED COMPLAINT; AND
DEMAND FOR JURY TRIAL**

1 **I. ANSWER**

2 Defendants Samsung Electronics Co., Ltd. (“SEC”), Samsung Electronics America, Inc.
3 (“SEA”), and Samsung Telecommunications America, LLC (“STA”) (collectively, the “Samsung
4 Defendants”) by and through their undersigned counsel, in response to the Amended Complaint of
5 Apple Inc. (“Apple”) deny Apple’s allegations of copying, causing confusion, and all other forms
6 of infringement, dilution, unjust enrichment, and unfair competition and answers Apple’s
7 Amended Complaint (“Complaint”) as follows:

8 **THE NATURE OF THE ACTION**

9 1. The Samsung Defendants deny knowledge or information sufficient to form a
10 belief as to the truth or falsity of the allegations in paragraph 1 of the Complaint and therefore
11 deny them.

12 2. The Samsung Defendants deny knowledge or information sufficient to form a
13 belief as to the truth or falsity of the allegations in paragraph 2 of the Complaint and therefore
14 deny them.

15 3. The Samsung Defendants deny knowledge or information sufficient to form a
16 belief as to the truth or falsity of the allegations in paragraph 3 of the Complaint and therefore
17 deny them.

18 4. The Samsung Defendants admit that more than a year ago the first U.S. Galaxy
19 phones were announced and that its Galaxy phones and tablets run on Google’s Android operating
20 platform. The Samsung Defendants also admit that Apple attached to its Complaint some utility
21 and design patents and some trademark registrations that appear to be issued by the United States
22 Patent and Trademark Office. The Samsung Defendants deny knowledge or information
23 sufficient to form a belief as to the truth or falsity of the allegations in paragraph 4 of the
24 Complaint regarding Apple’s other competitors, and therefore deny them. The Samsung
25 Defendants deny the remaining allegations of paragraph 4 of the Complaint.

26 5. The Samsung Defendants deny that they have engaged in any illegal conduct
27 alleged in the Complaint. The Samsung Defendants admit that through this action, Apple is
28 attempting to stop the Samsung Defendants from competing with it and to obtain money from

1 them. The Samsung Defendants deny knowledge or information sufficient to form a belief as to
2 the truth or falsity of the remaining allegations of paragraph 5 of the Complaint, and therefore
3 deny them.

4 **THE PARTIES**

5 6. The Samsung Defendants deny knowledge or information sufficient to form a
6 belief as to the truth or falsity of the allegations of paragraph 6 of the Complaint, and therefore
7 deny them.

8 7. The Samsung Defendants deny that SEC's principal offices are at the location
9 specified in paragraph 7 of the Complaint. The Samsung Defendants admit that SEC is South
10 Korea's largest company and one of Asia's largest electronics companies. The Samsung
11 Defendants admit that SEC designs, manufactures and provides to the U.S. and world markets a
12 wide range of products, including consumer electronics, computer components, and mobile and
13 entertainment products.

14 8. The Samsung Defendants admit that SEA is a New York corporation, was formed
15 in 1978, and is a subsidiary of SEC. The Samsung Defendants admit that SEA's principal offices
16 are located at 85 Challenger Road, Ridgefield Park, NJ, 07660. The Samsung Defendants admit
17 that SEA offers a full range of award-winning consumer electronics and IT products including, but
18 not limited to, televisions, Blu-ray disc players, digital cameras and camcorders, certain memory
19 storage devices, portable audio devices, printers and monitors. The Samsung Defendants admit
20 that Samsung Telecommunications America, LLC ("STA"), Samsung Electronics Canada, and
21 Samsung Electronics Mexico S.A. de C.V. are affiliates of SEA. The Samsung Defendants deny
22 the remaining allegations of paragraph 8 of the Complaint.

23 9. The Samsung Defendants admit that STA was formed in 1996 and is a subsidiary
24 of SEC. The Samsung Defendants admit that STA researches, develops, markets, sells and offers
25 for sale a variety of personal and business communications products throughout North America,
26 including handheld wireless phones, wireless communications infrastructure systems, fiber optics
27 and enterprise communication systems. The Samsung Defendants deny that the address listed for
28 STA in paragraph 9 of the Complaint is correct.

1 **JURISDICTION**

2 10. The Samsung Defendants admit that the Complaint purports to allege claims over
3 which this Court has subject matter jurisdiction under 15 U.S.C. § 1121, 28 U.S.C. § 1331, 28
4 U.S.C. § 1338(a), 28 U.S.C. § 1338(b), and 28 U.S.C. § 1367. Except as expressly admitted, the
5 Samsung Defendants deny the remaining allegations of paragraph 10 of the Complaint.

6 11. The Samsung Defendants will not challenge personal jurisdiction over them by this
7 Court for purposes of this action. Except as expressly admitted, the Samsung Defendants deny
8 the remaining allegations of paragraph 11 of the Complaint.

9 **VENUE AND INTRADISTRICT ASSIGNMENT**

10 12. The Samsung Defendants will not contest the propriety of venue or intradistrict
11 assignment. The Samsung Defendants admit that pursuant to Civil L.R. 3-2(c), Intellectual
12 Property Actions are assigned on a district-wide basis and admits, on information and belief, that
13 Apple’s principal place of business is within this District. Except as expressly admitted, the
14 Samsung Defendants deny the remaining allegations of paragraph 12 of the Complaint.

15 **BACKGROUND**

16 13. The Samsung Defendants deny knowledge or information sufficient to form a
17 belief as to the truth or falsity of the allegations in paragraph 13 of the Complaint and therefore
18 deny them.

19 14. The Samsung Defendants deny knowledge or information sufficient to form a
20 belief as to the truth or falsity of the allegations in paragraph 14 of the Complaint and therefore
21 deny them.

22 15. The Samsung Defendants deny knowledge or information sufficient to form a
23 belief as to the truth or falsity of the remaining allegations in paragraph 15 of the Complaint and
24 therefore deny them.

25 16. The Samsung Defendants deny knowledge or information sufficient to form a
26 belief as to the truth or falsity of the allegations in paragraph 16 of the Complaint and therefore
27 deny them.

1 17. The Samsung Defendants deny knowledge or information sufficient to form a
2 belief as to the truth or falsity of the allegations in paragraph 17 of the Complaint and therefore
3 deny them.

4 18. The Samsung Defendants deny knowledge or information sufficient to form a
5 belief as to the truth or falsity of the allegations in paragraph 18 of the Complaint and therefore
6 deny them.

7 19. The Samsung Defendants deny knowledge or information sufficient to form a
8 belief as to the truth or falsity of the allegations in paragraph 19 of the Complaint and therefore
9 deny them.

10 20. The Samsung Defendants deny knowledge or information sufficient to form a
11 belief as to the truth or falsity of the allegations in paragraph 20 of the Complaint and therefore
12 deny them.

13 21. The Samsung Defendants deny knowledge or information sufficient to form a
14 belief as to the truth or falsity of the allegations in paragraph 21 of the Complaint and therefore
15 deny them.

16 22. The Samsung Defendants deny knowledge or information sufficient to form a
17 belief as to the truth or falsity of the allegations in paragraph 22 of the Complaint and therefore
18 deny them.

19 23. The Samsung Defendants deny knowledge or information sufficient to form a
20 belief as to the truth or falsity of the allegations in paragraph 23 of the Complaint and therefore
21 deny them.

22 24. The Samsung Defendants deny knowledge or information sufficient to form a
23 belief as to the truth or falsity of the allegations in paragraph 24 of the Complaint and therefore
24 deny them.

25 25. The Samsung Defendants deny knowledge or information sufficient to form a
26 belief as to the truth or falsity of the allegations in paragraph 25 of the Complaint and therefore
27 deny them.

28

1 **Apple's Alleged Utility Patents**

2 26. The Samsung Defendants admit that Apple has been issued some utility patents.
3 The Samsung Defendants deny knowledge or information sufficient to form a belief as to the truth
4 or falsity of the remaining allegations in paragraph 26 of the Complaint and therefore deny them.

5 27. The Samsung Defendants admit that Apple has been issued some utility patents.
6 The Samsung Defendants deny knowledge or information sufficient to form a belief as to the truth
7 or falsity of the remaining allegations in paragraph 27 of the Complaint and therefore deny them.

8 28. The Samsung Defendants admit that Apple purports to have attached as Exhibits 1-
9 8 to its Complaint U.S. Patent Nos. 7,812,828 (“828 Patent”), 6,493,002 (“002 Patent”),
10 7,469,381 (“381 Patent”), 7,844,915 (“915 Patent”), 7,853,891 (“891 Patent”), 7,663,607 (“607
11 Patent”), 7,864,163 (“163 Patent”), and 7,920,129 (“129 Patent”). The Samsung Defendants
12 deny knowledge or information sufficient to form a belief as to the truth or falsity of the remaining
13 allegations in paragraph 28 of the Complaint and therefore deny them.

14 **Apple's Alleged Design Patents**

15 29. The Samsung Defendants admit that Apple purports to have attached to its
16 Complaint U.S. Design Patent Nos. D627,790 (“D790 Patent”), D617,334 (“D334 Patent”),
17 D604,305 (“D305 Patent”), D593,087 (“D087 Patent”), D618,677 (“D677 Patent”), D622,270
18 (“D270 Patent”), and D504,889 (“D889 Patent”). The Samsung Defendants deny knowledge or
19 information sufficient to form a belief as to the truth or falsity of the remaining allegations in
20 paragraph 29 of the Complaint and therefore deny them.

21 **Apple's Alleged Trade Dress**

22 30. Denied on the grounds that the allegations of Paragraph 30 state a legal conclusion
23 to which no response is necessary.

24 31. The Samsung Defendants deny knowledge or information sufficient to form a
25 belief as to the truth or falsity of the allegations in paragraph 31 of the Complaint, particularly
26 given the vagueness of the reference to “[t]he iPhone design,” and therefore deny them.

27 32. The Samsung Defendants admit that no iPhone has included a physical keyboard.
28 The Samsung Defendants aver that the appearance of “the iPhone,” whichever version is being

1 referred to, speaks for itself and deny the allegations of paragraph 32 to the extent they do not
2 accurately describe that appearance. The Samsung Defendants deny that the shape and
3 appearance described in paragraph 32 of the Complaint is distinctive. The Samsung Defendants
4 deny knowledge or information sufficient to form a belief as to the truth or falsity of the remaining
5 allegations in paragraph 32 of the Complaint and therefore deny them.

6 33. The Samsung Defendants deny the implication that the legal test for functionality
7 requires that “the overall product design is [] required to achieve any particular function” or that
8 “competitors [not] have numerous options from which they can choose for their own product
9 designs” and deny the remaining allegations of paragraph 33.

10 34. The Samsung Defendants deny that “the iPhone product design” described in the
11 Complaint immediately became closely associated with Apple. The Samsung Defendants deny
12 knowledge or information sufficient to form a belief as to the truth or falsity of the remaining
13 allegations in paragraph 34 of the Complaint and therefore deny them.

14 35. The Samsung Defendants deny that the “iPhone 3G product design” immediately
15 became closely associated with Apple. The Samsung Defendants deny knowledge or
16 information sufficient to form a belief as to the truth or falsity of the remaining allegations in
17 paragraph 35 of the Complaint and therefore deny them.

18 36. The Samsung Defendants deny the implication that the legal test for functionality
19 requires that “the overall product design is [] dictated by function” or that “competitors [not] have
20 many alternative product designs available to them” and deny the remaining allegations of
21 paragraph 36.

22 37. The Samsung Defendants admit that the appearance of the iPhone 4 is different
23 from previous versions of the iPhone. The Samsung Defendants aver that the appearances of the
24 iPhone products speak for themselves and deny the allegations of paragraph 37 to the extent they
25 do not accurately describe and compare the appearances of those products. The Samsung
26 Defendants deny that the iPhone 4 product design described in the Complaint immediately became
27 closely associated with Apple. The Samsung Defendants deny knowledge or information
28

1 sufficient to form a belief as to the truth or falsity of the remaining allegations in paragraph 37 of
2 the Complaint and therefore deny them.

3 38. The Samsung Defendants deny the implication that the legal test for functionality
4 requires that the “overall product design is [] required to achieve a[] particular function” or that
5 there “are [not] numerous alternatives available to Apple’s competitors for their product designs”
6 and deny the remaining allegations of paragraph 38.

7 39. The Samsung Defendants aver that the various packages and packaging materials
8 of the iPhone products speak for themselves, and deny the allegations of paragraph 39 to the
9 extent they do not accurately describe their appearance. The Samsung Defendants deny
10 knowledge or information sufficient to form a belief as to the truth or falsity of the remaining
11 allegations in paragraph 39 of the Complaint and therefore deny them.

12 40. The Samsung Defendants deny the implication that the legal test for functionality
13 requires that the “overall product design is [] required to achieve a[] particular function” or that
14 competitors not have “alternative packaging options available” and deny the remaining allegations
15 of paragraph 40.

16 41. The Samsung Defendants aver that the appearances of the iPod touch products
17 speak for themselves and deny the allegations of paragraph 41 to the extent they do not accurately
18 describe the appearance of those products. The Samsung Defendants deny that the combination
19 of elements described in paragraph 41 of the Complaint is “innovative.” The Samsung
20 Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of
21 the remaining allegations in paragraph 41 of the Complaint and therefore deny them.

22 42. The Samsung Defendants deny that the iPod Touch design described in the
23 Complaint immediately became closely associated with Apple. The Samsung Defendants deny
24 knowledge or information sufficient to form a belief as to the truth or falsity of the remaining
25 allegations in paragraph 42 of the Complaint and therefore deny them.

26 43. The Samsung Defendants deny the implication that the legal test for functionality
27 requires that “the overall product design is [] dictated by function” or that alternative product
28 designs are not available and deny the remaining allegations of paragraph 43.

1 **Alleged Trade Dress at Issue**

2 57. The Samsung Defendants admit that the Complaint purports to refer to the elements
3 listed in paragraph 57 as the “Apple iPhone Trade Dress.” The Samsung Defendants deny that
4 the elements listed in paragraph 57 of the Complaint constitute protectable trade dress. The
5 Samsung Defendants deny knowledge or information sufficient to form a belief as to the truth or
6 falsity of the remaining allegations in paragraph 57 of the Complaint and therefore deny them.

7 58. The Samsung Defendants admit that the Complaint purports to refer to the elements
8 listed in paragraph 57 as the “Apple iPhone Trade Dress.” The Samsung Defendants deny that
9 the elements listed in paragraph 57 of the Complaint constitute protectable trade dress. The
10 Samsung Defendants deny knowledge or information sufficient to form a belief as to the truth or
11 falsity of the remaining allegations in paragraph 58 of the Complaint and therefore deny them.

12 59. The Samsung Defendants admit that the Complaint purports to refer to the elements
13 listed in paragraph 59 as the “Apple iPhone 3G Trade Dress.” The Samsung Defendants deny
14 that the elements listed in paragraph 59 of the Complaint constitute protectable trade dress. The
15 Samsung Defendants deny knowledge or information sufficient to form a belief as to the truth or
16 falsity of the remaining allegations in paragraph 59 of the Complaint and therefore deny them.

17 60. The Samsung Defendants admit that the Complaint purports to refer to the elements
18 listed in paragraph 59 as the “Apple iPhone 3G Trade Dress.” The Samsung Defendants deny
19 that the elements listed in paragraph 59 of the Complaint constitute protectable trade dress. The
20 Samsung Defendants deny knowledge or information sufficient to form a belief as to the truth or
21 falsity of the remaining allegations in paragraph 60 of the Complaint and therefore deny them.

22 61. The Samsung Defendants admit that the Complaint purports to refer to the elements
23 listed in paragraph 61 as the “Apple iPhone 4 Trade Dress.” The Samsung Defendants deny that
24 the elements listed in paragraph 61 of the Complaint constitute protectable trade dress. The
25 Samsung Defendants deny knowledge or information sufficient to form a belief as to the truth or
26 falsity of the remaining allegations in paragraph 61 of the Complaint and therefore deny them.

27 62. The Samsung Defendants admit that the Complaint purports to refer to the elements
28 listed in paragraph 61 as the “Apple iPhone 4 Trade Dress.” The Samsung Defendants deny that

1 the elements listed in paragraph 61 of the Complaint constitute protectable trade dress. The
2 Samsung Defendants deny knowledge or information sufficient to form a belief as to the truth or
3 falsity of the remaining allegations in paragraph 62 of the Complaint and therefore deny them.

4 63. The Samsung Defendants deny the Complaint purports to refer to the elements
5 listed in paragraph 63 as the “Apple iPhone Trade Dress.” The Samsung Defendants deny that
6 the elements listed in paragraph 63 of the Complaint constitute protectable trade dress. The
7 Samsung Defendants also aver that the elements listed as the “Apple iPhone Trade Dress” in
8 paragraph 63 of the Complaint are not identical to the elements listed as the “Apple iPhone Trade
9 Dress” in paragraph 57 of the Complaint, such that the Complaint sets forth two different
10 definitions of “Apple iPhone Trade Dress.” The Samsung Defendants deny knowledge or
11 information sufficient to form a belief as to the truth or falsity of the remaining allegations in
12 paragraph 63 of the Complaint and therefore deny them.

13 64. The Samsung Defendants admit that the Complaint purports to refer to the elements
14 listed in paragraph 63 as the “Apple iPhone Trade Dress.” The Samsung Defendants deny that
15 the elements listed in paragraph 63 of the Complaint constitute protectable trade dress. The
16 Samsung Defendants deny knowledge or information sufficient to form a belief as to the truth or
17 falsity of the allegations in paragraph 64 of the Complaint and therefore deny them.

18 65. The Samsung Defendants admit that the Complaint purports to refer to the elements
19 listed in paragraph 65 as the “Apple iPad Trade Dress.” The Samsung Defendants deny that the
20 elements listed in paragraph 65 of the Complaint constitute protectable trade dress. The
21 Samsung Defendants deny knowledge or information sufficient to form a belief as to the truth or
22 falsity of the remaining allegations in paragraph 65 of the Complaint and therefore deny them.

23 66. The Samsung Defendants admit that the Complaint purports to refer to the elements
24 listed in paragraph 65 as the “Apple iPad Trade Dress.” The Samsung Defendants deny that the
25 elements listed in paragraph 65 of the Complaint constitute protectable trade dress. The
26 Samsung Defendants deny knowledge or information sufficient to form a belief as to the truth or
27 falsity of the allegations in paragraph 66 of the Complaint and therefore deny them.

28

1 73. The Samsung Defendants admit that what Apple purports to be a true and correct
2 copy of U.S. Registration No. 3,889,685 is attached to the Complaint as Exhibit 26. The
3 Samsung Defendants aver that U.S. Registration No. 3,889,685 speaks for itself and deny the
4 allegations of paragraph 73 to the extent they do not accurately describe that registration.

5 74. The Samsung Defendants admit that what Apple purports to be a true and correct
6 copy of U.S. Registration No. 3,886,169 is attached to the Complaint as Exhibit 27. The
7 Samsung Defendants aver that U.S. Registration No. 3,886,169 speaks for itself and deny the
8 allegations of paragraph 74 to the extent they do not accurately describe that registration.

9 75. The Samsung Defendants admit that what Apple purports to be a true and correct
10 copy of U.S. Registration No. 3,886,197 is attached to the Complaint as Exhibit 28. The
11 Samsung Defendants aver that U.S. Registration No. 3,886,197 speaks for itself and deny the
12 allegations of paragraph 75 to the extent they do not accurately describe that registration.

13 76. The Samsung Defendants admit that the Complaint purports to refer collectively to
14 the icons displayed in paragraphs 70-75 of the Complaint as Apple’s “Registered Icon
15 Trademarks.” The Samsung Defendants deny knowledge or information sufficient to form a
16 belief as to the truth or falsity of the remaining allegations in paragraph 76 of the Complaint and
17 therefore deny them.

18 77. The Samsung Defendants admit that what Apple purports to be a true and correct
19 copy of U.S. Application Serial No. 85/041,463 is attached to the Complaint as Exhibit 29. The
20 Samsung Defendants admit that the Complaint purports to refer to the subject matter covered by
21 U.S. Application Serial No. 85/041,463 as the “Purple iTunes Store Trademark.” The Samsung
22 Defendants aver that U.S. Application Serial No. 85/041,463 speaks for itself and deny the
23 allegations of paragraph 77 to the extent they do not accurately describe the subject matter covered
24 by that application. The Samsung Defendants deny knowledge or information sufficient to form
25 a belief as to the truth or falsity of the remaining allegations in paragraph 77 of the Complaint and
26 therefore deny them.

27 78. The Samsung Defendants admit that what Apple purports to be a true and correct
28 copy of U.S. Registration No. 2,935,038 is attached to the Complaint as Exhibit 30, which reflects

1 a registration date of March 22, 2005. The Samsung Defendants admit that the Complaint
2 purports to refer to the subject matter covered by U.S. Registration No. 2,935,038 as the “iTunes
3 Eighth Note and CD Design Trademark.” The Samsung Defendants aver that U.S. Registration
4 No. 2,935,038 speaks for itself and deny the allegations of paragraph 78 to the extent they do not
5 accurately describe the subject matter covered by that registration. The Samsung Defendants
6 deny knowledge or information sufficient to form a belief as to the truth or falsity of the remaining
7 allegations in paragraph 78 of the Complaint and therefore deny them.

8 **Samsung’s Accused Products**

9 79. Denied.

10 80. The Samsung Defendants deny that they copied the alleged trade dress described in
11 the Complaint. The Samsung Defendants further deny that what the Complaint purports to
12 define as the Apple iPhone Trade Dress is “distinctive.” The Samsung Defendants admit that
13 SEC announced the Samsung F700 in February 2007 and that that product was released in Europe
14 in November of 2007. The Samsung Defendants deny knowledge or information sufficient to
15 form a belief as to the truth or falsity of the remaining allegations in paragraph 80 of the
16 Complaint and therefore deny them.

17 81. The Samsung Defendants deny that what the Complaint purports to define as the
18 “Apple iPhone 3G Trade Dress” is distinctive. The Samsung Defendants deny that they copied
19 what the Complaint purports to define as the “Apple iPhone 3G Trade Dress.” The Samsung
20 Defendants admit that the Galaxy i9000 was announced in Seoul, Korea in March of 2010.
21 The Samsung Defendants deny knowledge or information sufficient to form a belief as to the truth
22 or falsity of the remaining allegations in paragraph 81 of the Complaint and therefore deny them.

23 82. The Samsung Defendants deny that what the Complaint purports to define as the
24 “Apple iPad Trade Dress” is distinctive. The Samsung Defendants deny that they copied what
25 the Complaint purports to define as the “Apple iPad Trade Dress.” The Samsung Defendants
26 aver that the Samsung Galaxy Tab speaks for itself, and deny the allegations of paragraph 82 to
27 the extent they do not accurately describe that product. The Samsung Defendants deny

28

1 knowledge or information sufficient to form a belief as to the truth or falsity of the remaining
2 allegations in paragraph 82 of the Complaint and therefore deny them.

3 83. The Samsung Defendants deny that what the Complaint purports to define as the
4 “Apple iPhone 4 Trade Dress” is distinctive. The Samsung Defendants deny that the Samsung
5 Galaxy S 2 phone copies what the Complaint purports to define as the “Apple iPhone/iPhone
6 3G/iPhone 4 Trade Dress.” The Samsung Defendants deny knowledge or information sufficient
7 to form a belief as to the truth or falsity of the remaining allegations in paragraph 83 of the
8 Complaint and therefore deny them.

9 84. The Samsung Defendants admit that the Best Buy in Union Square in New York
10 City began selling 16 GB versions of the Galaxy Tab 10.1 on June 8, 2011. The Samsung
11 Defendants deny that what the Complaint purports to define as the “Apple iPad 2 Trade Dress” is
12 distinctive. The Samsung Defendants admit that a report published on the Internet purportedly
13 quoted Lee Don-Joo as saying the statement appearing in quotation marks in paragraph 84 of the
14 Complaint, but deny that the statement included the words in brackets. The Samsung Defendants
15 further aver that the Galaxy Tab 10.1 products speak for themselves, and deny the allegations of
16 paragraph 84 to the extent they do not accurately describe them. The Samsung Defendants deny
17 that any Galaxy Tab 10.1 was overhauled to copy the iPad 2, or copied any alleged trade dress
18 belonging to Apple. The Samsung Defendants deny that the Galaxy Tab 10.1 appears “just like
19 an iPad” when it sits on a table. The Samsung Defendants are without knowledge or information
20 sufficient to form a belief as to the truth or falsity of the remaining allegations in paragraph 84 of
21 the Complaint and therefore deny them.

22 85. Denied.

23 86. The Samsung Defendants admit that attached to the Complaint as Exhibit 31 is a
24 document Apple purports to be a true and correct copy of a July 15, 2010 article appearing on
25 www.wired.com by Priya Ganapati and that this document contains the quoted language. The
26 Samsung Defendants admit that attached to the Complaint as Exhibit 32 is a document that Apple
27 purports to be a true and correct copy of a August 16, 2010 article appearing on www.wired.com

1 by Terrence Russell, and that the document contains the quoted language. Except as expressly
2 admitted, the Samsung Defendants deny the allegations of Paragraph 86 of the Complaint.

3 87. The Samsung Defendants admit that attached to the Complaint as Exhibit 33 is a
4 document Apple purports to be a true and correct copy of a February 13, 2011 Business Insider
5 article by Dan Frommer and that this document contains the quoted language. The Samsung
6 Defendants admit that attached to the Complaint as Exhibit 34 is a document Apple purports to be
7 a true and correct copy of a May 10, 2011 article appearing on www.reviews.cnet.com by Eric
8 Franklin and that this document contains the quoted language. Except as expressly admitted, the
9 Samsung Defendants deny the allegations of Paragraph 87 of the Complaint.

10 88. The Samsung Defendants admit that attached to the Complaint as Exhibit 35 is a
11 document Apple purports to be a true and correct copy of a March 22, 2011
12 www.fastcompany.com article by Kit Eaton and that this document contains the quoted language,
13 except that the Samsung Defendants deny that the document contains the word in brackets.
14 Except as expressly admitted, the Samsung Defendants deny the allegations of Paragraph 88 of the
15 Complaint.

16 89. The Samsung Defendants admit that some of SEC and STA's past smartphones
17 have not used the identical icon configuration used in some of its present smartphones. The
18 Samsung Defendants deny that Apple's Complaint describes any protectable trade dress. Except
19 as expressly admitted, the Samsung Defendants deny the allegations of Paragraph 89 of the
20 Complaint.

21 90. The Samsung Defendants aver that their products and their packagings speak for
22 themselves, and deny the allegations of Paragraph 90 of the Complaint to the extent they do not
23 accurately describe those products or their packagings. The Samsung Defendants deny the
24 remaining allegations of Paragraph 90 of the Complaint.

25 91. Denied.

26 92. The Samsung Defendants deny that any of the products listed in paragraph 92 of
27 the Complaint infringe any of the alleged patent, trade dress, and/or trademark rights Apple
28 purports to assert in its Complaint. SEA denies that it has sold in the United States any of the

1 mobile phones listed in paragraph 92 of the complaint, or will sell any future mobile phone listed
2 in paragraph 92 of the Complaint. The Samsung Defendants further deny that they have ever
3 sold the Galaxy S i9000 or Galaxy Ace in the United States.

4 93. The Samsung Defendants deny that they have infringed any of the Apple utility
5 patents identified in the Complaint. The Samsung Defendants aver that they do not infringe any
6 of the Apple utility patents identified in the Complaint, and therefore deny the implication that
7 they needed to obtain permission from Apple.

8 94. Denied.

9 95. The Samsung Defendants admit that SEC announced the launch of the Galaxy S
10 i9000 in South Korea in March of 2010. The Samsung Defendants deny the implication that they,
11 or any U.S. carrier, ever offered the Galaxy S i9000 for sale in the United States. The Samsung
12 Defendants are without knowledge or information sufficient to form a belief as to the truth or
13 falsity of the remaining allegations in paragraph 95 of the Complaint and therefore deny them.

14 96. The Samsung Defendants deny that the Samsung Galaxy S 2 phone copies what the
15 Complaint purports to define as the “Apple iPhone/iPhone 3G/iPhone 4 Trade Dress.” The
16 Samsung Defendants deny that any Samsung Galaxy phone embodies any protectable Apple trade
17 dress. The Samsung Defendants aver that the Samsung Galaxy phones speak for themselves and
18 deny the allegations of paragraph 96 to the extent they do not accurately describe these products.

19 97. The Samsung Defendants aver that Samsung’s Galaxy phones speak for themselves
20 and deny the allegations of paragraph 97 to the extent they do not accurately describe these
21 products. The Samsung Defendants deny that any Samsung Galaxy phone embodies any
22 protectable Apple trade dress.

23 98. The Samsung Defendants deny that any Galaxy S2 smartphone will embody any
24 protectable Apple iPhone 4 trade dress. The Samsung Defendants aver that Samsung’s Galaxy
25 S2 smartphones will speak for themselves when they are released and deny the allegations of
26 paragraph 97 purporting to describe these future products as mere conjecture.

27 99. Denied.

28

1 100. The Samsung Defendants aver that the Samsung Galaxy Tab speaks for itself and
2 deny the allegations of paragraph 100 to the extent they do not accurately describe this product.

3 101. Denied.

4 102. The Samsung Defendants deny that the Samsung Galaxy Tab 10.1 tablet computer
5 incorporates any protectable Apple iPad or Apple iPad 2 trade dress. The Samsung Defendants
6 aver that Samsung's Galaxy Tab 10.1 speaks for itself and deny the allegations of paragraph 102
7 to the extent they do not accurately describe it.

8 103. The Samsung Defendants admit that the released version of the Galaxy Tab 10.1
9 does not include the TouchWiz graphical user interface. The Samsung Defendants deny that any
10 future versions of the Samsung Galaxy Tab 10.1 tablet computer will incorporate any protectable
11 Apple iPad or Apple iPad 2 trade dress.

12 104. Denied.

13 105. Denied.

14 106. The Samsung Defendants admit that their products may be used in public. The
15 Samsung Defendants deny the remaining allegations of paragraph 106.

16 107. The Samsung Defendants deny that they have copied any of Apple's purported
17 intellectual property rights, that they has reaped benefits from Apple's investment, that any such
18 alleged copying threatens to dilute the strength of any alleged Apple trade dress and icon
19 trademarks as source identifiers, or that any such alleged copying threatens to diminish any
20 goodwill that Apple alleges to have cultivated with its products. The Samsung Defendants deny
21 knowledge or information sufficient to form a belief as to the truth or falsity of the remaining
22 allegations in paragraph 107 of the Complaint and therefore deny them.

23 108. Denied.

24 109. The Samsung Defendants deny that they have copied Apple's alleged "innovations
25 and intellectual property." The Samsung Defendants admit that they have not ceased competing
26 with Apple notwithstanding Apple's efforts to avoid such competition. The Samsung Defendants
27 further admit that Apple purports that litigation is "its only choice" to respond to the Samsung
28 Defendants' products. The Samsung Defendants deny knowledge or information sufficient to

1 form a belief as to the truth or falsity of the remaining allegations in paragraph 109 of the
2 Complaint and therefore deny them.

3 **FIRST CLAIM FOR RELIEF**

4 **(Federal False Designation of Origin & Unfair Competition)**

5 **(15 U.S.C. § 1125(a))**

6 110. The Samsung Defendants repeat and incorporate the admissions and denials of
7 paragraphs 1 through 109 above as if fully set forth herein.

8 111. Denied.

9 112. Denied.

10 113. Denied.

11 114. Denied.

12 115. Denied.

13 116. Denied.

14 117. Denied.

15 118. The Samsung Defendants admit that they knew of some versions of the iPhone and
16 iPad when the Galaxy phone and tablet computer products were designed. The Samsung
17 Defendants admit that they have not ceased competing with Apple notwithstanding Apple's efforts
18 to avoid such competition. The Samsung Defendants deny that any of the trade dress alleged in
19 paragraph 118 of the Complaint is protectable. The Samsung Defendants deny the remaining
20 allegations of paragraph 118 of the Complaint.

21 119. Denied.

22 120. Denied.

23 121. Denied.

24 122. Denied.

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SECOND CLAIM FOR RELIEF
(Federal Trade Dress Infringement)
(15 U.S.C. § 1114)

123. The Samsung Defendants repeat and incorporate the admissions and denials of paragraphs 1 through 122 above as if fully set forth herein.

124. The Samsung Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 124 of the Complaint and therefore deny them.

125. The Samsung Defendants aver that U.S. Registration No. 3,470,983 speaks for itself and deny the allegations of paragraph 125 of the Complaint to the extent they do not accurately describe that registration.

126. The Samsung Defendants aver that U.S. Registration No. 3,475,218 speaks for itself, and deny the allegations of paragraph 126 of the Complaint to the extent they do not accurately describe that registration.

127. The Samsung Defendants aver that U.S. Registration No. 3,475,327 speaks for itself, and deny the allegations of paragraph 127 of the Complaint to the extent they do not accurately describe that registration.

128. Denied.

129. Denied.

130. Denied.

131. The Samsung Defendants admit that they have not ceased competing with Apple notwithstanding Apple’s efforts to avoid such competition. The Samsung Defendants deny that they have ever used what the Complaint purports to describe as the “Apple Registered Trade Dress.” The Samsung Defendants deny the remaining allegations of paragraph 131 as moot.

132. Denied.

133. Denied.

134. Denied.

135. Denied.

1 136. Denied.

2 137. Denied.

3 **THIRD CLAIM FOR RELIEF**

4 **(Federal Trademark Infringement)**

5 **(15 U.S.C. § 1114)**

6 138. The Samsung Defendants repeat and incorporate the admissions and denials of
7 paragraphs 1 through 137 above as if fully set forth herein.

8 139. The Samsung Defendants deny knowledge or information sufficient to form a
9 belief as to the truth or falsity of the allegations in paragraph 139 of the Complaint and therefore
10 deny them.

11 140. Denied.

12 141. Denied.

13 142. Denied.

14 143. Denied.

15 144. Denied.

16 145. Denied.

17 146. Denied.

18 147. Denied.

19 148. Denied.

20 149. Denied

21 **FOURTH CLAIM FOR RELIEF**

22 **(Federal Trade Dress Dilution)**

23 **(15 U.S.C. § 1125(c))**

24 150. The Samsung Defendants repeat and incorporate the admissions and denials of
25 paragraphs 1 through 149 above as if fully set forth herein.

26 151. Denied.

27 152. Denied.

28 153. Denied.

1 154. Denied.

2 155. Denied.

3 156. The Samsung Defendants admit that they knew of some versions of the iPhone and
4 iPad when the Galaxy phone and tablet computer products were designed. The Samsung
5 Defendants admit that they have not ceased competing with Apple notwithstanding Apple's efforts
6 to avoid such competition. The Samsung Defendants deny that any of the trade dress alleged in
7 paragraph 156 of the Complaint is protectable. The Samsung Defendants deny the remaining
8 allegations of paragraph 156 of the Complaint.

9 157. Denied.

10 158. Denied.

11 159. Denied.

12 160. Denied.

13 **FIFTH CLAIM FOR RELIEF**

14 **(Common Law Trademark Infringement)**

15 161. The Samsung Defendants repeat and incorporate the admissions and denials of
16 paragraphs 1 through 160 above as if fully set forth herein.

17 162. Denied.

18 163. Denied.

19 164. Denied.

20 165. Denied.

21 166. The Samsung Defendants deny that they have used what the Complaint purports to
22 describe as "Apple's Registered Icon Trademarks" and the "Purple iTunes Store Trademark."
23 The Samsung Defendants deny the remaining allegations of paragraph 166 of the Complaint as
24 moot.

25 167. Denied.

26 168. Denied.

27 169. Denied.

28 170. Denied.

1 171. Denied.

2 **SIXTH CLAIM FOR RELIEF**

3 **(Unfair Business Practices – California Business and Professions Code § 17200, et seq.)**

4 172. The Samsung Defendants repeat and incorporate the admissions and denials of
5 paragraphs 1 through 171 above as if fully set forth herein.

6 173. Denied.

7 174. Denied.

8 175. Denied.

9 176. Denied.

10 177. Denied.

11 178. Denied.

12 179. Denied.

13 180. Denied.

14 181. Denied.

15 182. Denied.

16 **SEVENTH CLAIM FOR RELIEF**

17 **(Unjust Enrichment)**

18 183. The Samsung Defendants repeat and incorporate the admissions and denials of
19 paragraphs 1 through 182 above as if fully set forth herein.

20 184. The Samsung Defendants admit that Apple’s Complaint purports to seek a
21 worldwide accounting and disgorgement. The Samsung Defendants deny the remaining
22 allegations of paragraph 184 of the Complaint.

23 **EIGHTH CLAIM FOR RELIEF**

24 **(Infringement of the ‘002 Patent)**

25 185. The Samsung Defendants repeat and incorporate the admissions and denials of
26 paragraphs 1 through 184 above as if fully set forth herein.

27 186. Denied.

28 187. Denied.

1 188. Denied.

2 189. Denied.

3 190. Denied.

4 **NINTH CLAIM FOR RELIEF**

5 **(Infringement of the '381 Patent)**

6 191. The Samsung Defendants repeat and incorporate the admissions and denials of
7 paragraphs 1 through 190 above as if fully set forth herein.

8 192. Denied.

9 193. Denied.

10 194. Denied.

11 195. Denied.

12 196. Denied.

13 **TENTH CLAIM FOR RELIEF**

14 **(Infringement of the '607 Patent)**

15 197. The Samsung Defendants repeat and incorporate the admissions and denials of
16 paragraphs 1 through 196 above as if fully set forth herein.

17 198. Denied.

18 199. Denied.

19 200. Denied.

20 201. Denied.

21 202. Denied.

22 **ELEVENTH CLAIM FOR RELIEF**

23 **(Infringement of the '828 Patent)**

24 203. The Samsung Defendants repeat and incorporate the admissions and denials of
25 paragraphs 1 through 202 above as if fully set forth herein.

26 204. Denied.

27 205. Denied.

28 206. Denied.

1 207. Denied.

2 208. Denied.

3 **TWELFTH CLAIM FOR RELIEF**

4 **(Infringement of the '915 Patent)**

5 209. The Samsung Defendants repeat and incorporate the admissions and denials of
6 paragraphs 1 through 208 above as if fully set forth herein.

7 210. Denied.

8 211. Denied.

9 212. Denied.

10 213. Denied.

11 214. Denied.

12 **THIRTEENTH CLAIM FOR RELIEF**

13 **(Infringement of the '891 Patent)**

14 215. The Samsung Defendants repeat and incorporate the admissions and denials of
15 paragraphs 1 through 214 above as if fully set forth herein.

16 216. Denied.

17 217. Denied.

18 218. Denied.

19 219. Denied.

20 220. Denied.

21 **FOURTEENTH CLAIM FOR RELIEF**

22 **(Infringement of the '163 Patent)**

23 221. The Samsung Defendants repeat and incorporate the admissions and denials of
24 paragraphs 1 through 220 above as if fully set forth herein.

25 222. Denied.

26 223. Denied.

27 224. Denied.

28 225. Denied.

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226. Denied.

FIFTEENTH CLAIM FOR RELIEF
(Infringement of the ‘129 Patent)

227. The Samsung Defendants repeat and incorporate the admissions and denials of paragraphs 1 through 226 above as if fully set forth herein.

- 228. Denied.
- 229. Denied.
- 230. Denied.
- 231. Denied.
- 232. Denied.

SIXTEENTH CLAIM FOR RELIEF
(Infringement of the ‘D790 Patent)

233. The Samsung Defendants repeat and incorporate the admissions and denials of paragraphs 1 through 232 above as if fully set forth herein.

- 234. Denied.
- 235. Denied.
- 236. Denied.
- 237. Denied.
- 238. Denied.

SEVENTEENTH CLAIM FOR RELIEF
(Infringement of the ‘D334 Patent)

239. The Samsung Defendants repeat and incorporate the admissions and denials of paragraphs 1 through 238 above as if fully set forth herein.

- 240. Denied.
- 241. Denied.
- 242. Denied.
- 243. Denied.
- 244. Denied.

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EIGHTEENTH CLAIM FOR RELIEF

(Infringement of the ‘D305 Patent)

245. The Samsung Defendants repeat and incorporate the admissions and denials of paragraphs 1 through 244 above as if fully set forth herein.

246. Denied.

247. Denied.

248. Denied.

249. Denied.

250. Denied.

NINETEENTH CLAIM FOR RELIEF

(Infringement of the ‘D677 Patent)

251. The Samsung Defendants repeat and incorporate the admissions and denials of paragraphs 1 through 250 above as if fully set forth herein.

252. Denied.

253. Denied.

254. Denied.

255. Denied.

256. Denied.

TWENTIETH CLAIM FOR RELIEF

(Infringement of the ‘D889 Patent)

257. The Samsung Defendants repeat and incorporate the admissions and denials of paragraphs 1 through 256 above as if fully set forth herein.

258. Denied.

259. Denied.

260. Denied.

261. Denied.

262. Denied.

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TWENTY-FIRST CLAIM FOR RELIEF

(Infringement of the ‘D087 Patent)

263. The Samsung Defendants repeat and incorporate the admissions and denials of paragraphs 1 through 262 above as if fully set forth herein.

- 264. Denied.
- 265. Denied.
- 266. Denied.
- 267. Denied.
- 268. Denied.

TWENTY-SECOND CLAIM FOR RELIEF

(Infringement of the ‘D270 Patent)

269. The Samsung Defendants repeat and incorporate the admissions and denials of paragraphs 1 through 268 above as if fully set forth herein.

- 270. Denied.
- 271. Denied.
- 272. Denied.
- 273. Denied.
- 274. Denied.

The Samsung Defendants deny that Apple is entitled to the judgment sought, set forth in paragraphs 1-14 on pages 60-61 of its Complaint.

II. AFFIRMATIVE DEFENSES

275. By alleging the Affirmative Defenses set forth below, the Samsung Defendants do not agree or concede that they bear the burden of proof or the burden of persuasion on any of these issues, whether in whole or in part. For their Affirmative Defenses to the Complaint, the Samsung Defendants allege as follows:

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FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

276. Apple’s Complaint, on one or more claims for relief set forth therein, fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

(Patent Non-Infringement)

277. The Samsung Defendants have not infringed, and currently do not infringe, the ‘002, ‘381, ‘607, ‘828, ‘915, ‘891, ‘163 or ‘129 (the “Apple Utility Patents”) or the ‘D790, ‘D334, ‘D305, or ‘D677, ‘D889, ‘D087 or ‘D270 Patents (the “Apple Design Patents”) (the Apple Utility Patents and the Apple Design Patents are, collectively, the “Apple Patents in Suit”) directly, indirectly, contributorily, by inducement, under the doctrine of equivalents, or in any other manner.

THIRD AFFIRMATIVE DEFENSE

(Patent Invalidity)

278. The claims of the Apple Patents in Suit are invalid for failure to satisfy one or more of the conditions for patentability specified in Title 35 of the United States Code, including without limitation §§ 101, 102, 103, 112, and/or 171.

FOURTH AFFIRMATIVE DEFENSE

(No Valid Trademark or Trade Dress)

279. Apple has no valid, protectable marks or trade dress in which it enjoys any rights that may be asserted against the Samsung Defendants.

FIFTH AFFIRMATIVE DEFENSE

(Functionality)

280. The claims made in the Complaint and the relief sought therein are barred, in whole or in part, on the basis that the alleged marks at issue, the alleged trade dress at issue, the Apple Design Patents, and the use of said marks, said trade dress and said Apple Design Patents are functional.

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SIXTH AFFIRMATIVE DEFENSE

(Lack of Secondary Meaning and/or Distinctiveness)

281. The claims made in the Complaint and the relief sought therein are barred, in whole or in part, on the basis that the marks and alleged trade dress at issue lack distinctiveness, including, without limitation, secondary meaning.

SEVENTH AFFIRMATIVE DEFENSE

(Generic Terms)

282. The claims made in the Complaint and the relief sought therein are barred, in whole or in part, on the basis that the marks and alleged trade dress at issue are generic.

EIGHTH AFFIRMATIVE DEFENSE

(Waiver, Acquiescence, and Estoppel)

283. Each of the purported claims set forth in Apple’s Complaint is barred by the doctrines of waiver, acquiescence, and estoppel.

NINTH AFFIRMATIVE DEFENSE

(Laches)

284. The Apple Patents in Suit and the marks and alleged trade dress at issue are unenforceable, in whole or in part, against the Samsung Defendants under the doctrine of laches.

TENTH AFFIRMATIVE DEFENSE

(Abandonment)

285. The claims made in the Complaint are barred, in whole or in part, by abandonment of the marks and alleged trade dress at issue.

ELEVENTH AFFIRMATIVE DEFENSE

(Failure to Mitigate)

286. The claims made in the Complaint are barred, in whole or in part, because of Apple’s failure to mitigate damages, if such damages exist.

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TWELFTH AFFIRMATIVE DEFENSE

(Prosecution History Estoppel)

287. The relief sought by Apple as to the claims of one or more of the Apple Patents in Suit is barred under the doctrine of prosecution history estoppel.

THIRTEENTH AFFIRMATIVE DEFENSE

(Prosecution Laches)

288. One or more of the Apple Patents in Suit are unenforceable, in whole or in part, against the Samsung Defendants under the doctrine of prosecution laches.

FOURTEENTH AFFIRMATIVE DEFENSE

(Acts of Plaintiff)

289. On information and belief, the damages, if any, that were allegedly sustained by Apple as a result of the acts complained of in the Complaint were caused in whole or in part or were contributed to by reason of the acts, omissions, negligence, and/or intentional misconduct of Apple, its agents, predecessors, and/or related entities.

FIFTEENTH AFFIRMATIVE DEFENSE

(No Equitable Relief)

290. As a result of Apple’s actions, Apple is not entitled to equitable relief, including but not limited to Apple’s request for injunctive relief as it has an adequate remedy at law.

SIXTEENTH AFFIRMATIVE DEFENSE

(No Willful Infringement)

291. Apple’s claims for enhanced damages and an award of fees and costs against the Samsung Defendants have no basis in fact or law and should be denied.

SEVENTEENTH AFFIRMATIVE DEFENSE

(Third-Party Use)

292. The claims made in the Complaint are barred, in whole or in part, by reason of other parties’ use of any trademarks or trade dress at issue.

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EIGHTEENTH AFFIRMATIVE DEFENSE

(Actions of Others)

293. The claims made in the Complaint are barred, in whole or in part, because the Samsung Defendants are not liable for the acts of others over whom it has no control.

NINETEENTH AFFIRMATIVE DEFENSE

(No Causation)

294. Apple’s claims against the Samsung Defendants are barred because Apple’s damages, if any, were not caused by the Samsung Defendants.

TWENTIETH AFFIRMATIVE DEFENSE

(No Damage)

295. Without admitting that the Complaint states a claim, there has been no damage in any amount, manner or at all by reason of any act alleged against the Samsung Defendants in the Complaint, and the relief prayed for in the Complaint therefore cannot be granted.

TWENTY-FIRST AFFIRMATIVE DEFENSE

(No Irreparable Harm)

296. Apple’s claims for injunctive relief are barred because Apple cannot show that it will suffer any irreparable harm from the Samsung Defendants’ actions.

TWENTY-SECOND AFFIRMATIVE DEFENSE

(Adequate Remedy at Law)

297. The alleged injury or damage suffered by Apple, if any, would be adequately compensated by damages. Accordingly, Apple has a complete and adequate remedy at law and is not entitled to seek equitable relief.

TWENTY-THIRD AFFIRMATIVE DEFENSE

(Duplicative Claims)

298. Without admitting that the Complaint states a claim, any remedies are limited to the extent that there is sought an overlapping or duplicative recovery pursuant to the various claims against the Samsung Defendants or others for any alleged single wrong.

1 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

2 **(No Punitive Damages)**

3 299. The Samsung Defendants allege that no punitive or exemplary damages should be
4 awarded arising out of the claims made in the Complaint under the law of the United States and
5 California because: (i) an award of punitive or exemplary damages would be unconstitutional
6 under the United States and California Constitutions; specifically, the First Amendment to the
7 United States Constitution and Article I, Section 2 of the California Constitution; (ii) any recovery
8 of punitive or exemplary damages arising out of the claims made in the Fourth Amended
9 Complaint would constitute the imposition of a criminal fine or penalty without the substantive or
10 procedural safeguards guaranteed by the Fifth and Fourteenth Amendments to the United States
11 Constitution and by Article I, Section 7 of the California Constitution; (iii) the imposition of any
12 punitive or exemplary damages in this lawsuit would constitute an excessive fine or penalty under
13 Article I, Section 17 of the California Constitution; (iv) any such award is precluded or limited
14 pursuant to Section 3294 of the California Civil Code or the United States Constitution and the
15 due process clause; and (v) punitive damages would violate the United States and California
16 Constitutions and common law because such an award is based from procedures that are vague,
17 open-ended, unbound in discretion, arbitrary and without sufficient constraints or protection
18 against arbitrary and excessive awards.

19 **ADDITIONAL DEFENSES**

20 300. The Samsung Defendants reserve the right to assert additional defenses based on
21 information learned or obtained during discovery.

22
23 **III. COUNTERCLAIMS**

24 1. SEC and STA (collectively, the “Samsung Patent Counterclaimants”), by and
25 through their undersigned counsel, seek declarations and judgments that Apple infringes U.S.
26 Patent No. 6,928,604 (the “604 patent”), U.S. Patent No. 7,050,410 (the “410 patent”), U.S.
27 Patent No. 7,069,055 (the “055 patent”), U.S. Patent No. 7,079,871 (the “871 patent”), U.S.
28 Patent No. 7,200,792 (the “792 patent”), U.S. Patent No. 7,362,867 (the “867 patent”), U.S.

1 Business and Professions Code §17200, and of the common law of trademarks and unjust
2 enrichment.

3 **THE PARTIES**

4 5. Counterclaimant SEC is a corporation organized under the laws of Korea, with its
5 principal place of business at 416 Maetan-3dong, Yeongtong-gu, Suwon-City, Gyeonggi-do,
6 Korea 443-742.

7 6. Counterclaimant SEA is a New York corporation, with its principal place of
8 business at 85 Challenger Road, Ridgefield Park, NJ, 07660.

9 7. Counterclaimant STA is a limited liability company organized under the laws of
10 Delaware, with its principal place of business at 1301 East Lookout Drive, Richardson, Texas
11 75082.

12 8. Upon information and belief, Apple is a corporation organized under the laws of
13 the state of California and has its principal place of business at 1 Infinite Loop, Cupertino,
14 California 95014. Upon information and belief, Apple imports into the United States, offers for
15 sale, sells and/or uses in the United States mobile electronic devices.

16 **JURISDICTIONAL STATEMENT**

17 9. The Samsung Patent Counterclaimants' patent infringement counterclaims arise
18 under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.* The Samsung
19 Counterclaimants' counterclaims for declaratory relief arise under the Declaratory Judgment Act,
20 28 U.S.C. § 2201, *et seq.*, the patent laws of the United States, 35 U.S.C. § 1, *et seq.*, the Lanham
21 Act, 15 U.S.C. § 1051, *et seq.*, California Business and Professions Code § 17200, the common
22 law of trademarks and unfair competition, and the law of unjust enrichment.

23 10. The Court has jurisdiction over this action pursuant to 15 U.S.C. § 1121 and 28
24 U.S.C. §§ 1331, 1338(a) & (b), 1367, 2201(a) and 2202.

25 11. This Court has personal jurisdiction over Apple for at least the following reasons:
26 (i) Apple maintains its principal place of business in this District; (ii) Apple has designated an
27 agent for service of process in the state of California; (iii) Apple regularly does business or solicits
28 business, engages in other persistent courses of conduct, and/or derives substantial revenue from

1 products and/or services provided to individuals in this District and in this state; and (iv) Apple
2 has initiated litigation in this judicial District in connection with this dispute.

3 12. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b)-(c) and 1400(b).

4 13. An immediate, real, and justiciable controversy exists between the Samsung
5 Counterclaimants and Apple as to whether the ‘828, ‘002, ‘381, ‘915, ‘891, ‘607, ‘163, ‘129,
6 ‘D790, ‘D334, ‘D305, ‘D087, ‘D677, ‘D270, and ‘D889 Patents are invalid and have not been
7 infringed.

8 14. An immediate, real, and justiciable controversy also exists between the Samsung
9 Counterclaimants and Apple as to whether the Samsung Counterclaimants violate the Lanham Act
10 with regard to the ‘983, ‘218, ‘327, ‘196, ‘642, ‘200, ‘685, ‘169, ‘197, and ‘038 Registrations and
11 certain unregistered trade dress that Apple alleges is embodied in Apple’s iPhone, iPhone 3G,
12 iPhone 3GS, iPhone 4, iPod Touch, iPad and iPad 2 products.

13 15. An immediate, real, and justiciable controversy also exists between the Samsung
14 Counterclaimants and Apple as to whether the ‘983, ‘218, ‘327, ‘196, ‘642, ‘200, ‘685, ‘169, ‘197,
15 and ‘038 Registrations and the ‘463, ‘838, ‘829, ‘869, and ‘118 Applications are invalid and
16 whether said registrations should be cancelled.

17 16. An immediate, real, and justiciable controversy also exists between the Samsung
18 Counterclaimants and Apple as to whether the Samsung Counterclaimants violate California
19 Business and Professions Code § 17200 with regard to the Apple Patents In Suit, the ‘983, ‘218,
20 ‘327, ‘196, ‘642, ‘200, ‘685, ‘169, ‘197, and ‘038 Registrations, and certain unregistered trade
21 dress that Apple alleges is embodied in Apple’s iPhone, iPhone 3G, iPhone 3GS, iPhone 4, iPod
22 Touch, iPad and iPad 2 products.

23 17. An immediate, real, and justiciable controversy also exists between the Samsung
24 Counterclaimants and Apple as to whether the Samsung Counterclaimants violate the common
25 law of trademarks with regard to the ‘196, ‘642, ‘200, ‘685, ‘169, ‘197, and ‘038 Registrations or
26 the ‘463 Application.

27 18. An immediate, real, and justiciable controversy also exists between the Samsung
28 Counterclaimants and Apple as to whether the Samsung Counterclaimants violate the law of

1 unjust enrichment with regard to the Apple Patents In Suit, the ‘983, ‘218, ‘327, ‘196, ‘642, ‘200,
2 ‘685, ‘169, ‘197, and ‘038 Registrations, the ‘463, ‘838, ‘829, ‘869, and ‘118 Applications and
3 certain unregistered trade dress that Apple alleges is embodied in Apple’s iPhone, iPhone 3G,
4 iPhone 3GS, iPhone 4, iPod Touch, iPad and iPad 2 products.

5 **FACTUAL BACKGROUND**

6 19. From its inception as a small business in Taegu, Korea, SEC and its subsidiary,
7 Samsung Telecommunications America, LLC (collectively, “Samsung”), has grown to become
8 one of the world’s leading electronics companies, specializing in digital products and media,
9 semiconductors, memory, and system integration. Today Samsung’s innovative and top quality
10 consumer products are widely recognized and appreciated across the globe.

11 20. Samsung has a long history of groundbreaking innovation across a wide range of
12 technologies. Samsung’s commitment to innovation is demonstrated in part by the billions of
13 dollars in research and development expenditures incurred over the years. From 2005 through
14 2010 alone, Samsung invested more than \$35 billion in research and development. More than a
15 quarter of all Samsung employees – over 50,100 engineers overall, including about 8,700 in
16 telecommunications – daily engage in cutting-edge research and development projects.

17 21. Samsung’s commitment to innovation and investment in research and development
18 is demonstrated by the fact that Samsung has in its portfolio as of April 1, 2011, 28,700 United
19 States patents, including 5,933 in the telecommunications field. Samsung is consistently ranked
20 ahead of other technology companies in terms of the number of issued patents obtained in the
21 United States, with 4,551 issued patents in 2010 alone.

22 22. Samsung’s research and development successes have propelled the company to its
23 status as the largest provider by volume of mobile devices in the United States and the second
24 largest in the world. During the last half of 2010, Samsung sold more Android-based devices
25 worldwide than any other company.

26 23. Samsung has been a pioneer in the mobile device business sector since the
27 inception of the mobile device industry. In 1999, Samsung introduced its first multi-function
28 “smart phone” that provided both internet access (for sending e-mails and for electronic chatting)

1 and personal digital assistant (“PDA”) features. In 2000, Samsung introduced the Samsung
2 Uproar SPH-M100, the first cell phone with MP3-playback functionality. In 2001 Samsung
3 introduced into the United States the first PDA phone with a 256-color screen, selected as one of
4 the Best Products of 2001 by BusinessWeek magazine.

5 24. Also in 2001, Samsung broke the 1 cm technological barrier and stunned the
6 industry with an ultra-slim, lightweight flip phone that was only 9.8 mm thick. This innovation
7 sparked the ultra-portable mobile phone revolution spurring dozens of competitors to slim down
8 the design form factors and develop their own portable mobile phone technology design. In
9 2002, Samsung unleashed the world’s first high-definition color LCD display suitable for mobile
10 devices. Now users could browse the web and view images directly from their mobile devices in
11 true color. In 2004, after selling over 20 million mobile handsets in the United States, Samsung
12 announced the first mobile phone that supported digital multimedia broadcast via satellite. Users
13 could now watch streaming high-quality multimedia content wherever they traveled.

14 25. Samsung announced the world’s first five and seven megapixel camera phones in
15 late 2004 and early 2005, respectively. Now, mid- to high-range digital camera functionality
16 could be integrated with mobile handsets, allowing users to snap life-like photos on-the-go. In
17 2008, Samsung became the leading mobile handset vendor in the United States.

18 26. Samsung has also continuously innovated in the area of mobile phone displays. In
19 2008 and 2009, Samsung released the industry’s first high resolution AMOLED display for a
20 mobile phone. The new display featured a 180-degree viewing angle and reduced power
21 consumption when compared to traditional LCD displays. Samsung’s clearer and brighter Super
22 AMOLED displays continued to improve mobile phone displays with 30% better color
23 reproduction over the best quality LCD displays.

24 27. Samsung’s innovative features, including the integrated high resolution cameras
25 and displays, were the result of the exceptional creativity and ingenuity of thousands of Samsung
26 engineers across the globe engaged in cutting-edge research and development projects.

27 28. Samsung’s innovative contributions to the mobile device industry have been
28 recognized through numerous awards for excellence in mobile device design. For example,

1 Samsung has received numerous “Red Dot Design Awards” in one of the largest international
2 design competitions. Similarly, a number of Samsung mobile devices have been awarded the “iF
3 Design Award” from the iF Industrie Forum Design e.V., based in Germany, for features such as
4 the user interface. The iF Designs Awards are among the most important in the world, as
5 evidenced by more than 11,000 annual entries from almost 50 countries. Samsung has also
6 received a number of “Good Design Awards” from the Japan Industrial Design Promotion
7 Organization (JIDPO). Overall, Samsung’s mobile phones and devices have won close to 60
8 awards between 2007 and the beginning of 2011.

9 29. Samsung has consistently introduced market-relevant and innovative products,
10 including over 1,500 mobile phone models incorporating Samsung patented technology into the
11 U.S. marketplace since 1997. Over 281 million Samsung mobile devices have been sold since
12 1997.

13 30. Without the ability to enforce its intellectual property rights, such as those
14 relating to mobile device technology at issue in this action, Samsung would not be able to sustain
15 the extensive commitment to research and development that has enabled it to lead the way into
16 numerous improvements across a broad range of technologies, including the mobile device
17 technologies at issue in this action.

18 **SAMSUNG’S INTELLECTUAL PROPERTY RIGHTS**

19 31. Samsung’s patents relate to fundamental innovations that increase mobile device
20 reliability, efficiency, and quality, and improve user interface in mobile handsets and other
21 products. These innovations are critical to the user’s ability to communicate with family, friends,
22 and business associates reliably and effectively.

23 32. In communications systems, standards that prescribe the formats for sending
24 information are essential to ensure that mobile devices made by different manufacturers are
25 capable of interacting within a network. Because interoperability is key for communications, the
26 development of protocols that ultimately result in a technical standard is very important to
27 ensuring an efficient and functional system. As modern wireless networks carry more data at
28 higher data rates and service more users than their predecessors, continued innovation is essential

1 to keep pace with the increased demands on cellular networks. Samsung has been a leader in
2 developing the ideas and protocols needed to increase the efficiency, reliability, and functionality
3 of standards-based networks and the features available in these networks.

4 33. In the United States, one of the key standards governing cellular communications,
5 known as Wideband Code-Division Multiple-Access (W-CDMA), is published by 3GPP (Third
6 Generation Partnership Project). W-CDMA is one of the main technologies for the
7 implementation of third-generation (3G) and more advanced cellular networks such as those of
8 AT&T and T-Mobile. W-CDMA is the most common form of air interface standard within the
9 Universal Mobile Telecommunications System (UMTS) telecommunications technologies
10 standard. Samsung has made key inventions that are part of these standards.

11 34. The Samsung W-CDMA and UMTS patents at issue in this action relate to
12 reliability, capacity, efficiency, compatibility, and functioning of mobile devices in W-CDMA and
13 UMTS networks.

14 35. Samsung's technology relating to transmission of multiple streams, including
15 voice and data, onto a single radio channel, allows users to talk on a mobile device and view and
16 transmit information at the same time.

17 36. Samsung's technology increases the reliability of mobile devices. In particular,
18 Samsung's technology increases the fidelity of transmission of data such as e-mail, text messages,
19 and attachments sent by the user from the mobile device.

20 37. Samsung's technology increases the throughput and capacity of mobile device
21 networks. The rapid increase in usage of the mobile device networks has led to unprecedented
22 demand for increased capacity and throughput, particularly as data-demanding applications such
23 as video have become widespread. Samsung's technology enables a given network to pack in
24 more users' data without increasing the size of the frequency band used, and can therefore
25 accommodate a larger number of users.

26 38. Samsung's technology reduces interference among mobile devices. As more and
27 more mobile devices are used in today's networks, the likelihood of interference among different
28 devices increases, and therefore regulation of the amount of transmit power is important.

1 Samsung's technology provides techniques to regulate the amount of power transmitted by mobile
2 devices, reducing interference in cellular communications.

3 39. The Samsung user interface patents at issue in this action relate to generating and
4 displaying time, viewing and transmitting images, playing music, and dividing of window displays
5 on mobile devices.

6 40. As users travel across time zones, the ability of a mobile device to update to the
7 local time is important for tracking appointments and meetings. Samsung's technology provides
8 a means for a mobile device to control and display world time.

9 41. It is useful for users of mobile devices to be able to access other functions on the
10 device while composing a message, without losing the message or breaking the flow of user input.
11 Samsung's technology provides a window-dividing function that shows the message on one part
12 of the display while allowing the user to view other functionality on another part of the display.

13 42. When the camera function of a mobile device is used, it is convenient for users to
14 be able to view the pictures on the device itself and share certain pictures with other users.
15 Samsung's technology enables the sending of images via e-mail transmission and provides users
16 convenient ways for viewing images on the mobile device.

17 43. Mobile devices often include the ability to play music. Samsung's technology
18 allows the use of multi-tasking in a mobile communication device where the playback of music
19 continues while the user performs another function on the device.

20 44. Samsung has sold millions of mobile phones in the United States incorporating
21 the patented technology at issue here. For example, in 2010, Samsung sold over 24 million
22 mobile phones incorporating Samsung's innovations that reduce data transmission errors,
23 including the Samsung Galaxy S 4G. The Samsung Galaxy S 4G has been heralded by CNET as
24 a "fantastic Android smartphone" that delivers "fast data speeds," and PC Magazine named the
25 Samsung Galaxy S 4G one of the best AT&T and T-Mobile phones.

26 45. Samsung's Captivate and Vibrant mobile phone models, which also incorporate
27 the patented technologies at issue here, were both named to PC Magazine's Top 10 Smartphones
28

1 list, with the Samsung Captivate being described as a “super-phone,” and the Samsung Vibrant
2 being described as T-Mobile’s “top smartphone.”

3 46. Apple has copied many of Samsung’s innovations in its Apple iPhone, iPod, and
4 iPad products. Apple continues to violate Samsung’s patent rights by using these patented
5 technologies without a license.

6 47. SEC is the owner of all rights, title, and interest in the ‘604 patent, entitled
7 “Turbo Encoding/Decoding Device and Method for Processing Frame Data According to QOS,”
8 which was duly and properly issued by the United States Patent and Trademark Office (“USPTO”)
9 on August 9, 2005. A copy of the ‘604 patent is attached as Ex. 1.

10 48. SEC is the owner of all rights, title, and interest in the ‘410 patent, entitled
11 “Apparatus and Method for Controlling a Demultiplexer and a Multiplexer Used for Rate
12 Matching in a Mobile Communication System,” which was duly and properly issued by the
13 USPTO on May 23, 2006. A copy of the ‘410 patent is attached as Ex. 2.

14 49. SEC is the owner of all rights, title, and interest in the ‘055 patent, entitled
15 “Mobile Telephone Capable of Displaying World Time and Method for Controlling the Same,”
16 which was duly and properly issued by the USPTO on June 27, 2006. A copy of the ‘055 patent
17 is attached as Ex. 3.

18 50. SEC is the owner of all rights, title, and interest in the ‘871 patent, entitled
19 “Portable Telephone and Method of Displaying Data Thereof,” which was duly and properly
20 issued by the USPTO on July 18, 2006. A copy of the ‘871 patent is attached as Ex. 4.

21 51. SEC is the owner of all rights, title, and interest in the ‘792 patent, entitled
22 “Interleaving Apparatus and Method for Symbol Mapping in an HSDPA Mobile Communication
23 System,” which was duly and properly issued by the USPTO on April 3, 2007. A copy of the
24 ‘792 patent is attached as Ex. 5.

25 52. SEC is the owner of all rights, title, and interest in the ‘867 patent, entitled
26 “Apparatus and Method for Generating Scrambling Code in UMTS Mobile Communication
27 System,” which was duly and properly issued by the USPTO on April 22, 2008. A copy of the
28 ‘867 patent is attached as Ex. 6.

1 53. SEC is the owner of all rights, title, and interest in the ‘001 patent, entitled
2 “Apparatus and Method for Channel Coding and Multiplexing in CDMA Communication
3 System,” which was duly and properly issued by the USPTO on June 10, 2008. A copy of the
4 ‘001 patent is attached as Ex. 7.

5 54. SEC is the owner of all rights, title, and interest in the ‘516 patent, entitled
6 “Method and Apparatus for Data Transmission in a Mobile Telecommunication System
7 Supporting Enhanced Uplink Service,” which was duly and properly issued by the USPTO on
8 November 4, 2008. A copy of the ‘516 patent is attached as Ex. 8.

9 55. SEC is the owner of all rights, title, and interest in the ‘893 patent, entitled
10 “Method of Controlling Digital Image Processing Apparatus for Efficient Reproduction and
11 Digital Image Processing Apparatus Using the Method,” which was duly and properly issued by
12 the USPTO on November 25, 2008. A copy of the ‘893 patent is attached as Ex. 9.

13 56. SEC is the owner of all rights, title, and interest in the ‘460 patent, entitled
14 “Portable Composite Communication Terminal for Transmitting/Receiving and Images, and
15 Operation Method and Communication System Thereof,” which was duly and properly issued by
16 the USPTO on August 18, 2009. A copy of the ‘460 patent is attached as Ex. 10.

17 57. SEC is the owner of all rights, title, and interest in the ‘941 patent, entitled
18 “Method and Apparatus for Transmitting/Receiving Packet Data Using Pre-Defined Length
19 Indicator in a Mobile Communication System,” which was duly and properly issued by the
20 USPTO on March 9, 2010. A copy of the ‘941 patent is attached as Ex. 11.

21 58. SEC is the owner of all rights, title, and interest in the ‘711 patent, entitled
22 “Multi-Tasking Apparatus and Method in Portable Terminal,” which was duly and properly issued
23 by the USPTO on April 13, 2010. A copy of the ‘711 patent is attached as Ex. 12.

24 **APPLE’S ALLEGED CLAIMS AGAINST SAMSUNG**

25 59. Apple claims to own the ‘828, ‘002, ‘381, ‘915, ‘891, ‘607, ‘163, ‘129, ‘D790,
26 ‘D334, ‘D305, ‘D087, ‘D677, ‘D270 , and ‘D889 Patents, which purport to cover technologies and
27 designs relating to mobile electronics devices and tablet computers.

1 60. Apple claims to own the ‘983, ‘218, ‘327, ‘196, ‘642, ‘200, ‘685, ‘169, ‘197, and
2 ‘038 Registrations and the ‘463, ‘838, ‘829, ‘869, and ‘118 Applications, which purport to cover
3 marks and trade dress relating to mobile electronics devices and tablet computers.

4 61. Apple claims to own certain unregistered trade dress that Apple alleges is
5 embodied in Apple’s iPhone, iPhone 3G, iPhone 3GS, iPhone 4, iPod Touch, iPad and iPad 2
6 products.

7 62. Apple has accused the Samsung Counterclaimants of infringing the ‘828, ‘002,
8 ‘381, ‘915, ‘891, ‘607, ‘163, ‘129, ‘D790, ‘D334, ‘D305, ‘D087, ‘D677, ‘D270 , and ‘D889
9 Patents through the Samsung Counterclaimants’ alleged using, selling and/or offering to sell, in
10 the United States and/or importing into the United States one or more of the products known as the
11 Samsung Acclaim, Captivate, Continuum, Droid Charge, Exhibit 4G, Epic 4G, Fascinate, Gem,
12 Galaxy Ace, Galaxy Prevail, Galaxy S (i9000), Galaxy S 4G, Gravity, Indulge, Infuse 4G,
13 Intercept, Mesmerize, Nexus S, Nexus S 4G, Replenish, Showcase i500, Showcase Galaxy S,
14 Sidekick, Transform, and Vibrant phones, and the Galaxy Tab and Galaxy Tab 10.1 tablet
15 computers (collectively, the “Accused Products”).

16 63. Apple has accused the Samsung Counterclaimants of infringing the purported
17 marks that are allegedly the subject of the ‘983, ‘218, ‘327, ‘196, ‘642, ‘200, ‘685, ‘169, ‘197, and
18 ‘038 Registrations and the ‘463, ‘838, ‘829, ‘869, and ‘118 Applications through the Samsung
19 Counterclaimants’ alleged use of one or more of these registrations or applications in one or more
20 of the Accused Products.

21 64. Apple has accused the Samsung Counterclaimants of engaging in false designation
22 of origin and unfair competition by allegedly manufacturing and distributing one or more of the
23 Accused Products that Apple alleges “misappropriate[]” and “mimic” certain unregistered trade
24 dress that Apple alleges it owns and is embodied in Apple’s iPhone, iPhone 3G, iPhone 3GS,
25 iPhone 4, iPod Touch, iPad and iPad 2 products.

26 65. Apple has accused the Samsung Counterclaimants of diluting the Apple iPhone
27 Trade Dress, Apple iPhone 3G Trade Dress, Apple iPhone 4 Trade Dress, Apple iPad Trade Dress,
28 and Apple iPad 2 Trade Dress by the Samsung Counterclaimants’ alleged manufacture and

1 distribution of one or more of the Accused Products that Apple alleges “misappropriate[]” and
2 “mimic” said trade dress.

3 66. Apple has accused the Samsung Counterclaimants of engaging in fraudulent and
4 unlawful business practices as defined by California Business & Professions Code § 17200 based
5 upon the same alleged acts underlying Apple’s accusations of patent, trademark and trade dress
6 infringement; false designation of origin; trade dress dilution; and unfair competition described
7 above in these Counterclaims.

8 67. Apple has accused the Samsung Counterclaimants of unjust enrichment based upon
9 the same alleged acts underlying Apple’s accusations of patent, trademark and trade dress
10 infringement; false designation of origin; trade dress dilution; and unfair competition described
11 above in these Counterclaims.

12 **FIRST CLAIM FOR RELIEF**
13 **(Infringement of the ‘604 Patent)**

14 68. The Samsung Patent Counterclaimants re-allege and incorporate by reference the
15 allegations of Paragraphs 1-67 of these Counterclaims as though fully set forth herein.

16 69. Upon information and belief, in violation of 35 U.S.C. § 271, Apple is and has
17 been directly infringing, contributing to the infringement of, and/or inducing others to infringe the
18 ‘604 patent by making, using, selling, and/or offering to sell in the United States, or importing into
19 the United States, products or processes that practice the inventions claimed in the ‘604 patent,
20 including without limitation, the Apple iPhone 3G, the Apple iPhone 3GS, the Apple iPhone 4, the
21 iPad 3G, and the iPad 2 3G.

22 70. As a result of Apple’s unlawful infringement of the ‘604 patent, the Samsung
23 Patent Counterclaimants have suffered and will continue to suffer damage. The Samsung Patent
24 Counterclaimants are entitled to recover from Apple the damages suffered by them as a result of
25 its unlawful acts.

26 71. On information and belief, Apple intends to continue its unlawful infringing
27 activity, and the Samsung Patent Counterclaimants continue to and will continue to suffer
28

1 irreparable harm – for which there is no adequate remedy at law – from such unlawful infringing
2 activities unless this Court enjoins Apple from further infringing activities.

3 **SECOND CLAIM FOR RELIEF**

4 **(Infringement of the ‘410 Patent)**

5 72. The Samsung Patent Counterclaimants re-allege and incorporate by reference the
6 allegations of Paragraphs 1-71 of these Counterclaims as though fully set forth herein.

7 73. Upon information and belief, in violation of 35 U.S.C. § 271, Apple is and has
8 been directly infringing, contributing to the infringement of, and/or inducing others to infringe the
9 ‘410 patent by making, using, selling, and/or offering to sell in the United States, or importing into
10 the United States, products or processes that practice the inventions claimed in the ‘410 patent,
11 including without limitation, the Apple iPhone 3G, the Apple iPhone 3GS, the Apple iPhone 4, the
12 iPad 3G, and the iPad 2 3G.

13 74. As a result of Apple’s unlawful infringement of the ‘410 patent, the Samsung
14 Patent Counterclaimants have suffered and will continue to suffer damage. The Samsung Patent
15 Counterclaimants are entitled to recover from Apple the damages suffered by them as a result of
16 its unlawful acts.

17 75. On information and belief, Apple intends to continue its unlawful infringing
18 activity, and the Samsung Patent Counterclaimants continue to and will continue to suffer
19 irreparable harm – for which there is no adequate remedy at law – from such unlawful infringing
20 activities unless this Court enjoins Apple from further infringing activities.

21 **THIRD CLAIM FOR RELIEF**

22 **(Infringement of the ‘055 Patent)**

23 76. The Samsung Patent Counterclaimants re-allege and incorporate by reference the
24 allegations of Paragraphs 1-75 of these Counterclaims as though fully set forth herein.

25 77. Upon information and belief, in violation of 35 U.S.C. § 271, Apple is and has
26 been directly infringing, contributing to the infringement of, and/or inducing others to infringe the
27 ‘055 patent by making, using, selling, and/or offering to sell in the United States, or importing into
28 the United States, products or processes that practice the inventions claimed in the ‘055 patent,

1 including without limitation, the Apple iPhone 3G, the Apple iPhone 3GS, the Apple iPhone 4, the
2 iPod Touch, the iPad, the iPad 3G, the iPad 2, and the iPad 2 3G.

3 78. As a result of Apple’s unlawful infringement of the ‘055 patent, the Samsung
4 Patent Counterclaimants have suffered and will continue to suffer damage. The Samsung Patent
5 Counterclaimants are entitled to recover from Apple the damages suffered by them as a result of
6 its unlawful acts.

7 79. On information and belief, Apple intends to continue its unlawful infringing
8 activity, and the Samsung Patent Counterclaimants continue to and will continue to suffer
9 irreparable harm – for which there is no adequate remedy at law – from such unlawful infringing
10 activities unless this Court enjoins Apple from further infringing activities.

11 **FOURTH CLAIM FOR RELIEF**

12 **(Infringement of the ‘871 Patent)**

13 80. The Samsung Patent Counterclaimants re-allege and incorporate by reference the
14 allegations of Paragraphs 1-79 of these Counterclaims as though fully set forth herein.

15 81. Upon information and belief, in violation of 35 U.S.C. § 271, Apple is and has
16 been directly infringing, contributing to the infringement of, and/or inducing others to infringe the
17 ‘871 patent by making, using, selling, and/or offering to sell in the United States, or importing into
18 the United States, products or processes that practice the inventions claimed in the ‘871 patent,
19 including without limitation, the Apple iPhone 3G, iPhone 3GS, iPhone 4, iPad, iPad 3G, iPad 2,
20 iPad 2 3G, and iPod Touch.

21 82. As a result of Apple’s unlawful infringement of the ‘871 patent, the Samsung
22 Patent Counterclaimants have suffered and will continue to suffer damage. The Samsung Patent
23 Counterclaimants are entitled to recover from Apple the damages suffered by the them as a result
24 of its unlawful acts.

25 83. On information and belief, Apple intends to continue its unlawful infringing
26 activity, and Samsung continues to and will continue to suffer irreparable harm – for which there
27 is no adequate remedy at law – from such unlawful infringing activities unless this Court enjoins
28 Apple from further infringing activities.

1 **FIFTH CLAIM FOR RELIEF**

2 **(Infringement of the ‘792 Patent)**

3 84. The Samsung Patent Counterclaimants re-allege and incorporate by reference the
4 allegations of Paragraphs 1-83 of these Counterclaims as though fully set forth herein.

5 85. Upon information and belief, in violation of 35 U.S.C. § 271, Apple is and has
6 been directly infringing, contributing to the infringement of, and/or inducing others to infringe the
7 ‘792 patent by making, using, selling, and/or offering to sell in the United States, or importing into
8 the United States, products or processes that practice the inventions claimed in the ‘792 patent,
9 including without limitation, the Apple iPhone 3G, the Apple iPhone 3GS, the Apple iPhone 4, the
10 iPad 3G, and the iPad 2 3G.

11 86. As a result of Apple’s unlawful infringement of the ‘792 patent, the Samsung
12 Patent Counterclaimants have suffered and will continue to suffer damage. The Samsung Patent
13 Counterclaimants are entitled to recover from Apple the damages suffered by them as a result of
14 its unlawful acts.

15 87. On information and belief, Apple intends to continue its unlawful infringing
16 activity, and the Samsung Patent Counterclaimants continue to and will continue to suffer
17 irreparable harm – for which there is no adequate remedy at law – from such unlawful infringing
18 activities unless this Court enjoins Apple from further infringing activities.

19 **SIXTH CLAIM FOR RELIEF**

20 **(Infringement of the ‘867 Patent)**

21 88. The Samsung Patent Counterclaimants re-allege and incorporate by reference the
22 allegations of Paragraphs 1-87 of these Counterclaims as though fully set forth herein.

23 89. Upon information and belief, in violation of 35 U.S.C. § 271, Apple is and has
24 been directly infringing, contributing to the infringement of, and/or inducing others to infringe the
25 ‘867 patent by making, using, selling, and/or offering to sell in the United States, or importing into
26 the United States, products or processes that practice the inventions claimed in the ‘867 patent,
27 including without limitation, the Apple iPhone 3G, the Apple iPhone 3GS, the Apple iPhone 4, the
28 iPad 3G, and the iPad 2 3G.

1 **EIGHTH CLAIM FOR RELIEF**

2 **(Infringement of the ‘516 Patent)**

3 96. The Samsung Patent Counterclaimants re-allege and incorporate by reference the
4 allegations of Paragraphs 1-95 of these Counterclaims as though fully set forth herein.

5 97. Upon information and belief, in violation of 35 U.S.C. § 271, Apple is and has
6 been directly infringing, contributing to the infringement of, and/or inducing others to infringe the
7 ‘516 patent by making, using, selling, and/or offering to sell in the United States, or importing into
8 the United States, products or processes that practice the inventions claimed in the ‘516 patent,
9 including without limitation, the Apple iPhone 4 and the iPad 2 3G.

10 98. As a result of Apple’s unlawful infringement of the ‘516 patent, the Samsung
11 Patent Counterclaimants have suffered and will continue to suffer damage. The Samsung Patent
12 Counterclaimants are entitled to recover from Apple the damages suffered by them as a result of
13 its unlawful acts.

14 99. On information and belief, Apple intends to continue its unlawful infringing
15 activity, and the Samsung Patent Counterclaimants have suffered and will continue to suffer
16 irreparable harm – for which there is no adequate remedy at law – from such unlawful infringing
17 activities unless this Court enjoins Apple from further infringing activities.

18 **NINTH CLAIM FOR RELIEF**

19 **(Infringement of the ‘893 Patent)**

20 100. The Samsung Patent Counterclaimants re-allege and incorporate by reference the
21 allegations of Paragraphs 1-99 of these Counterclaims as though fully set forth herein.

22 101. Upon information and belief, in violation of 35 U.S.C. § 271, Apple is and has
23 been directly infringing, contributing to the infringement of, and/or inducing others to infringe the
24 ‘893 patent by making, using, selling, and/or offering to sell in the United States, or importing into
25 the United States, products or processes that practice the inventions claimed in the ‘893 patent,
26 including without limitation, the Apple iPhone 3G, iPhone 3GS, iPhone 4, iPad 2, iPad 2 3G, and
27 iPod Touch (4th Generation).

1 **ELEVENTH CLAIM FOR RELIEF**

2 **(Infringement of the ‘941 Patent)**

3 108. The Samsung Patent Counterclaimants re-allege and incorporate by reference the
4 allegations of Paragraphs 1-107 of these Counterclaims as though fully set forth herein.

5 109. Upon information and belief, in violation of 35 U.S.C. § 271, Apple is and has
6 been directly infringing, contributing to the infringement of, and/or inducing others to infringe the
7 ‘941 patent by making, using, selling, and/or offering to sell in the United States, or importing into
8 the United States, products or processes that practice the inventions claimed in the ‘941 patent,
9 including without limitation, the Apple iPhone 3G, the Apple iPhone 3GS, the Apple iPhone 4, the
10 iPad 3G, and the iPad 2 3G.

11 110. As a result of Apple’s unlawful infringement of the ‘941 patent, the Samsung
12 Patent Counterclaimants have suffered and will continue to suffer damage. The Samsung Patent
13 Counterclaimants are entitled to recover from Apple the damages suffered by them as a result of
14 its unlawful acts.

15 111. On information and belief, Apple intends to continue its unlawful infringing
16 activity, and the Samsung Patent Counterclaimants continue to and will continue to suffer
17 irreparable harm – for which there is no adequate remedy at law – from such unlawful infringing
18 activities unless this Court enjoins Apple from further infringing activities.

19 **TWELFTH CLAIM FOR RELIEF**

20 **(Infringement of the ‘711 Patent)**

21 112. The Samsung Patent Counterclaimants re-allege and incorporate by reference the
22 allegations of Paragraphs 1-111 of these Counterclaims as though fully set forth herein.

23 113. Upon information and belief, in violation of 35 U.S.C. § 271, Apple is and has
24 been directly infringing, contributing to the infringement of, and/or inducing others to infringe the
25 ‘711 patent by making, using, selling, and/or offering to sell in the United States, or importing into
26 the United States, products or processes that practice the inventions claimed in the ‘711 patent,
27 including without limitation, the Apple iPhone 3G, iPhone 3GS, iPhone 4, iPad, iPad 3G, iPad 2,
28 iPad 2 3G, and iPod Touch.

1 114. As a result of Apple’s unlawful infringement of the ‘711 patent, the Samsung
2 Patent Counterclaimants have suffered and will continue to suffer damage. The Samsung Patent
3 Counterclaimants are entitled to recover from Apple the damages suffered by them as a result of
4 its unlawful acts.

5 115. On information and belief, Apple intends to continue its unlawful infringing
6 activity, and the Samsung Patent Counterclaimants continue to and will continue to suffer
7 irreparable harm – for which there is no adequate remedy at law – from such unlawful infringing
8 activities unless this Court enjoins Apple from further infringing activities.

9 **THIRTEENTH CLAIM FOR RELIEF**

10 **(Declaration of Non-infringement of the ‘828, ‘002, ‘381, ‘915, ‘891, ‘607, ‘163, ‘129, ‘D790,
11 ‘D334, ‘D305, ‘D087, ‘D677, ‘D270, and ‘D889 Patents)**

12 116. The Samsung Counterclaimants restate and incorporate by reference each of the
13 allegations of paragraphs 1 through 115 of these Counterclaims as though fully set forth herein.

14 117. Apple claims to be the owner and assignee of all rights, title and interest in and
15 under the ‘828, ‘002, ‘381, ‘915, ‘891, ‘607, ‘163, ‘129, ‘D790, ‘D334, ‘D305, ‘D087, ‘D677,
16 ‘D270, and ‘D889 Patents.

17 118. Apple has accused the Samsung Counterclaimants of infringement of the Patents in
18 Suit and has created a substantial, immediate and real controversy between the parties as to the
19 non-infringement of the ‘828, ‘002, ‘381, ‘915, ‘891, ‘607, ‘163, ‘129, ‘D790, ‘D334, ‘D305,
20 ‘D087, ‘D677, ‘D270 , and ‘D889 Patents.

21 119. The Samsung Counterclaimants do not infringe and have not infringed the ‘828,
22 ‘002, ‘381, ‘915, ‘891, ‘607, ‘163, ‘129, ‘D790, ‘D334, ‘D305, ‘D087, ‘D677, ‘D270, and ‘D889
23 Patents, through their marking, using, selling and/or offering to sell, in the United States and/or
24 importing into the United States, one or more of the Accused Products.

25 **FOURTEENTH CLAIM FOR RELIEF**

26 **(Declaration of Invalidity of the ‘828, ‘002, ‘381, ‘915, ‘891, ‘607, ‘163, ‘129, ‘D790, ‘D334,
27 ‘D305, ‘D087, ‘D677, ‘D270, and ‘D889 Patents)**

28 120. The Samsung Counterclaimants restate and incorporate by reference each of the
allegations of paragraphs 1 through 119 of these Counterclaims as though fully set forth herein.

1 127. Apple has not been harmed by or suffered any cognizable injury from any alleged
2 conduct by the Samsung Counterclaimants.

3 128. The Samsung Counterclaimants are entitled to a declaration that they are not liable
4 to Apple on account of false designation of origin or unfair competition by their line of Galaxy
5 phones and tablet computers.

6 **SIXTEENTH CLAIM FOR RELIEF**

7 **(Declaration of Noninfringement of Trademark or Trade Dress)**

8 129. The Samsung Counterclaimants restate and incorporate by reference each of the
9 allegations of paragraphs 1 through 128 of these Counterclaims as though fully set forth herein.

10 130. Apple has accused SEC and STA's line of Galaxy phones of infringing the '983,
11 '218, '327 Registrations, the '463 Application, and the unregistered "Apple Packaging," and has
12 created a substantial, immediate and real controversy between the parties as to the
13 noninfringement of these registrations and this application by SEC and STA's line of Galaxy
14 phones.

15 131. Apple has also accused the Samsung Counterclaimants' line of Galaxy phones and
16 tablet computers of infringing the '196, '642, '200, '685, '169, '197, and '038 Registrations and
17 has created a substantial, immediate and real controversy between the parties as to the
18 noninfringement of these registrations by the Samsung Counterclaimants' line of Galaxy phones
19 and tablet computers.

20 132. Each of the alleged marks and trade dress that are the subject of the '983, '218,
21 '327, '196, '642, '200, '685, '169, '197, and '038 Registrations, the '463 Application, and the
22 unregistered "Apple packaging" are functional, are common to consumer electronic products, are
23 generic and otherwise are not distinctive or protectable.

24 133. The appearance of the Samsung Counterclaimants' line of Galaxy phones and
25 tablet computers and their packaging are not likely to cause confusion, or to cause mistake, or to
26 deceive consumers as to the affiliation, connection, or association of the Samsung
27 Counterclaimants' line of Galaxy phones and tablet computers, or as to the origin, sponsorship, or
28 approval by Apple of the Samsung Counterclaimants' goods, services, or commercial activities.

1 134. Apple has not been harmed by or suffered any cognizable injury from any alleged
2 conduct by the Samsung Counterclaimants.

3 135. The Samsung Counterclaimants are entitled to a declaration that they are not liable
4 to Apple on account of a violation of any alleged trademark or trade dress infringement.

5 **SEVENTEENTH CLAIM FOR RELIEF**

6 **(Declaration of Non-Dilution)**

7 136. The Samsung Counterclaimants restate and incorporate by reference each of the
8 allegations of paragraphs 1 through 135 of these Counterclaims as though fully set forth herein.

9 137. Apple claims that the Samsung Counterclaimants' manufacture and distribution of
10 one or more of the Accused Products constitutes trade dress dilution of the Apple iPhone Trade
11 Dress, Apple iPhone 3G Trade Dress, Apple iPhone 4 Trade Dress, Apple iPad Trade Dress, and
12 Apple iPad 2 Trade Dress under section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

13 138. None of Apple's alleged trade dresses is, or ever has been, "distinctive" or
14 "famous" within the meaning of 15 U.S.C. § 1125(c).

15 139. Each of Apple's claimed trade dresses is functional, common to consumer
16 electronic products, generic and otherwise not distinctive or protectable.

17 140. The Samsung Counterclaimants' activities are not likely to cause dilution of
18 Apple's claimed trade dresses.

19 141. Apple has not been harmed by or suffered any cognizable injury from any alleged
20 conduct by the Samsung Counterclaimants.

21 142. The Samsung Counterclaimants are entitled to a declaration that they are not liable
22 to Apple for trade dress dilution under 15 U.S.C. § 1125(c).

23 **EIGHTEENTH CLAIM FOR RELIEF**

24 **(Declaration of Invalidity of the '983, '218, '327, '196, '642, '200, '685, '169, '197, and '038**
25 **Registrations and the '463, '838, '829, '869, and '118 Applications)**

26 143. The Samsung Counterclaimants restate and incorporate by reference each of the
27 allegations of paragraphs 1 through 142 of these Counterclaims as though fully set forth herein.

28

1 144. Apple has accused the Samsung Counterclaimants' line of Galaxy phones and
2 tablet computers of infringing the '983, '218, '327, '196, '642, '200, '685, '169, '197, and '038
3 Registrations and the '463, '838, '829, '869, and '118 Applications and has thus created a
4 substantial, immediate and real controversy between the parties as to the invalidity of these
5 registrations and applications.

6 145. Each of the alleged marks and trade dress that is the subject of the '983, '218, '327,
7 '196, '642, '200, '685, '169, '197, and '038 Registrations and the '463, '838, '829, '869, and '118
8 Applications is functional, is common to consumer electronic products, is generic and otherwise is
9 not distinctive or protectable.

10 146. The Samsung Counterclaimants are entitled to a declaration that each of the '983,
11 '218, '327, '196, '642, '200, '685, '169, '197, and '038 Registrations and the '463, '838, '829,
12 '869, and '118 Applications is invalid.

13 **NINETEENTH CLAIM FOR RELIEF**

14 **(Cancellation of the '983, '218, '327, '196, '642, '200, '685, '169, '197, and '038 Registrations)**

15 **(15 U.S.C. §§ 1119 and 1064)**

16 147. The Samsung Counterclaimants restate and incorporate by reference each of the
17 allegations of paragraphs 1 through 146 of these Counterclaims as though fully set forth herein.

18 148. Apple has accused the Samsung Counterclaimants' line of Galaxy phones and
19 tablet computers of infringing the '983, '218, '327, '196, '642, '200, '685, '169, '197, and '038
20 Registrations and has thus created a substantial, immediate and real controversy between the
21 parties as to the invalidity of these registrations.

22 149. Each of the alleged marks and trade dress that is the subject of the '983, '218, '327,
23 '196, '642, '200, '685, '169, '197, and '038 Registrations is functional, is common to consumer
24 electronic products, is generic and otherwise is not distinctive or protectable.

25 150. The Samsung Counterclaimants are entitled to an order cancelling in its entirety
26 each of the '983, '218, '327, '196, '642, '200, '685, '169, '197, and '038 Registrations.

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1 **TWENTIETH CLAIM FOR RELIEF**

2 **(Declaration of Nonviolation of California Business and Professions Code §17200, et seq.)**

3 151. The Samsung Counterclaimants restate and incorporate by reference each of the
4 allegations of paragraphs 1 through 150 of these Counterclaims as though fully set forth herein.

5 152. Apple claims that the Samsung Counterclaimants' use of allegedly infringing trade
6 dress in one or more of the Accused Products is likely to cause others to be confused or mistaken
7 into believing that there is a relationship between the Samsung Counterclaimants and Apple or
8 that the Samsung Counterclaimants' products are affiliated with or sponsored by Apple, and that
9 this alleged use is likely to mislead or deceive the general public and therefore constitutes
10 fraudulent business practices in violation of California Business & Professions Code § 17200, *et*
11 *seq.*

12 153. Apple also claims that the Samsung Counterclaimants have engaged in unfair
13 competition under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), trade dress dilution in
14 violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c), trademark and trade dress
15 infringement under Section 32 of the Lanham Act, 15 U.S.C. § 1114, and patent infringement
16 under 35 U.S.C. § 271, and that these alleged violations are therefore unlawful acts in violation of
17 California Business & Professions Code § 17200, *et seq.*

18 154. None of the Accused Products infringes any of the Patents In Suit, the Registrations
19 In Suit, or Apple's claimed unregistered trade dress. Nor do any of the Accused Products dilute
20 any of Apple's claimed trade dress. Nor do any of the Accused Products employ a false
21 designation of origin or amount to unfair competition on the part of the Samsung
22 Counterclaimants. Nor are any of the Accused Products likely to cause confusion, or to cause
23 mistake, or to deceive consumers as to the affiliation, connection, or association of the Samsung
24 Counterclaimants' line of Galaxy phones and tablet computers, or as to the origin, sponsorship, or
25 approval by Apple of the Samsung Counterclaimants' goods, services, or commercial activities.

26 155. Apple has not been harmed by or suffered any cognizable injury from any alleged
27 conduct by the Samsung Counterclaimants.

28

1 C. That Apple be ordered to account for and pay to the Samsung Patent Counterclaimants
2 all damages caused to them by reason of Apple’s infringement of Samsung’s Patents In Suit
3 pursuant to 35 U.S.C. § 284;

4 D. That Apple be ordered to pay treble damages for willful infringement of each of
5 Samsung’s Patents In Suit pursuant to 35 U.S.C. § 284;

6 E. That this case be declared “exceptional” under 35 U.S.C. § 285 and that the Samsung
7 Patent Counterclaimants be awarded their attorneys’ fees, expenses, and costs incurred in this
8 action; and

9 F. That the Samsung Patent Counterclaimants be granted pre-judgment and post-judgment
10 interest on the damages caused to them by reason of Apple’s infringement of Samsung’s Patents
11 In Suit.

12 WHEREFORE, the Samsung Defendants/Samsung Counterclaimants respectfully request
13 entry of judgment as follows:

14 G. That the Court dismiss with prejudice any and all claims of Apple’s Complaint and
15 order that Apple take nothing as a result of the Complaint and that all of Apple’s prayers for relief
16 are denied;

17 H. That the Court find and declare, and enter judgment, in favor of the Samsung
18 Defendants/Samsung Counterclaimants and against Apple that the Samsung Defendants/Samsung
19 Counterclaimants have not infringed any of the Apple Patents In Suit;

20 I. That the Court find and declare, and enter judgment, in favor of the Samsung
21 Defendants/Samsung Counterclaimants and against Apple that each of the Apple Patents In Suit is
22 invalid;

23 J. That the Court find and declare, and enter judgment, in favor of the Samsung
24 Defendants/Samsung Counterclaimants and against Apple that the Samsung Defendants/Samsung
25 Counterclaimants have not engaged in any federal false designation of origin or unfair competition
26 under 15 U.S.C. § 1125(a);

27 K. That the Court find and declare, and enter judgment, in favor of the Samsung
28 Defendants/Samsung Counterclaimants and against Apple that the Samsung Defendants/Samsung

1 Counterclaimants have not infringed any alleged trademark or alleged trade dress asserted by
2 Apple in its Complaint;

3 L. That the Court find and declare, and enter judgment, in favor of the Samsung
4 Defendants/Samsung Counterclaimants and against Apple that the Samsung Defendants/Samsung
5 Counterclaimants have not violated the trade dress dilution provisions of the Lanham Act with
6 respect to Apple's iPhone, iPod and iPad products;

7 M. That the Court find and declare, and enter an order cancelling in its entirety each of the
8 '983, '218, '327, '196, '642, '200, '685, '169, '197, and '038 Registrations and to certify such
9 cancellations to the Director of the USPTO, for appropriate entry upon the records of the USPTO;

10 N. That the Court find and declare, and enter judgment, in favor of the Samsung
11 Defendants/Samsung Counterclaimants and against Apple that the Samsung Defendants/Samsung
12 Counterclaimants have not violated California Business and Professions Code §17200, *et seq.*;

13 O. That the Court find and declare, and enter judgment, in favor of the Samsung
14 Defendants/Samsung Counterclaimants and against Apple that the Samsung Defendants/Samsung
15 Counterclaimants have not been unjustly enriched;

16 P. That the Court award the Samsung Defendants/Samsung Counterclaimants attorney's
17 fees and costs of suit under the Lanham Act as an exceptional case;

18 Q. That Apple be ordered to pay all costs associated with this action; and

19 R. That the Court grant to the Samsung Defendants/Samsung Counterclaimants such other
20 and further relief as may be deemed just and appropriate.

21 **DEMAND FOR JURY TRIAL**

22 SEC, SEA and STA hereby demand a jury trial on all issues.
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1 DATED: June 30, 2011

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