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

17 UNITED STATES DISTRICT COURT

18 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

19 APPLE INC., a California corporation,

20 Plaintiff,

21 vs.

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

26 Defendants.

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CASE NO. 12-CV-00630-LHK (PSG)

**SAMSUNG'S PARTIAL OPPOSITION TO
APPLE INC.'S NOVEMBER 23, 2012
MOTION FOR LEAVE TO AMEND ITS
DISCLOSURE OF ASSERTED CLAIMS
& INFRINGEMENT CONTENTIONS**

Date: January 8, 2012
Time: 10:00 a.m.
Place: Courtroom 5
Judge: Honorable Paul S. Grewal

1 **I. INTRODUCTION**

2 In its November 23 Motion for Leave to Amend its Disclosure of Asserted Claims &
3 Infringement Contentions, Apple seeks to test the limits the Court set for amending contentions.
4 Rather than serving all of its amended contentions by November 23, as required by the Court,
5 Apple served only a portion of its new contentions on that day and waited until November 30, an
6 additional week, to serve ten additional claim charts. Nevertheless, Samsung has sought to
7 compromise with Apple and to alleviate any additional burden on the Court by reaching a global
8 resolution with respect to amendment of the parties' infringement contentions. Samsung only
9 asked that it be allowed to amend its contentions with two additional claim charts that it informed
10 Apple it would be serving on December 3 and that it served on December 17. However, Apple
11 has rebuffed Samsung's multiple efforts to reach a global resolution, even hours before this filing.

12 Apple's motion seeks leave to add six additional Samsung products. Samsung does not
13 oppose Apple's request to amend contentions where it has complied with the Court's directive.
14 However, to the extent Apple did not comply with the Court's directive, as it failed to do with a
15 significant portion of its latest infringement contentions, Samsung opposes Apple's motion.
16 Specifically, Samsung does not oppose Apple's motion to the extent that it seeks leave to include
17 claim charts for (1) the Galaxy S III running the Jelly Bean version of Android and the (2) the
18 Galaxy Note II. These charts were served within the time limits set by the Court. However,
19 Apple also seeks leave to add (1) the Galaxy Tab 8.9 Wifi running the Ice Cream Sandwich
20 version of Android, (2) the Galaxy Tab 2 10.1 running the Ice Cream Sandwich version of
21 Android, and (3) the Rugby Pro, for which Apple did not serve its claim charts for those products
22 until November 30, after the November 23 date identified by the Court.

23 Samsung also opposes Apple's motion to the extent it includes the Galaxy S III Mini. This
24 product has not been released in the United States by Samsung and is not subject to the United
25 States Patent laws. Apple concedes as much in its recent filing. *See* Dkt. 306 at 2. Samsung
26 understands that Apple has agreed to withdraw its request to amend its contentions to include the
27 Galaxy S III Mini. If Apple does not withdraw the portion of its motion concerning the Galaxy S
28 III Mini, Samsung opposes that portion of Apple's motion. Finally, Samsung does not oppose

1 Apple's request for leave to "make minor corrective edits to the cover document for the
2 Infringement Contentions." Dkt. 306 at 1.

3 **II. FACTS**

4 Apple commenced this action on February 8, 2012. Dkt. 1. In its original Complaint,
5 Apple named 17 Samsung products, including 13 smartphones, two media players, and two
6 tablets. *Id.* at ¶ 16. On May 2, 2012, the Court set a June 15, 2012 deadline for service of Patent
7 Local Rule 3-1 infringement contentions. Dkt. 160. Apple served its infringement contentions on
8 June 15, 2012.

9 On October 1, 2012, Samsung filed a Motion for Leave to Supplement its Infringement
10 Contentions to add the then newly-released iPhone 5. Dkt. 267. On October 5, 2012, Apple filed
11 a Motion for Leave to Amend its Disclosure of Asserted Claims and Infringement Contentions
12 seeking leave to add, *inter alia*, products and operating systems released after Apple's original
13 contentions. Dkt. 269. The Court heard argument on those motions on November 6, 2012.
14 During oral argument, Samsung's counsel informed the Court that Samsung was reviewing and
15 evaluating additional newly released Apple products. Declaration of Todd Briggs ("Briggs
16 Decl.") Ex. A at 15:16-25. In contrast, Apple's counsel informed the Court that Apple did not
17 think any additional products should be added after that November 6, 2012 hearing. Specifically,
18 during the hearing Apple's counsel stated:

19 MR. LO: [I]n fact, barring further guidance from this court, ***our view would be now that***
20 ***the claim construction is underway, we don't think it would be appropriate to continue to***
add additional products as well.

21 Briggs Decl. Ex. A at 6:2-5.

22 On November 15, 2012, the Court issued an Order granting both parties' motions to amend
23 in their entirety. Dkt. 302. In that Order, the Court stated: "Given the early stage of this litigation
24 and the reasoning of this order, the court notes that Apple should think twice before opposing
25 similar amendments reflecting other newly-released products — e.g. the iPad 4 and iPad mini —
26 that Samsung may propose in the near future. Any amended contentions shall be served no later
27

28

1 than November 23, 2012.” Dkt. 302 at 12. In its Motion, Apple interpreted the Court’s statement
2 as follows:

3 On November 15, 2012, this Court ordered that amended infringement
4 contentions shall be served no later than November 23, 2012. (Order at 12.)
5 This Court also contemplated that amendments reflecting other newly-
6 released products might be allowed, noting that this litigation is in an early
7 stage. (*See id.*)

8 Dkt. 306 at 3.

9 On November 21, 2012, Samsung filed a motion for leave to amend its infringement
10 contentions to allege infringement against the newly-released fifth generation iPod Touch, fourth
11 generation iPad and iPad Mini products and to correct certain typographical errors. Dkt. 304.

12 On November 23, 2012, Apple filed its motion for leave to amend its infringement
13 contentions to allege infringement against (1) the Galaxy S III running the Jelly Bean version of
14 Android, (2) the Galaxy Note II, (3) the Galaxy Tab 8.9 Wifi running the Ice Cream Sandwich
15 version of Android, (4) the Galaxy Tab 2 10.1 running the Ice Cream Sandwich version of
16 Android, (5) the Rugby Pro, and (6) the Galaxy S III Mini. Dkt. 306. At that time, Apple had
17 served claim charts for only (1) the Galaxy S III running the Jelly Bean version of Android, and
18 (2) the Galaxy Note II. Apple’s motion states that, Apple was “in the process of conducting its
19 investigation of the Galaxy Tab 8.9 Wifi, the Rugby Pro, as well as the Galaxy Tab 2 10.1 running
20 on Ice Cream Sandwich” when it filed the motion. Dkt. 306 at 2. Apple served ten new claim
21 charts setting forth its contentions concerning those three devices on November 30, 2012. Briggs
22 Decl. Ex B at 2.

23 With respect to the Galaxy S III Mini, Apple conceded in its Motion that Samsung “has yet
24 to officially release” the Galaxy S III Mini in the United States. Dkt. 306 at 2. Apple’s only basis
25 for its assertion that the Galaxy S III Mini is “now offered for sale in the United States” was an
26 article entitled “Unlocked Samsung Galaxy S III Mini on Sale at Amazon.” Dkt. 307-3 at 4. A
27 cursory review of the Amazon website reveals that a very limited number of Galaxy S III minis
28 are being sold through Amazon without warranties. Briggs Decl. Ex C.

1 In addition, Apple did not provide any claim charts specific to the Galaxy S III Mini.
2 Instead, Apple attempts to fold the Galaxy S III Mini into its allegations concerning the S III
3 product, noting in a footnote that “[a]ll references herein to the Samsung Galaxy S III include the
4 Samsung Galaxy S III Mini, which, *on information and belief*, operates for relevant purposes like
5 the Samsung Galaxy S III running Android Jelly Bean and which will be officially released in the
6 U.S. in the near future and which has recently begun to be sold in the U.S.” Dkt. 306-2 at 5 of
7 494, n. 1 (emphasis added).¹ It is apparent from Apple’s assertions made on “information and
8 belief” and Apple’s failure to represent that it has obtained a Galaxy S III Mini that Apple did not
9 even analyze the Galaxy S III Mini before trying to sweep it into its infringement contentions.

10 On December 3, 2012, Samsung proposed a compromise in an effort to resolve the issues
11 raised by both parties’ pending requests to amend infringement contentions, consistent with the
12 Court’s statement that “Apple should think twice before opposing similar amendments reflecting
13 other newly-released products – e.g. the iPad 4 and iPad mini – that Samsung may propose in the
14 near future” (Dkt. 302 at 12). *See* Briggs Decl. Ex. D. Samsung’s compromise proposal included
15 that Samsung would not oppose Apple’s motion to the extent it sought to add contentions
16 concerning (1) the Galaxy S III running the Jelly Bean version of Android, (2) the Galaxy Note II,
17 (3) the Galaxy Tab 8.9 Wifi running the Ice Cream Sandwich version of Android, (4) the Galaxy
18 Tab 2 10.1 running the Ice Cream Sandwich version of Android, and (5) the Rugby Pro if Apple
19 would (1) withdraw its attempt to add the Galaxy S III Mini; (2) not oppose Samsung’s then-
20 pending motion (Dkt. 304) to amend its infringement contentions; and (3) not oppose Samsung’s
21 proposed motion to amend its contentions to add two additional claim charts concerning
22 infringement of Samsung’s Patent Nos. 5,579,239 and 7,577,757 by newly released versions of
23 certain Mac computer products.² Briggs Decl. Ex. D. The parties met and conferred about the

25 ¹ The same footnote appears in Apple’s claim charts concerning the Galaxy S III. *See, e.g.*,
26 306-2 at 10 of 494, n. 1.

27 ² On December 17, 2012, Samsung served Apple with its proposed new claim charts
28 concerning the ‘239 and ‘757 patents. Briggs Decl. Ex. E. The new charts for the ‘239 and ‘757
patents set forth in detail Samsung’s infringement contentions concerning the newly released
(footnote continued)

1 proposed amended contentions and sought two extensions of the deadline to oppose the pending
2 motions to amend to continue those discussions. Dkts. 318, 325. As of December 19, the parties
3 had not reached complete agreement, and Apple filed a response to Samsung's motion stating that
4 Apple "does not oppose Samsung's Motion for leave on the assumption that Samsung will
5 likewise not oppose Apple's pending motion to amend its infringement contentions" Dkt.
6 330 at 2. Apple's response does not address the fact that the Galaxy S III Mini has not been
7 released in the United States. Nor does it address Samsung's request to Apple concerning
8 Samsung's '239 and '757 patents. *See id.*

9 Samsung has continued to make efforts to resolve all of the parties' disputes with
10 respect to infringement contentions to the present day, but Apple has rebuffed Samsung's efforts,
11 claiming it need more time to review Samsung's recent claim charts. Briggs Decl. Ex. G. On
12 December 21, the date of the present filing, Samsung again sought full resolution of the issues
13 before the Court, or else a further extension of time within which to reach agreement with Apple.
14 Apple once again rejected Samsung's efforts, leaving Samsung with no choice but to file the
15 present opposition. Briggs. Decl. Ex. G.

16 **III. ARGUMENT**

17 **A. Apple's Motion Should Be Denied With Respect To The Galaxy S III Mini**

18 Apple's request to add contentions concerning the Galaxy S III Mini should be denied.
19 Apple concedes the Galaxy S III Mini has not been released in the United States. *See* Dkt. 306 at
20 3-4. During negotiations over the parties' infringement contentions, Apple agreed it would
21 withdraw its infringement allegations with respect to the Galaxy S III Mini so long as Samsung
22 did not mention such withdrawal if Apple later seeks leave to add the Galaxy S III Mini to this
23 case. Briggs Decl. Ex. F. Moreover, because Apple has failed to adduce any evidence that
24 Samsung is making, using, selling, offering to sell or importing the Galaxy SIII Mini in the United

25 _____
26 versions certain Apple products that had already been accused of infringing these patents, the
27 MacBook Pro, Mac Mini and iMac. The new charts do not present any new theories of
28 infringement.

1 States—which it is not—there is no basis to allege infringement of that product. *See* 35 U.S.C. §
2 271. Consequently, any attempt to add the Galaxy S III Mini to this case should be denied.

3 **B. Apple’s Motion Should Be Denied With To The Claim Charts It Served After**
4 **November 23, 2012**

5 In the November 15, 2012 Order on the parties’ first set of motions to amend their
6 infringement contentions, this Court instructed that “[g]iven the early stage of this litigation and
7 the reasoning of this order, the court notes that Apple should think twice before opposing similar
8 amendments reflecting other newly-released products — e.g. the iPad 4 and iPad mini — that
9 Samsung may propose in the near future” and ordered that “[a]ny amended contentions shall be
10 served no later than November 23, 2012.” Dkt. 302 at 12. In its Motion, Apple interpreted the
11 Court’s statements to contemplate “that amendments reflecting other newly-released products
12 might be allowed.” Dkt. 306 at 3. Apple thus delayed service of its amended contentions until
13 November 30. If the Court intended that any proposed new infringement contentions be served by
14 November 23, Apple’s contentions are untimely and leave to amend as to the Galaxy Tab 8.9
15 Wifi, Rugby Pro, and Galaxy Tab 2 10.1 running on Ice Cream Sandwich should be denied.

16 If Apple’s interpretation of the Court’s Order is correct, and if Apple is allowed to amend
17 its contentions to add allegations concerning the Galaxy Tab 8.9 Wifi, the Rugby Pro, and the
18 Galaxy Tab 2 10.1 running on Ice Cream Sandwich, Samsung respectfully requests that the Court
19 grant Samsung’s request to serve two additional claim charts.³

20 **C. Proposed Amendments that Samsung Does Not Oppose**

21 As noted above, Samsung is only conditionally opposing certain of Apple’s proposed
22 amendments and is not opposing certain other proposed amendments. In particular, Samsung does
23 not oppose Apple’s motion to the extent that it seeks to add contentions concerning the Galaxy S
24

25 ³ Specifically, as discussed above, Samsung seeks to add contentions relating to the
26 infringement of Samsung’s ‘239 and ‘757 patents by newer versions of Apple’s Mac computers.
27 Apple contends that it is still reviewing these charts. If Apple refuses to allow amendment with
28 these charts, Samsung intends to file a motion for leave to amend its contentions to include these
charts.

1 III running the Jelly Bean version of Android and the Galaxy Note II, for which Apple served
2 claim charts on November 21, 2012. Samsung also does not oppose Apple's motion to the extent
3 that Apple seeks leave to "make minor corrective edits to the cover document for the Infringement
4 Contentions."

5 **IV. CONCLUSION**

6 For the foregoing reasons, Samsung respectfully requests that the deny Apple's motion to
7 the extent Apple it include the Galaxy S III Mini and to the extent it include any claim charts
8 served after November 23.

9

10 DATED: December 21, 2012

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

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By /s/ Victoria F. Maroulis

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Charles K. Verhoeven

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Kevin P.B. Johnson

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Victoria F. Maroulis

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and SAMSUNG TELECOMMUNICATIONS

25

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13 Attorneys for SAMSUNG ELECTRONICS CO.,
14 LTD., SAMSUNG ELECTRONICS AMERICA,
INC. and SAMSUNG
15 TELECOMMUNICATIONS AMERICA, LLC

16 UNITED STATES DISTRICT COURT

17 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

18 APPLE INC., a California corporation,

19 Plaintiff,

20 vs.

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

24 Defendants.
25

CASE NO. 12-CV-00630-LHK (PSG)

**DECLARATION OF TODD M. BRIGGS
IN SUPPORT OF SAMSUNG'S PARTIAL
OPPOSITION TO APPLE INC.'S
NOVEMBER 23, 2012 MOTION FOR
LEAVE TO AMEND ITS DISCLOSURE
OF ASSERTED CLAIMS &
INFRINGEMENT CONTENTIONS**

Date: January 8, 2012

Time: 10:00 a.m.

Place: Courtroom 5

Judge: Honorable Paul S. Grewal

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DECLARATION OF TODD M. BRIGGS

I, Todd M. Briggs, declare as follows:

1. I am a member of the bar of the State of California, admitted to practice before this Court, and a partner with Quinn Emanuel Urquhart & Sullivan, LLP, attorneys for defendants Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung Telecommunications America, LLC (collectively, “Samsung”) in this action. I make this declaration of personal, firsthand knowledge, and if called and sworn as a witness, I could and would testify as set forth below.

2. Attached hereto as Exhibit A are true and correct excerpts from the transcript of the November 6, 2012 hearing before the Honorable Paul S. Grewal in this matter.

3. Attached hereto as Exhibit B is a true and correct copy of Apple Inc.’s Third Amended Disclosure of Asserted Claims & Infringement Contentions, without exhibits.

4. Attached hereto as Exhibit C is a true and correct copy of a letter dated December 3, 2012 to Brian M. Buroker.

5. Attached hereto as Exhibit D is a true and correct copy of an e-mail message dated December 17, 2012 from Todd Briggs to Mark Selwyn, without attachments. This e-mail attached Samsung’s amended infringement contentions as to U.S. Patent Nos. 5,579,239 and 7,577,757.

6. Attached hereto as Exhibit E is a true and correct copy of an e-mail message dated December 18, 2012 to Brian M. Buroker and Peter Kolovos with an attached e-mail of December 15, 2012 from Brian M. Buroker.

7. Attached hereto as Exhibit F is a true and correct copy of an email string relating to Samsung’s efforts to resolve the parties’ pending motions for leave to amend their infringement contentions.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

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Executed on December 21, 2012, at Redwood Shores, California.

By /s/ Todd Briggs

Todd Briggs

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General Order 45 Attestation

I, Victoria F. Maroulis, am the ECF user whose ID and password are being used to file this Declaration. In compliance with General Order 45(X)(B), I hereby attest that Todd Briggs has concurred in this filing.

/s/ Victoria Maroulis
Victoria Maroulis

EXHIBIT A

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

APPLE, INC.,

PLAINTIFF,

VS.

SAMSUNG ELECTRONICS COMPANY
LIMITED, ET AL.,

DEFENDANTS.

CASE NO.

CV-12-0630-LHK-PSG

SAN JOSE, CALIFORNIA

NOVEMBER 6, 2012

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE PAUL S. GREWAL
UNITED STATES DISTRICT MAGISTRATE JUDGE

A-P-P-E-A-R-A-N-C-E-S

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OFFICIAL COURT REPORTER: IRENE L. RODRIGUEZ, CSR, CRR
CERTIFICATE NUMBER 8074

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY,
TRANSCRIPT PRODUCED WITH COMPUTER.

12:17PM 1 "SWAPPED OUT," ARE YOU LOOKING TO KEEP THE UK VERSION IN THIS
12:17PM 2 CASE OR IS EVERYBODY IN AGREEMENT THAT WHAT WE'RE TALKING ABOUT
12:17PM 3 HERE IS THE U.S. VERSION RELEASED IN JUNE?

12:17PM 4 MR. LO: THE U.S. VERSION THAT WAS RELEASED, YES.

12:17PM 5 THE COURT: SO IT WAS ORIGINALLY DISCLOSED, YOU WERE
12:17PM 6 USING VISUALS OF THE UK PHONE EVEN THOUGH YOU WERE ACTUALLY
12:17PM 7 ACCUSING THE U.S.?

12:17PM 8 MR. LO: YOU'RE CORRECT, YOUR HONOR.

12:17PM 9 THE COURT: IN ANY EVENT, IT APPEARS THAT THERE'S NO
12:17PM 10 DISAGREEMENT FROM SAMSUNG ON THAT, ALTHOUGH MS. MAROULIS OR HER
12:17PM 11 COLLEAGUE WILL CORRECT ME IF I'M WRONG.

12:17PM 12 SO LET'S TURN TO THE SO-CALLED "JELLY BEAN" PHONES.

12:18PM 13 MR. LO: YES.

12:18PM 14 THE COURT: AND I WAS A BIT CONFUSED AS TO WHETHER
12:18PM 15 OR NOT, AND PERHAPS SAMSUNG WAS AS WELL, APPLE IS LOOKING TO
12:18PM 16 ADD OR ACCUSE EVERY PHONE THAT USES THE JELLY BEAN OPERATING
12:18PM 17 SYSTEM THAT SAMSUNG USES OR JUST THE NEXUS, FOR EXAMPLE.

12:18PM 18 MR. LO: APPLE IS SEEKING TO ADD AT THIS POINT ONLY
12:18PM 19 THE PHONES THAT ALREADY HAVE THE JELLY BEAN AVAILABLE TO IT AND
12:18PM 20 THAT'S SIMPLY ONE PHONE AND THAT'S THE GALAXY NEXUS AND THERE
12:18PM 21 ARE DIFFERENT VARIANTS OF THAT SAME PHONE FOR DIFFERENT
12:18PM 22 CARRIERS.

12:18PM 23 BUT, FOR EXAMPLE, THERE HAVE BEEN ANNOUNCEMENTS THAT JELLY
12:18PM 24 BEAN MAY BE RELEASED FOR THE GALAXY -- FOR THE SAMSUNG S3, AND
12:18PM 25 THAT'S NOT BEEN RELEASED YET, AND WE DO NOT CONTEND THAT THAT

12:18PM 1 COMES AUTOMATICALLY AS PART OF THIS MOTION AND THAT'S NOT A
12:18PM 2 REQUEST WE ARE SEEKING, AND, IN FACT, BARRING FURTHER GUIDANCE
12:18PM 3 FROM THIS COURT, OUR VIEW WOULD BE NOW THAT THE CLAIM
12:18PM 4 CONSTRUCTION IS UNDERWAY, WE DON'T THINK IT WOULD BE
12:18PM 5 APPROPRIATE TO CONTINUE TO ADD ADDITIONAL PRODUCTS AS WELL.

12:18PM 6 THE COURT: JUST SO I'M CLEAR, MR. LO, IF YOU GOT,
12:18PM 7 ON THIS POINT ANYWAY, EVERYTHING THAT YOU WANTED FROM ME TODAY,
12:18PM 8 THE GALAXY NEXUS PHONE WOULD BE IN, BUT THERE WOULD BE NO OTHER
12:19PM 9 PHONES ADDED AS A RESULT OF MY ORDER THAT CONTAIN THE JELLY
12:19PM 10 BEAN OPERATING SYSTEM FOR THE SIMPLE FACT THAT THERE ARE NO
12:19PM 11 OTHER SAMSUNG PHONES IN THE U.S. USING THAT?

12:19PM 12 MR. LO: THAT WOULD BE CORRECT, YES.

12:19PM 13 THE COURT: SO AS TO THE NEXT CATEGORY OF
12:19PM 14 AMENDMENTS, AS I UNDERSTAND IT, WOULD BE THE PROPOSED
12:19PM 15 AMENDMENTS WHERE YOU'RE LOOKING TO ADD LANGUAGE AND EXEMPLARY
12:19PM 16 LANGUAGE AND I DON'T UNDERSTAND SAMSUNG TO BE OPPOSING THOSE
12:19PM 17 AMENDMENTS BASED ON THEIR PAPERS ANYWAY.

12:19PM 18 SO UNLESS SAMSUNG TELLS ME DIFFERENTLY, I THINK WE CAN
12:19PM 19 MOVE ON. AND I'LL GIVE YOU A CHANCE TO RESPOND IF THEY TELL ME
12:19PM 20 DIFFERENTLY.

12:19PM 21 MR. LO: THANK YOU, YOUR HONOR.

12:19PM 22 THE COURT: THE THIRD CATEGORY CONCERNS WHAT I THINK
12:19PM 23 APPLE SAID WAS MISTAKENLY OMITTED CHARTS AND CLAIMS AND SO
12:19PM 24 FORTH AND HERE, AGAIN, THERE ARE CERTAIN CLAIMS AND CHARTS
12:19PM 25 WHICH I DO NOT UNDERSTAND TO BE OPPOSED BY SAMSUNG, AND I'LL

12:30PM 1 SO THOSE ARE THE BASIC ARGUMENTS AND RESPONSES TO THAT.

12:30PM 2 NOW, I DON'T KNOW IF YOUR HONOR IS GOING TO LET ME SPEAK
12:30PM 3 MORE TO OUR MOTION.

12:30PM 4 THE COURT: YES, OF COURSE. I DIDN'T MEAN TO
12:30PM 5 PRECLUDE YOU.

12:30PM 6 MS. MAROULIS: DO YOU WANT ME TO HANDLE IT NOW?

12:30PM 7 THE COURT: YES.

12:30PM 8 MS. MAROULIS: OUR MOTION IS VERY SIMPLE. IT SEEKS
12:30PM 9 TO ADD ONE PRODUCT AND WE EXERCISE DILIGENCE. WE BASICALLY
12:30PM 10 SERVED AMENDED CONTENTIONS ON APPLE WITHIN ONE WEEK OF IPHONE 5
12:31PM 11 BEING AVAILABLE IN THE STORES.

12:31PM 12 IN THEIR OPPOSITION THEY DON'T OPPOSE THIS ON THE MERITS,
12:31PM 13 BUT THEY SAY IT SHOULD BE. WE DISAGREE WITH THAT, BUT THERE IS
12:31PM 14 PARITY AS OUR OPPOSING THEM AND ADDING NEW SAMSUNG PRODUCTS IN
12:31PM 15 THE PAPERS.

12:31PM 16 FINALLY, I DO WANT TO POINT OUT TO YOUR HONOR THAT LAST
12:31PM 17 WEEK OR A COUPLE OF WEEKS AGO APPLE CAME UP WITH SOME NEW
12:31PM 18 PRODUCTS, AND WE'RE CURRENTLY LOOKING AT THEM AND EVALUATING
12:31PM 19 THEM AND I WOULD BE REMISS NOT TO POINT THAT OUT.

12:31PM 20 THE COURT: I HAD A FEELING IT MIGHT BE COMING, BUT
12:31PM 21 I APPRECIATE YOUR CANDOR.

12:31PM 22 MS. MAROULIS: WE WANT TO MAKE SURE YOUR HONOR IS ON
12:31PM 23 NOTICE OF THAT AND OBVIOUSLY WE'RE FIRST AT THE GATE AND APPLE
12:31PM 24 CAN SEE IF IT CAN BE RESOLVED BY APPLE AND IF NOT WE'LL SEEK
12:31PM 25 ANOTHER MOTION, BUT THAT'S NOT HAPPENED YET.

12:31PM 1 THE COURT: CAN YOU HELP ME, MS. MAROULIS, AND I'LL
12:31PM 2 GIVE MR. LO A CHANCE TO WEIGH IN AS WELL. I SHOULD KNOW THIS
12:31PM 3 BUT I DON'T OFF THE TOP OF MY HEAD.

12:31PM 4 IF THE COURT WERE INCLINED TO, LET'S SAY, DENY ALL MOTIONS
12:31PM 5 AND SAY NONE OF THESE PRODUCTS ARE COMING IN AND IT'S TOO LATE
12:32PM 6 AND JUDGE KOH NEEDS THIS CASE READY, BLAH, BLAH, WOULD THE
12:32PM 7 PRACTICABLE EFFECT OF THAT BE THAT EACH SIDE COULD THEN BRING
12:32PM 8 ESSENTIALLY NEW SUITES AND SUE THEM IN SEPARATE MATTERS OR HOW
12:32PM 9 WOULD --

12:32PM 10 MS. MAROULIS: YOUR HONOR, THAT WOULD BE THE
12:32PM 11 PRACTICABLE EFFECT AND I WOULD SUBMIT THAT THAT WOULD NOT BE
12:32PM 12 SUFFICIENT BECAUSE THIS COURT -- IT WOULD BE BETTER TO ADD THE
12:32PM 13 PRODUCTS THAT JUST CAME OUT WHILE CONSTRUCTION IS STILL GOING
12:32PM 14 ON AND DISCOVERY IS AT THE EARLY STATES AND DOES NOT CLOSE
12:32PM 15 UNTIL JULY OF NEXT YEAR.

12:32PM 16 THE COURT: AND I REALIZE I'M BRINGING THIS ON YOU
12:32PM 17 SO I WON'T HOLD YOU TO THIS, BUT YOU WOULD NOT AT ALL BE
12:32PM 18 CONCERNED THAT THERE WOULD BE SOME TYPE OF ESTOPPEL EFFECT
12:32PM 19 EITHER AS TO SAMSUNG OR APPLE THAT WOULD PRECLUDE THEM FROM
12:32PM 20 PURSUING NEW PRODUCTS IN SEPARATE CASES?

12:32PM 21 MS. MAROULIS: IF THEY ADDED HERE?

12:32PM 22 THE COURT: IF I WERE TO SAY NO. IF I WERE TO -- IN
12:32PM 23 OTHER WORDS, I MAY JUST BE MISSING AN OBVIOUS ELEMENT OF THE
12:32PM 24 DOCTRINE, BUT ONE CONCERN I HAVE IS THAT IF I WERE TO DENY
12:33PM 25 EITHER SAMSUNG OR APPLE THE OPPORTUNITY IN THIS CASE TO PURSUE

EXHIBIT B

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Palo Alto, CA 94304
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Facsimile: (650) 858-6100

12 *Attorneys for Plaintiff and Counterclaim-Defendant Apple Inc.*

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

17 APPLE INC., a California corporation,
18 Plaintiff,
19 v.
20 SAMSUNG ELECTRONICS CO., LTD., a
Korean corporation; SAMSUNG
21 ELECTRONICS AMERICA, INC., a New
York corporation; and SAMSUNG
22 TELECOMMUNICATIONS AMERICA,
LLC, a Delaware limited liability company,
23 Defendants.

CASE NO. 12-cv-00630-LHK (PSG)

**APPLE INC.'S THIRD AMENDED
DISCLOSURE OF ASSERTED CLAIMS
& INFRINGEMENT CONTENTIONS**

Judge: Hon. Lucy H. Koh

25 SAMSUNG ELECTRONICS CO., LTD., a
Korean corporation; SAMSUNG
26 ELECTRONICS AMERICA, INC., a New
York corporation, and SAMSUNG
27 TELECOMMUNICATIONS AMERICA,
LLC, a Delaware limited liability company,
28 Counterclaim-Plaintiffs,

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v.
APPLE INC., a California corporation,
Counterclaim-Defendant.

1 Pursuant to Patent Local Rules 3-1 and 3-2, Plaintiff Apple Inc. (“Apple”) hereby submits this
2 Third Amended Disclosure of Asserted Claims and Infringement Contentions for U.S. Patent Nos.
3 8,074,172, 5,666,502, 7,761,414, 8,014,760, 8,086,604, 8,046,721, 6,847,959, and 5,946,647 (the
4 “Apple Patents”).

5 Discovery is far from complete, and Apple is still seeking information from Samsung and
6 third parties that may affect Apple’s infringement contentions. Not all information about the accused
7 instrumentalities is publicly available. Further still, Apple understands that Samsung intends to
8 release products in the near future that may infringe the asserted claims.

9 As such, Apple’s investigation into the extent of infringement by Samsung is ongoing, and
10 Apple makes these disclosures based on its current knowledge. In light of the foregoing, Apple
11 reserves the right to supplement or amend these disclosures as further facts are revealed during the
12 course of this litigation.

13 **I. DISCLOSURE OF ASSERTED CLAIMS AND INFRINGEMENT CONTENTIONS**

14 **A. Patent Local Rule 3-1(a)-(c) – Identification of Infringed Claims and Accused** 15 **Instrumentalities**

16 On June 15, 2012, Apple timely served its Disclosure of Asserted Claims & Infringement
17 Contentions (“Infringement Contentions”) on Samsung. On October 5, 2012, Apple served its
18 Amended Disclosure of Asserted Claims & Infringement Contentions (“First Amended Infringement
19 Contentions”) on Samsung. On November 15, 2012, this Court granted Apple’s Motion for Leave to
20 Amend its Infringement Contentions. *See* Dkt. No. 302. Pursuant the Court’s Order, additional
21 infringement charts were served on November 21, 2012. On November 23, 2012, Apple served its
22 Second Amended Disclosure of Asserted Claims & Infringement Contentions (Second Amended
23 Infringement Contentions”). Through this Third Amended Disclosure of Asserted Claims &
24 Infringement Contentions (“Third Amended Infringement Contentions”), Apple hereby supplements
25 its Infringement Contentions, First Amended Infringement Contentions, and Second Amended
26 Infringement Contentions to address the recently introduced Galaxy Rugby Pro (AT&T), Galaxy Tab
27 8.9 running Android Ice Cream Sandwich (AT&T and WiFi, to the extent the carrier has updated to
28

1 Android Ice Cream Sandwich), and Galaxy Tab 2 10.1 (Verizon, T-Mobile, Sprint, AT&T, and
2 WiFi).

3 The third amended infringement contentions are set forth in the following exhibits:
4

5 Exhibit D-1	Infringement by the Samsung Galaxy Rugby Pro of U.S. Patent No. 5,666,502
6 Exhibit D-2	Infringement by the Galaxy Tab 8.9 running on Android Ice Cream Sandwich of 7 U.S. Patent No. 5,666,502
8 Exhibit D-3	Infringement by the Galaxy Tab 2 10.1 of U.S. Patent No. 5,666,502
9 Exhibit D-4	Infringement by the Samsung Galaxy Rugby Pro of U.S. Patent No. 7,761,414
10 Exhibit D-5	Infringement by the Samsung Galaxy Tab 8.9 running on Android Ice Cream 11 Sandwich of U.S. Patent No. 7,761,414
12 Exhibit D-6	Infringement by the Samsung Galaxy Tab 2 10.1 of U.S. Patent No. 7,761,414
13 Exhibit D-7	Infringement by the Samsung Rugby Pro of U.S. Patent No. 5,946,647
14 Exhibit D-8	Infringement by the Samsung Galaxy Tab 8.9 running on Android Ice Cream 15 Sandwich of U.S. Patent No. 5,946,647
16 Exhibit D-9	Infringement by the Samsung Galaxy Tab 2 10.1 of U.S. Patent No. 5,946,647
17 Exhibit D-10	Infringement by the Samsung Rugby Pro of U.S. Patent No. 8,014,760

18 The amended infringement contentions set forth in Exhibits D-1 through D-10 hereto and in
19 any supplemental exhibits are exemplary and not exhaustive. As described in the Infringement
20 Contentions, the First Amended Infringement Contentions, Second Amended Infringement
21 Contentions, and these Third Amended Infringement Contentions, Samsung infringes the Apple
22 patents under 35 U.S.C. § 271(a)-(c) and (g).

23 **B. Patent Local Rule 3-1(d) – Indirect Infringement**

24 Samsung induces the infringement of others under 35 U.S.C. § 271(b) to the extent it
25 contracts, instructs, or otherwise induces others to make, use, offer to sell, sell, or import the Accused
26 Instrumentalities within or into the United States. Samsung also contributes to the infringement of
27 others under 35 U.S.C. § 271(c) to the extent it offers to sell, sells, or imports part or all of the
28 Accused Instrumentalities within or into the United States.

1 To the extent Samsung's direct infringement is based on joint acts of multiple parties, the role
2 of each such party is described according to Apple's current understanding in Apple's Infringement
3 Contentions, First Amended Infringement Contentions, Second Amended Infringement Contentions,
4 and the present Third Amended Infringement Contentions, including Exhibits D-1 through D-10 and
5 any supplemental exhibits, pursuant to Patent L.R. 3-1(d). Defendants infringe each method claim of
6 the charted claims because it has performed each and every step of the charted claims, including but
7 not limited to through testing and use by its employees. Defendants also infringe those claims by
8 selling Accused Instrumentalities their customers and encouraging those customers to use the
9 products in a manner that meets each and every step of the charted claims.

10 Apple's investigation is ongoing, and Apple accordingly reserves the right to amend or
11 supplement these assertions based upon continued discovery and investigation. Apple further
12 incorporates by reference its Infringement Contentions, First Amended Infringement Contentions,
13 and Second Amended Infringement Contentions under Patent L.R. 3-1(d).

14 **C. Patent Local Rule 3-1(e) – Nature of Infringement**

15 Based on Apple's current understanding, each element or limitation of each asserted claim of
16 each asserted patent is literally present in the Accused Instrumentalities, except where explicitly
17 indicated. To the extent that any element or limitation of the asserted claims is not found to have
18 literal correspondence in the Accused Instrumentalities, Apple alleges, on information and belief, that
19 any such elements or limitations are present under the doctrine of equivalents in the Accused
20 Instrumentalities. Apple further incorporates by reference its Infringement Contentions, First
21 Amended Infringement Contentions, and Second Amended Infringement Contentions under Patent
22 L.R. 3-1(e).

23 **D. Patent Local Rule 3-1(f) – Priority Dates**

24 Apple has already provided the information required by Local Rule 3-1 in its Infringement
25 Contentions, First Amended Infringement Contentions, and Second Amended Infringement
26 Contentions, and incorporates those disclosures hereto. Apple is not amending or supplementing the
27 Priority Date information asserted in those disclosures at this time.

28

CERTIFICATE OF SERVICE

I, Angela L. Wilkins, hereby certify that on this 30th day of November, 2012, I did cause the following documents to be served via FTP site:

Apple Inc.’s Third Amended Disclosure and Asserted Claims and Infringement Contentions

On the interested parties in this action addressed as follows:

ATTORNEYS FOR SAMSUNG ELECTRONICS CO., LTD., SAMSUNG ELECTRONICS AMERICA, INC. and SAMSUNG TELECOMMUNICATIONS AMERICA, LLC

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X BY FTP site from awilkins@gibsondunn.com, by transmitting PDF copies of such documents.

I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on November 30, 2012 in Dallas, TX.

Dated: November 30, 2012

—

Angela L. Wilkins

Angela L. Wilkins
Gibson, Dunn & Crutcher
2100 McKinney Ave., Suite 1100
Dallas, TX 75201
(214) 698-3145

EXHIBIT C

quinn emanuel trial lawyers | silicon valley

555 Twin Dolphin Drive, 5th Floor, Redwood Shores, California 94065-2139 | TEL: (650) 801-5000 FAX: (650) 801-5100

WRITER'S DIRECT DIAL NO.
(650) 801-5020

WRITER'S INTERNET ADDRESS
toddbriggs@quinnemanuel.com

December 3, 2012

VIA ELECTRONIC MAIL

Brian M. Buroker, Esq.
Gibson, Dunn & Crutcher LLP
1050 Connecticut Avenue, N.W.
Washington, DC 20036-5306

Re: Apple Inc. v. Samsung Elecs. Co., Ltd., et al.,
United States District Court, Northern District of California, No. 12-cv-630-LHK

Dear Brian:

I write regarding the parties' pending motions for leave to amend their respective infringement contentions to add newly accused products. As you know, Judge Grewal admonished Apple to "think twice" before opposing additional amendments by Samsung for newly released Apple products. Consistent with the spirit of that statement, Samsung proposes the following in an effort to resolve these motions by stipulation, subject to Judge Grewal's approval:

- Apple will not oppose Samsung's motion for leave to amend its infringement contentions to add the (1) iPod Touch 5; (2) iPad Mini; and (3) iPad 4 in the manner set forth in the claim charts that accompany that motion;
- Apple will not oppose Samsung's motion to clarify that its original contentions properly allege infringement of U.S. Patent No. 7,672,470 by three prior generations of the iPod Touch;
- Apple will not oppose Samsung's motion for leave to correct two typographical errors in

quinn emanuel urquhart & sullivan, llp

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HAMBURG | An der Alster 3, 20099 Hamburg, Germany | TEL +49 40 89728 7000 FAX +49 40 89728 7100

its Patent Local Rule 3-1(g) contentions;

- Samsung will not oppose Apple's motion for leave to amend its infringement contentions to add the (1) Galaxy S III running Jelly Bean; (2) Galaxy Note II; (3) Galaxy Tab 8.9 Wi-Fi running Ice Cream Sandwich; (4) Galaxy Tab 2 10.1 running Ice Cream Sandwich; and (5) Samsung Rugby Pro in the manner set forth in the claim charts that accompany that motion for product categories (1)–(2), and the claim charts that Apple served on Samsung Friday for product categories (3)–(5);
- Apple agrees to withdraw the Galaxy S III Mini from its motion for leave to amend its infringement contentions based on Samsung's representation that it has not released that product in the United States and any future plans to do so are currently unknown; and
- Apple agrees not to oppose a motion Samsung intends to file seeking leave to amend its infringement contentions to add Apple's newly released versions of the Mac mini, MacBook Pro, iMac and iTunes.

Please let us know by the close of business tomorrow, December 4, 2012 whether Apple will agree to such a stipulation.

Very truly yours,



Todd M. Briggs

EXHIBIT D

Alex Baxter

From: Todd Briggs
Sent: Monday, December 17, 2012 4:59 PM
To: Todd Briggs; 'Selwyn, Mark'
Cc: Richard Erwine; 'Lyon, H. Mark'; 'Krevitt, Josh'; 'Rho, Jennifer'; MReiter@gibsondunn.com; Michael Fazio; Victoria Maroulis; Scott Florance; WH Apple Samsung NDCal II Service; '*** Apple/Samsung'; Patrick Curran; 'Buroker, Brian M.'; Kolovos, Peter
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions
Attachments: Exhibit H - Third Amended Infringement Contentions Chart (_239) (Mac computers).pdf; Exhibit D - Third Amended Infringement Contentions Chart (_757) (Mac Computers).pdf

Mark,

I have attached the proposed supplemental infringement charts for the '239 and '757 patents. We will not be providing a supplemental chart for the '470 patent. Please review and let us know if you have any questions.

Todd

From: Todd Briggs
Sent: Monday, December 17, 2012 10:30 AM
To: Selwyn, Mark
Cc: Richard Erwine; 'Lyon, H. Mark'; 'Krevitt, Josh'; 'Rho, Jennifer'; MReiter@gibsondunn.com; Michael Fazio; Victoria Maroulis; Scott Florance; WH Apple Samsung NDCal II Service; '*** Apple/Samsung'; Patrick Curran; 'Buroker, Brian M.'; Kolovos, Peter
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Mark,

We anticipate sending these later today. Thanks for your patience.

Todd

From: Selwyn, Mark [mailto:Mark.Selwyn@wilmerhale.com]
Sent: Saturday, December 15, 2012 5:32 AM
To: Todd Briggs
Cc: Richard Erwine; 'Lyon, H. Mark'; 'Krevitt, Josh'; 'Rho, Jennifer'; MReiter@gibsondunn.com; Michael Fazio; Victoria Maroulis; Scott Florance; WH Apple Samsung NDCal II Service; '*** Apple/Samsung'; Patrick Curran; 'Buroker, Brian M.'; Kolovos, Peter
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Todd:

I don't think we have received from you a copy of Samsung's proposed claim charts for the '470, '239, and '757 patents. It will take us some time to review and consider them, so please advise when you expect to send them.

Thanks.

Mark

From: Todd Briggs [mailto:toddbriggs@quinnemanuel.com]
Sent: Tuesday, December 11, 2012 11:52 AM

To: 'Buroker, Brian M.'; Kolovos, Peter
Cc: Richard Erwine; 'Lyon, H. Mark'; 'Krevitt, Josh'; 'Rho, Jennifer'; MReiter@gibsondunn.com; Michael Fazio; Victoria Maroulis; Scott Florance; WH Apple Samsung NDCal II Service; Selwyn, Mark; '*** Apple/Samsung'; Patrick Curran
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Brian,

We checked with our client on Apple's invalidity contention proposal. Samsung agrees that both sides will exchange their amended invalidity contentions on or before Friday (12/14) of this week. We also agree with your proposal to discuss those amendments the following week (we propose no later than Wednesday 12/19) to try and reach agreement on some or all of the amendments. If we can't agree on everything, we'll set a mutual briefing schedule, as Mr. Selwyn suggested. Please let us know if you have answers from your client on the other topics we discussed yesterday, including the Samsung Mini or an extension on the briefs currently due this week. We are working to send you our proposed claim charts for the '470, '239 and '757 patents later today, but may not be able to send them until tomorrow.

Todd

From: Buroker, Brian M. [<mailto:BBuroker@gibsondunn.com>]
Sent: Monday, December 10, 2012 12:14 PM
To: Todd Briggs; 'Kolovos, Peter'
Cc: Richard Erwine; Lyon, H. Mark; Krevitt, Josh; Rho, Jennifer; Reiter, Mark; Michael Fazio; Victoria Maroulis; Scott Florance; 'WH Apple Samsung NDCal II Service'; 'Selwyn, Mark'; '*** Apple/Samsung'
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

1-877-492-4011

202-955-8541.

Thanks,
Brian

Brian M. Buroker

GIBSON DUNN

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BBuroker@gibsondunn.com • www.gibsondunn.com

From: Todd Briggs [<mailto:toddbriggs@quinnemanuel.com>]
Sent: Monday, December 10, 2012 2:58 PM
To: Buroker, Brian M.; 'Kolovos, Peter'
Cc: Richard Erwine; Lyon, H. Mark; Krevitt, Josh; Rho, Jennifer; Reiter, Mark; Michael Fazio; Victoria Maroulis; Scott Florance; 'WH Apple Samsung NDCal II Service'; 'Selwyn, Mark'; '*** Apple/Samsung'
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Brian,

That works. What number should we call?

Todd

From: Buroker, Brian M. [<mailto:BBuroker@gibsondunn.com>]
Sent: Monday, December 10, 2012 7:39 AM
To: Todd Briggs; 'Kolovos, Peter'
Cc: Richard Erwine; Lyon, H. Mark; Krevitt, Josh; Rho, Jennifer; Reiter, Mark; Michael Fazio; Victoria Maroulis; Scott Florance; 'WH Apple Samsung NDCal II Service'; 'Selwyn, Mark'; *** Apple/Samsung
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Todd,

We are free at 3:30 Pacific today – does that work?

Thanks,
Brian

Brian M. Buroker

GIBSON DUNN

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Tel +1 202.955.8541 • Mobile +1 703.927.2129
BBuroker@gibsondunn.com • www.gibsondunn.com

From: Todd Briggs [<mailto:toddbriggs@quinnemanuel.com>]
Sent: Monday, December 10, 2012 12:16 AM
To: 'Kolovos, Peter'
Cc: Richard Erwine; Buroker, Brian M.; Lyon, H. Mark; Krevitt, Josh; Rho, Jennifer; Reiter, Mark; Michael Fazio; Victoria Maroulis; Scott Florance; 'WH Apple Samsung NDCal II Service'; 'Selwyn, Mark'; *** Apple/Samsung
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Peter/Brian,

Do you have time to discuss the parties' pending infringement contention motions tomorrow (Monday) at 2 PM Pacific?

Thanks, Todd

From: Kolovos, Peter [<mailto:Peter.Kolovos@wilmerhale.com>]
Sent: Wednesday, December 05, 2012 12:10 PM
To: Todd Briggs
Cc: Richard Erwine; bburoker@gibsondunn.com; mlyon@gibsondunn.com; jkrevitt@gibsondunn.com; jrho@gibsondunn.com; MReiter@gibsondunn.com; Michael Fazio; Victoria Maroulis; Scott Florance; WH Apple Samsung NDCal II Service; Selwyn, Mark; *** Apple/Samsung
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Thanks Todd, we will get it filed.

From: Todd Briggs [<mailto:toddbriggs@quinnemanuel.com>]
Sent: Wednesday, December 05, 2012 3:07 PM
To: Kolovos, Peter
Cc: Richard Erwine; bburoker@gibsondunn.com; mlyon@gibsondunn.com; jkrevitt@gibsondunn.com; jrho@gibsondunn.com; MReiter@gibsondunn.com; Michael Fazio; Victoria Maroulis; Scott Florance; WH Apple Samsung

NDCal II Service; Selwyn, Mark; *** Apple/Samsung

Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Peter,

This looks fine. You have our permission to file.

Todd

From: Kolovos, Peter [<mailto:Peter.Kolovos@wilmerhale.com>]

Sent: Wednesday, December 05, 2012 8:58 AM

To: Todd Briggs

Cc: Richard Erwine; bburoker@gibsondunn.com; mlyon@gibsondunn.com; jkrevitt@gibsondunn.com; jrho@gibsondunn.com; MReiter@gibsondunn.com; Michael Fazio; Victoria Maroulis; Scott Florance; WH Apple Samsung NDCal II Service; Selwyn, Mark; *** Apple/Samsung

Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Thanks Todd. A draft stipulation is attached.

Please let us know if you have any comments, or whether we have permission to sign your name and get this on file.

-- Peter

From: Todd Briggs [<mailto:toddbriggs@quinnemanuel.com>]

Sent: Tuesday, December 04, 2012 8:53 PM

To: Kolovos, Peter

Cc: Richard Erwine; bburoker@gibsondunn.com; mlyon@gibsondunn.com; jkrevitt@gibsondunn.com; jrho@gibsondunn.com; MReiter@gibsondunn.com; Michael Fazio; Victoria Maroulis; Scott Florance; WH Apple Samsung NDCal II Service; Selwyn, Mark; *** Apple/Samsung

Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Peter,

We agree to a one-week extension for the parties' pending infringement contention motions. Please send us a proposed stipulation.

-Todd

From: Kolovos, Peter [<mailto:Peter.Kolovos@wilmerhale.com>]

Sent: Tuesday, December 04, 2012 5:30 PM

To: Todd Briggs

Cc: Richard Erwine; bburoker@gibsondunn.com; mlyon@gibsondunn.com; jkrevitt@gibsondunn.com; jrho@gibsondunn.com; MReiter@gibsondunn.com; Michael Fazio; Victoria Maroulis; Scott Florance; WH Apple Samsung NDCal II Service; Selwyn, Mark; *** Apple/Samsung

Subject: Re: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Todd,

I write to follow-up on the voice mail I left for you earlier this afternoon. We suggest that the parties stipulate to extend the deadlines for the responses to the pending Samsung and Apple motions to amend infringement contentions by one

week to afford us time to see if we can reach an agreement along the lines set forth in your letter, as well as an agreement on amendments to both parties' invalidity contentions. Please let us know if this is acceptable to Samsung. If so, we can draft a proposed stipulation for your review.

-- Peter

On Dec 4, 2012, at 4:15 PM, "Todd Briggs" <toddbriggs@quinnemanuel.com> wrote:

Brian,

Do you have a few minutes to discuss the attached letter at 5:30 Eastern today?

Todd

From: Richard Erwine
Sent: Monday, December 03, 2012 8:29 PM
To: 'bburoker@gibsondunn.com'
Cc: 'mlyon@gibsondunn.com'; 'jkrevitt@gibsondunn.com'; 'jrho@gibsondunn.com'; 'MReiter@gibsondunn.com'; Michael Fazio; Victoria Maroulis; Scott Florance; 'Kolovos, Peter'; 'WH Apple Samsung NDCal II Service'; 'Mark D. Selwyn'; '*** Apple/Samsung'
Subject: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Please see the attached letter.

Richard W. Erwine
Quinn Emanuel Urquhart & Sullivan, LLP
51 Madison Avenue, 29th Floor
New York, NY 10010
Direct: (212) 849-7135
Main Fax: (212) 849-7100
E-mail: richarderwine@quinnemanuel.com
Web: www.quinnemanuel.com
PRIVILEGED & CONFIDENTIAL

This message may contain confidential and privileged information. If it has been sent to you in error, please reply to advise the sender of the error and then immediately delete this message.

EXHIBIT E

From: [Todd Briggs](#)
To: ["Buroker, Brian M."; "Kolovos, Peter"](#)
Cc: [Richard Erwine](#); [Lyon, H. Mark](#); [Krevitt, Josh](#); [Rho, Jennifer](#); [Reiter, Mark](#); [Michael Fazio](#); [Victoria Maroulis](#); [Scott Florance](#); ["WH Apple Samsung NDCal II Service"](#); ["Selwyn, Mark"](#); [*** Apple/Samsung](#); [Patrick Curran](#)
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions
Date: Tuesday, December 18, 2012 9:22:35 AM

Brian,

Samsung is agreeable to your proposal subject to the following clarifications. First, if Samsung begins selling the Galaxy S III Mini in the U.S. and Apple moves for leave to add that product to this case, Samsung can oppose such a motion and argue that the proposed amendment is untimely. However, in doing so, Samsung will not be able to rely on the fact that Apple previously asserted infringement by the SIII Mini and then withdrew that assertion. Second, the agreement should state that any future plans to release the Galaxy SIII in the United States are currently unknown. Please confirm these clarifications to Apple's proposal are acceptable.

Best Regards, Todd

From: Buroker, Brian M. [mailto:BBuroker@gibsondunn.com]
Sent: Saturday, December 15, 2012 5:30 AM
To: Todd Briggs; 'Kolovos, Peter'
Cc: Richard Erwine; Lyon, H. Mark; Krevitt, Josh; Rho, Jennifer; Reiter, Mark; Michael Fazio; Victoria Maroulis; Scott Florance; 'WH Apple Samsung NDCal II Service'; 'Selwyn, Mark'; *** Apple/Samsung; Patrick Curran
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Dear Todd,

As part of the overall agreement related to the amended infringement contentions, Apple would agree to amend its infringement contentions to remove reference to the SIII Mini on the condition that Samsung would not use the fact that we have withdrawn that product now as the basis (in whole or in part) for any argument that Apple should not be permitted to later add the SIII Mini to this case. We believe we provided sufficient infringement contentions to Samsung for the SIII Mini in November of 2012 and are agreeing to withdraw it only on the representation that Samsung has no present intention to launch the SIII Mini in the United States. We are not in favor of setting a specific deadline for adding new products, although we recognize such a deadline is looming given the advancing stage of claim construction and other case proceedings. We believe that any such decision should be made on a case by case basis.

Thank you,
Brian

Brian M. Buroker

GIBSON DUNN

Gibson, Dunn & Crutcher LLP
1050 Connecticut Avenue, N.W., Washington, DC 20036-5306
Tel +1 202.955.8541 • Mobile +1 703.927.2129
BBuroker@gibsondunn.com • www.gibsondunn.com

From: Todd Briggs [<mailto:toddbriggs@quinnemanuel.com>]
Sent: Tuesday, December 11, 2012 2:52 PM
To: Buroker, Brian M.; 'Kolovos, Peter'
Cc: Richard Erwine; Lyon, H. Mark; Krevitt, Josh; Rho, Jennifer; Reiter, Mark; Michael Fazio; Victoria Maroulis; Scott Florance; 'WH Apple Samsung NDCal II Service'; 'Selwyn, Mark'; *** Apple/Samsung; Patrick Curran
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Brian,

We checked with our client on Apple's invalidity contention proposal. Samsung agrees that both sides will exchange their amended invalidity contentions on or before Friday (12/14) of this week. We also agree with your proposal to discuss those amendments the following week (we propose no later than Wednesday 12/19) to try and reach agreement on some or all of the amendments. If we can't agree on everything, we'll set a mutual briefing schedule, as Mr. Selwyn suggested. Please let us know if you have answers from your client on the other topics we discussed yesterday, including the Samsung Mini or an extension on the briefs currently due this week. We are working to send you our proposed claim charts for the '470, '239 and '757 patents later today, but may not be able to send them until tomorrow.

Todd

From: Buroker, Brian M. [<mailto:BBuroker@gibsondunn.com>]
Sent: Monday, December 10, 2012 12:14 PM
To: Todd Briggs; 'Kolovos, Peter'
Cc: Richard Erwine; Lyon, H. Mark; Krevitt, Josh; Rho, Jennifer; Reiter, Mark; Michael Fazio; Victoria Maroulis; Scott Florance; 'WH Apple Samsung NDCal II Service'; 'Selwyn, Mark'; *** Apple/Samsung
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

1-877-492-4011

202-955-8541.

Thanks,
Brian

Brian M. Buroker

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1050 Connecticut Avenue, N.W., Washington, DC 20036-5306
Tel +1 202.955.8541 • Mobile +1 703.927.2129
BBuroker@gibsondunn.com • www.gibsondunn.com

From: Todd Briggs [<mailto:toddbriggs@quinnemanuel.com>]
Sent: Monday, December 10, 2012 2:58 PM
To: Buroker, Brian M.; 'Kolovos, Peter'
Cc: Richard Erwine; Lyon, H. Mark; Krevitt, Josh; Rho, Jennifer; Reiter, Mark; Michael Fazio; Victoria Maroulis; Scott Florance; 'WH Apple Samsung NDCal II Service'; 'Selwyn, Mark'; *** Apple/Samsung
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Brian,

That works. What number should we call?

Todd

From: Buroker, Brian M. [<mailto:BBuroker@gibsondunn.com>]
Sent: Monday, December 10, 2012 7:39 AM
To: Todd Briggs; 'Kolovos, Peter'
Cc: Richard Erwine; Lyon, H. Mark; Krevitt, Josh; Rho, Jennifer; Reiter, Mark; Michael Fazio; Victoria Maroulis; Scott Florance; 'WH Apple Samsung NDCal II Service'; 'Selwyn, Mark'; *** Apple/Samsung
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Todd,

We are free at 3:30 Pacific today – does that work?

Thanks,
Brian

Brian M. Buroker

GIBSON DUNN

Gibson, Dunn & Crutcher LLP
1050 Connecticut Avenue, N.W., Washington, DC 20036-5306
Tel +1 202.955.8541 • Mobile +1 703.927.2129
BBuroker@gibsondunn.com • www.gibsondunn.com

From: Todd Briggs [<mailto:toddbriggs@quinnemanuel.com>]
Sent: Monday, December 10, 2012 12:16 AM
To: 'Kolovos, Peter'
Cc: Richard Erwine; Buroker, Brian M.; Lyon, H. Mark; Krevitt, Josh; Rho, Jennifer; Reiter, Mark; Michael

Fazio; Victoria Maroulis; Scott Florance; 'WH Apple Samsung NDCal II Service'; 'Selwyn, Mark'; ***
Apple/Samsung
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended
Infringement Contentions

Peter/Brian,

Do you have time to discuss the parties' pending infringement contention motions tomorrow
(Monday) at 2 PM Pacific?

Thanks, Todd

From: Kolovos, Peter [<mailto:Peter.Kolovos@wilmerhale.com>]
Sent: Wednesday, December 05, 2012 12:10 PM
To: Todd Briggs
Cc: Richard Erwine; bburoker@gibsondunn.com; mlyon@gibsondunn.com; jkrevitt@gibsondunn.com;
jrho@gibsondunn.com; MReiter@gibsondunn.com; Michael Fazio; Victoria Maroulis; Scott Florance; WH
Apple Samsung NDCal II Service; Selwyn, Mark; *** Apple/Samsung
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended
Infringement Contentions

Thanks Todd, we will get it filed.

From: Todd Briggs [<mailto:toddbriggs@quinnemanuel.com>]
Sent: Wednesday, December 05, 2012 3:07 PM
To: Kolovos, Peter
Cc: Richard Erwine; bburoker@gibsondunn.com; mlyon@gibsondunn.com; jkrevitt@gibsondunn.com;
jrho@gibsondunn.com; MReiter@gibsondunn.com; Michael Fazio; Victoria Maroulis; Scott Florance; WH
Apple Samsung NDCal II Service; Selwyn, Mark; *** Apple/Samsung
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended
Infringement Contentions

Peter,

This looks fine. You have our permission to file.

Todd

From: Kolovos, Peter [<mailto:Peter.Kolovos@wilmerhale.com>]
Sent: Wednesday, December 05, 2012 8:58 AM
To: Todd Briggs
Cc: Richard Erwine; bburoker@gibsondunn.com; mlyon@gibsondunn.com; jkrevitt@gibsondunn.com;
jrho@gibsondunn.com; MReiter@gibsondunn.com; Michael Fazio; Victoria Maroulis; Scott Florance; WH
Apple Samsung NDCal II Service; Selwyn, Mark; *** Apple/Samsung
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended
Infringement Contentions

Thanks Todd. A draft stipulation is attached.

Please let us know if you have any comments, or whether we have permission to sign your name
and get this on file.

-- Peter

From: Todd Briggs [<mailto:toddbriggs@quinnemanuel.com>]
Sent: Tuesday, December 04, 2012 8:53 PM
To: Kolovos, Peter
Cc: Richard Erwine; bburoker@gibsondunn.com; mlyon@gibsondunn.com; jkrevitt@gibsondunn.com; jrho@gibsondunn.com; MReiter@gibsondunn.com; Michael Fazio; Victoria Maroulis; Scott Florance; WH Apple Samsung NDCal II Service; Selwyn, Mark; *** Apple/Samsung
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Peter,

We agree to a one-week extension for the parties' pending infringement contention motions. Please send us a proposed stipulation.

-Todd

From: Kolovos, Peter [<mailto:Peter.Kolovos@wilmerhale.com>]
Sent: Tuesday, December 04, 2012 5:30 PM
To: Todd Briggs
Cc: Richard Erwine; bburoker@gibsondunn.com; mlyon@gibsondunn.com; jkrevitt@gibsondunn.com; jrho@gibsondunn.com; MReiter@gibsondunn.com; Michael Fazio; Victoria Maroulis; Scott Florance; WH Apple Samsung NDCal II Service; Selwyn, Mark; *** Apple/Samsung
Subject: Re: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Todd,

I write to follow-up on the voice mail I left for you earlier this afternoon. We suggest that the parties stipulate to extend the deadlines for the responses to the pending Samsung and Apple motions to amend infringement contentions by one week to afford us time to see if we can reach an agreement along the lines set forth in your letter, as well as an agreement on amendments to both parties' invalidity contentions. Please let us know if this is acceptable to Samsung. If so, we can draft a proposed stipulation for your review.

-- Peter

On Dec 4, 2012, at 4:15 PM, "Todd Briggs" <toddbriggs@quinnemanuel.com> wrote:

Brian,

Do you have a few minutes to discuss the attached letter at 5:30 Eastern today?

Todd

From: Richard Erwine
Sent: Monday, December 03, 2012 8:29 PM
To: 'bburoker@gibsondunn.com'
Cc: 'mlyon@gibsondunn.com'; 'jkrevitt@gibsondunn.com'; 'jrho@gibsondunn.com'; 'MReiter@gibsondunn.com'; Michael Fazio; Victoria Maroulis; Scott Florance; 'Kolovos, Peter'; 'WH Apple Samsung NDCal II Service'; 'Mark D. Selwyn'; '*** Apple/Samsung'
Subject: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Please see the attached letter.

Richard W. Erwine
Quinn Emanuel Urquhart & Sullivan, LLP
51 Madison Avenue, 29th Floor
New York, NY 10010
Direct: (212) 849-7135
Main Fax: (212) 849-7100
E-mail: richarderwine@quinnemanuel.com
Web: www.quinnemanuel.com
PRIVILEGED & CONFIDENTIAL

This message may contain confidential and privileged information. If it has been sent to you in error, please reply to advise the sender of the error and then immediately delete this message.

EXHIBIT F

From: [Selwyn, Mark](#)
To: [Todd Briggs](#); "[Buroker, Brian M.](#)"; [Kolovos, Peter](#)
Cc: [Richard Erwine](#); "[Lyon, H. Mark](#)"; "[Krevitt, Josh](#)"; "[Rho, Jennifer](#)"; MReiter@gibsondunn.com; [Michael Fazio](#); [Victoria Maroulis](#); [Scott Florance](#); [WH Apple Samsung NDCal II Service](#); "[*** Apple/Samsung](#)"; [Patrick Curran](#)
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions
Date: Friday, December 21, 2012 2:07:51 PM

Todd:

Given that (1) the parties have already extended the time for response twice, (2) Apple filed its response to Samsung's pending motion to amend on Wednesday per the parties' prior agreement, and (3) there is no basis for Samsung to oppose Apple's pending motion to amend, Samsung should proceed to file its response today per the parties' prior agreement.

To address your other concern: Apple will not argue that Samsung delayed in seeking leave to add the new '239 and '757 charts to its infringement contentions (which were sent to Apple on Monday, December 17) based on the time taken by Apple to review those charts and inform Samsung of Apple's position on a third motion to amend by Samsung.

Mark

From: Todd Briggs [<mailto:toddbriggs@quinnemanuel.com>]
Sent: Friday, December 21, 2012 9:44 AM
To: Selwyn, Mark; 'Buroker, Brian M.'; Kolovos, Peter
Cc: Richard Erwine; 'Lyon, H. Mark'; 'Krevitt, Josh'; 'Rho, Jennifer'; MReiter@gibsondunn.com; Michael Fazio; Victoria Maroulis; Scott Florance; WH Apple Samsung NDCal II Service; '[*** Apple/Samsung](#)'; Patrick Curran
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Mark,

As you know, Samsung's opposition to Apple's motion to amend its infringement contentions is due today. We believe that the parties can reach a global agreement on all outstanding infringement contention issues and should not burden Judge Grewal with any further substantive filings. The final issue that needs to be resolved is the addition of the new '757 and '239 charts. We understand that Apple simply needs more time to review these charts.

To allow for this and to prevent any further burden on the Court, we propose the following: The parties file a stipulation today that extends Samsung's opposition deadline by one more week. As part of this stipulation, Apple agrees that it will not argue that Samsung delayed in seeking leave to add the '239 and '757 charts to its infringement contentions by seeking this extension in the event Apple does not agree to allow Samsung to amend its contentions with those charts.

Please let us know by 2 pm Pacific today if Apple agrees to this stipulation.

Thanks, Todd

From: Selwyn, Mark [<mailto:Mark.Selwyn@wilmerhale.com>]
Sent: Thursday, December 20, 2012 4:56 PM
To: Todd Briggs; 'Buroker, Brian M.'; Kolovos, Peter
Cc: Richard Erwine; Lyon, H. Mark; Krevitt, Josh; Rho, Jennifer; MReiter@gibsondunn.com; Michael Fazio; Victoria Maroulis; Scott Florance; WH Apple Samsung NDCal II Service; *** Apple/Samsung; Patrick Curran
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Todd:

The new charts are not the subject of Samsung's pending motion to amend infringement contentions, which we already have indicated to the Court that we do not oppose. Are you asking whether Apple will oppose a new, third motion to amend by Samsung to add them? If that is your question, I do not expect to have an answer this afternoon because we are still reviewing the charts.

Mark

From: Todd Briggs [<mailto:toddbriggs@quinnemanuel.com>]
Sent: Thursday, December 20, 2012 11:31 AM
To: Todd Briggs; 'Buroker, Brian M.'; Kolovos, Peter
Cc: Richard Erwine; Lyon, H. Mark; Krevitt, Josh; Rho, Jennifer; MReiter@gibsondunn.com; Michael Fazio; Victoria Maroulis; Scott Florance; WH Apple Samsung NDCal II Service; Selwyn, Mark; *** Apple/Samsung; Patrick Curran
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Mark,

We are reaching out again to see if the parties' can resolve the pending infringement contention motions without further filings and motion practice. It appears that the only outstanding issue is whether Apple will agree to allow Samsung to amend its contentions with the new charts for the '757 and '239 patents. Can you let us know this afternoon if Apple will agree? If Apple does not agree, we will have no choice but to raise this with the Court and would prefer not to do so in light of Judge Grewal's prior statement to Apple on this subject.

Todd

From: Todd Briggs
Sent: Wednesday, December 19, 2012 8:35 PM
To: Buroker, Brian M.; 'Kolovos, Peter'
Cc: Richard Erwine; Lyon, H. Mark; Krevitt, Josh; Rho, Jennifer; Reiter, Mark; Michael Fazio; Victoria Maroulis; Scott Florance; 'WH Apple Samsung NDCal II Service'; 'Selwyn, Mark'; *** Apple/Samsung; Patrick Curran
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Mark,

I am following up on our call from this afternoon. During the call, you proposed that the parties file a stipulation that resolves all of the issues raised the parties' pending motions to amend their infringement contentions. However, with respect to the new claim charts for the '757 and '239 patents were raised in my December 3 letter and served on Monday of this week, you stated that Apple needed more time to complete its review of those charts.

Consistent with my December 3 letter and Judge Grewal's statement that Apple "think twice" before opposing additional amendments by Samsung for newly released Apple products, we believe that all of the present issues with respect to the parties' infringement contentions should be resolved at the same time. As such, we cannot agree to your proposal from this afternoon. If Apple needs more time to review the '757 and '239 charts, we are agreeable to filing another short extension of time this evening to allow for a complete resolution of the parties present infringement contention issues. Note that the new charts for the '757 and '239 patents simply clarify that newer models of Apple computers that were previously accused of infringement are part of the case.

Please let us know how you would like to proceed.

Todd

From: Buroker, Brian M. [<mailto:BBuroker@gibsondunn.com>]
Sent: Wednesday, December 19, 2012 7:20 AM
To: Todd Briggs; 'Kolovos, Peter'
Cc: Richard Erwine; Lyon, H. Mark; Krevitt, Josh; Rho, Jennifer; Reiter, Mark; Michael Fazio; Victoria Maroulis; Scott Florance; 'WH Apple Samsung NDCal II Service'; 'Selwyn, Mark'; *** Apple/Samsung; Patrick Curran
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

4 p.m. Pacific works for us today.

We can use my dial-in

1-877-492-4011

202-955-8541.

Thank you,
Brian

Brian M. Buroker

GIBSON DUNN

Gibson, Dunn & Crutcher LLP
1050 Connecticut Avenue, N.W., Washington, DC 20036-5306
Tel +1 202.955.8541 • Mobile +1 703.927.2129
BBuroker@gibsondunn.com • www.gibsondunn.com

From: Todd Briggs [<mailto:toddbriggs@quinnemanuel.com>]
Sent: Wednesday, December 19, 2012 12:03 AM
To: Buroker, Brian M.; 'Kolovos, Peter'
Cc: Richard Erwine; Lyon, H. Mark; Krevitt, Josh; Rho, Jennifer; Reiter, Mark; Michael Fazio; Victoria Maroulis; Scott Florance; 'WH Apple Samsung NDCal II Service'; 'Selwyn, Mark'; *** Apple/Samsung; Patrick Curran
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Brian,

Last week we proposed discussing the parties' proposed amendments to their invalidity contentions tomorrow (Wednesday 12/19). We are available tomorrow at 11 am or 4 pm Pacific. Please let us know if either time works for you and if not please propose an alternative time.

Thanks, Todd

From: Buroker, Brian M. [<mailto:BBuroker@gibsondunn.com>]
Sent: Saturday, December 15, 2012 5:30 AM
To: Todd Briggs; 'Kolovos, Peter'
Cc: Richard Erwine; Lyon, H. Mark; Krevitt, Josh; Rho, Jennifer; Reiter, Mark; Michael Fazio; Victoria Maroulis; Scott Florance; 'WH Apple Samsung NDCal II Service'; 'Selwyn, Mark'; *** Apple/Samsung; Patrick Curran
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Dear Todd,

As part of the overall agreement related to the amended infringement contentions, Apple would agree to amend its infringement contentions to remove reference to the SIII Mini on the condition that Samsung would not use the fact that we have withdrawn that product now as the basis (in whole or in part) for any argument that Apple should not be permitted to later add the SIII Mini to this case. We believe we provided sufficient infringement contentions to Samsung for the SIII Mini

in November of 2012 and are agreeing to withdraw it only on the representation that Samsung has no present intention to launch the SIII Mini in the United States. We are not in favor of setting a specific deadline for adding new products, although we recognize such a deadline is looming given the advancing stage of claim construction and other case proceedings. We believe that any such decision should be made on a case by case basis.

Thank you,
Brian

Brian M. Buroker

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Tel +1 202.955.8541 • Mobile +1 703.927.2129
BBuroker@gibsondunn.com • www.gibsondunn.com

From: Todd Briggs [<mailto:toddbriggs@quinnemanuel.com>]
Sent: Tuesday, December 11, 2012 2:52 PM
To: Buroker, Brian M.; 'Kolovos, Peter'
Cc: Richard Erwine; Lyon, H. Mark; Krevitt, Josh; Rho, Jennifer; Reiter, Mark; Michael Fazio; Victoria Maroulis; Scott Florance; 'WH Apple Samsung NDCal II Service'; 'Selwyn, Mark'; *** Apple/Samsung; Patrick Curran
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Brian,

We checked with our client on Apple's invalidity contention proposal. Samsung agrees that both sides will exchange their amended invalidity contentions on or before Friday (12/14) of this week. We also agree with your proposal to discuss those amendments the following week (we propose no later than Wednesday 12/19) to try and reach agreement on some or all of the amendments. If we can't agree on everything, we'll set a mutual briefing schedule, as Mr. Selwyn suggested. Please let us know if you have answers from your client on the other topics we discussed yesterday, including the Samsung Mini or an extension on the briefs currently due this week. We are working to send you our proposed claim charts for the '470, '239 and '757 patents later today, but may not be able to send them until tomorrow.

Todd

From: Buroker, Brian M. [<mailto:BBuroker@gibsondunn.com>]
Sent: Monday, December 10, 2012 12:14 PM
To: Todd Briggs; 'Kolovos, Peter'
Cc: Richard Erwine; Lyon, H. Mark; Krevitt, Josh; Rho, Jennifer; Reiter, Mark; Michael Fazio; Victoria

Maroulis; Scott Florance; 'WH Apple Samsung NDCal II Service'; 'Selwyn, Mark'; *** Apple/Samsung
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended
Infringement Contentions

1-877-492-4011

202-955-8541.

Thanks,
Brian

Brian M. Buroker

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1050 Connecticut Avenue, N.W., Washington, DC 20036-5306
Tel +1 202.955.8541 • Mobile +1 703.927.2129
BBuroker@gibsondunn.com • www.gibsondunn.com

From: Todd Briggs [<mailto:toddbriggs@quinnemanuel.com>]
Sent: Monday, December 10, 2012 2:58 PM
To: Buroker, Brian M.; 'Kolovos, Peter'
Cc: Richard Erwine; Lyon, H. Mark; Krevitt, Josh; Rho, Jennifer; Reiter, Mark; Michael Fazio; Victoria Maroulis; Scott Florance; 'WH Apple Samsung NDCal II Service'; 'Selwyn, Mark'; *** Apple/Samsung
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended
Infringement Contentions

Brian,

That works. What number should we call?

Todd

From: Buroker, Brian M. [<mailto:BBuroker@gibsondunn.com>]
Sent: Monday, December 10, 2012 7:39 AM
To: Todd Briggs; 'Kolovos, Peter'
Cc: Richard Erwine; Lyon, H. Mark; Krevitt, Josh; Rho, Jennifer; Reiter, Mark; Michael Fazio; Victoria Maroulis; Scott Florance; 'WH Apple Samsung NDCal II Service'; 'Selwyn, Mark'; *** Apple/Samsung
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended
Infringement Contentions

Todd,

We are free at 3:30 Pacific today – does that work?

Thanks,
Brian

Brian M. Buroker

GIBSON DUNN

Gibson, Dunn & Crutcher LLP
1050 Connecticut Avenue, N.W., Washington, DC 20036-5306
Tel +1 202.955.8541 • Mobile +1 703.927.2129
BBuroker@gibsondunn.com • www.gibsondunn.com

From: Todd Briggs [<mailto:toddbriggs@quinnemanuel.com>]
Sent: Monday, December 10, 2012 12:16 AM
To: 'Kolovos, Peter'
Cc: Richard Erwine; Buroker, Brian M.; Lyon, H. Mark; Krevitt, Josh; Rho, Jennifer; Reiter, Mark; Michael Fazio; Victoria Maroulis; Scott Florance; 'WH Apple Samsung NDCal II Service'; 'Selwyn, Mark'; *** Apple/Samsung
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Peter/Brian,

Do you have time to discuss the parties' pending infringement contention motions tomorrow (Monday) at 2 PM Pacific?

Thanks, Todd

From: Kolovos, Peter [<mailto:Peter.Kolovos@wilmerhale.com>]
Sent: Wednesday, December 05, 2012 12:10 PM
To: Todd Briggs
Cc: Richard Erwine; bburoker@gibsondunn.com; mlyon@gibsondunn.com; jkrevitt@gibsondunn.com; jrho@gibsondunn.com; MReiter@gibsondunn.com; Michael Fazio; Victoria Maroulis; Scott Florance; WH Apple Samsung NDCal II Service; Selwyn, Mark; *** Apple/Samsung
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Thanks Todd, we will get it filed.

From: Todd Briggs [<mailto:toddbriggs@quinnemanuel.com>]
Sent: Wednesday, December 05, 2012 3:07 PM
To: Kolovos, Peter
Cc: Richard Erwine; bburoker@gibsondunn.com; mlyon@gibsondunn.com; jkrevitt@gibsondunn.com; jrho@gibsondunn.com; MReiter@gibsondunn.com; Michael Fazio; Victoria Maroulis; Scott Florance; WH Apple Samsung NDCal II Service; Selwyn, Mark; *** Apple/Samsung
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Peter,

This looks fine. You have our permission to file.

Todd

From: Kolovos, Peter [<mailto:Peter.Kolovos@wilmerhale.com>]
Sent: Wednesday, December 05, 2012 8:58 AM

To: Todd Briggs
Cc: Richard Erwine; bburoker@gibsondunn.com; mlyon@gibsondunn.com; jkrevitt@gibsondunn.com; jrho@gibsondunn.com; MReiter@gibsondunn.com; Michael Fazio; Victoria Maroulis; Scott Florance; WH Apple Samsung NDCal II Service; Selwyn, Mark; *** Apple/Samsung
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Thanks Todd. A draft stipulation is attached.

Please let us know if you have any comments, or whether we have permission to sign your name and get this on file.

-- Peter

From: Todd Briggs [<mailto:toddbriggs@quinnemanuel.com>]
Sent: Tuesday, December 04, 2012 8:53 PM
To: Kolovos, Peter
Cc: Richard Erwine; bburoker@gibsondunn.com; mlyon@gibsondunn.com; jkrevitt@gibsondunn.com; jrho@gibsondunn.com; MReiter@gibsondunn.com; Michael Fazio; Victoria Maroulis; Scott Florance; WH Apple Samsung NDCal II Service; Selwyn, Mark; *** Apple/Samsung
Subject: RE: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Peter,

We agree to a one-week extension for the parties' pending infringement contention motions. Please send us a proposed stipulation.

-Todd

From: Kolovos, Peter [<mailto:Peter.Kolovos@wilmerhale.com>]
Sent: Tuesday, December 04, 2012 5:30 PM
To: Todd Briggs
Cc: Richard Erwine; bburoker@gibsondunn.com; mlyon@gibsondunn.com; jkrevitt@gibsondunn.com; jrho@gibsondunn.com; MReiter@gibsondunn.com; Michael Fazio; Victoria Maroulis; Scott Florance; WH Apple Samsung NDCal II Service; Selwyn, Mark; *** Apple/Samsung
Subject: Re: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Todd,

I write to follow-up on the voice mail I left for you earlier this afternoon. We suggest that the parties stipulate to extend the deadlines for the responses to the pending Samsung and Apple motions to amend infringement contentions by one week to afford us time to see if we can reach an agreement along the lines set forth in your letter, as well as an agreement on amendments to both parties' invalidity contentions. Please let us know if this is acceptable to Samsung. If so, we can draft a proposed stipulation for your review.

-- Peter

On Dec 4, 2012, at 4:15 PM, "Todd Briggs" <toddbriggs@quinnemanuel.com> wrote:

Brian,

Do you have a few minutes to discuss the attached letter at 5:30 Eastern today?

Todd

From: Richard Erwine
Sent: Monday, December 03, 2012 8:29 PM
To: 'bburoker@gibsondunn.com'
Cc: 'mlyon@gibsondunn.com'; 'jkrevitt@gibsondunn.com'; 'jrho@gibsondunn.com'; 'MReiter@gibsondunn.com'; Michael Fazio; Victoria Maroulis; Scott Florance; 'Kolovos, Peter'; 'WH Apple Samsung NDCal II Service'; 'Mark D. Selwyn'; '*** Apple/Samsung'
Subject: Apple v. Samsung, Case No. 12-CV-630 -- Correspondence Concerning Amended Infringement Contentions

Please see the attached letter.

Richard W. Erwine
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