

1 HAROLD J. MCELHINNY (CA SBN 66781)
 hmcclhinny@mofo.com
 2 MICHAEL A. JACOBS (CA SBN 111664)
 mjacobs@mofo.com
 3 RACHEL KREVANS (CA SBN 116421)
 rkrevans@mofo.com
 4 JENNIFER LEE TAYLOR (CA SBN 161368)
 jtaylor@mofo.com
 5 ALISON M. TUCHER (CA SBN 171363)
 atucher@mofo.com
 6 RICHARD S.J. HUNG (CA SBN 197425)
 rhung@mofo.com
 7 JASON R. BARTLETT (CA SBN 214530)
 jasonbartlett@mofo.com
 8 MORRISON & FOERSTER LLP
 425 Market Street
 9 San Francisco, California 94105-2482
 Telephone: (415) 268-7000
 10 Facsimile: (415) 268-7522

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

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

11
 12 Attorneys for Plaintiff and
 13 Counterclaim-Defendant APPLE INC.

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

18 APPLE INC., a California corporation,

19 Plaintiff,

20 v.

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

24 Defendants.
 25

Case No. 11-cv-01846-LHK

**DECLARATION OF BETH KELLERMANN
 IN SUPPORT OF APPLE'S OPPOSITION
 TO SAMSUNG'S MOTION FOR
 SPOILIATION ADVERSE INFERNECE
 INSTRUCTION AGAINST APPLE**

1 I, Beth Kellermann, hereby declare as follows:

2 1. I am the Litigation eDiscovery Manager at Apple Inc. I submit this declaration in
3 support of Apple's opposition to Samsung's motion for spoliation adverse inference instruction
4 against Apple. I have personal knowledge of the matters set forth below. If called as a witness I
5 could and would competently testify as follows.

6 2. In my role as Litigation eDiscovery Manager, I oversee discovery processes for
7 litigation matters. I manage a team of analysts who are trained in eDiscovery practices and
8 technology. Together, we oversee the process for collecting, processing and producing electronic
9 evidence and paper that has been converted to electronic format.

10 3. Apple has no automatic email deletion policies or systems. Generally speaking, at
11 Apple data is stored in a decentralized fashion. Each business unit and each employee within
12 each business unit may individually store documents relevant to their work.

13 4. To satisfy its document retention and production obligations in litigation, Apple
14 undertakes a rigorous document retention and collection process that includes the issuance of a
15 legal hold to those employees who counsel has determined may have information that is
16 potentially relevant to a specific matter. After a legal hold issues, counsel may conduct individual
17 data collection interviews. During the interview, employees are asked questions about their
18 document and email storage practices. Counsel will also confirm that each individual has
19 received a document retention notice and understands his or her document retention obligations.
20 If relevant documents are identified during the course of the interview, a collection is conducted
21 by a computer analyst specially trained in techniques for collecting data from Apple computer
22 equipment in a forensically sound manner. Typically, such a collection would include making a
23 complete copy of all of the employee's work-related email accounts.

24 5. There is no policy at Apple dictating that an employee must delete particular
25 emails after a certain period of time. Employees who are not subject to document retention
26 notices are encouraged to keep the size of their email accounts below certain limits. Such
27 employees whose email accounts are too large may receive automatic notices requesting that they
28

1 reduce the size of their email accounts. Employees who are under document retention do not
2 receive such notices.

3 6. Apple is frequently involved in litigation and therefore it issues many document
4 retention notices. Document retention notices are typically sent by email from the Vice President,
5 Litigation to individual custodians. My eDiscovery team maintains a database of all document
6 retention notices that we have issued.

7 7. Based on our records, the following individuals each received document retention
8 notices in connection with one or more pieces of litigation on or before August 2010:

9 Bart Andre (19 notices)

10 Brian Huppi (3 notices)

11 Christopher Stringer (14 notices)

12 Duncan Kerr (16 notices)

13 Eugene Whang (8 notices)

14 Jonathan Ive (41 notices)

15 Matthew Rohrback (17 notices)

16 Rico Zorkendorfer (1 notice)

17 Shin Nishibori (3 notices)

18 Steven Lemay (32 notices)

19 Scott Forstall (78 notices)

20 Because Apple employees receive so many litigation hold notices covering diverse subject
21 matters, many of them have adopted a general practice of attempting to retain all substantive
22 documents and communications relating to their work.

23 8. Apple former CEO Steve Jobs was regularly identified as having data that was
24 potentially relevant to many different pieces of litigation. Accordingly, rather than repeatedly
25 issue separate document retention notices to him, separate procedures were put in place to retain
26 and search his data and to apprise him of the materials he was required to preserve. As part of
27 this, from time to time Apple made and retained copies of his email account.
28

