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AMERICA, INC. and SAMSUNG
TELECOMMUNICATIONS AMERICA, LLC

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

APPLE INC., a California corporation,

Plaintiff,

vs.

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

Defendants.

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

**SAMSUNG'S NOTICE OF MOTION AND
MOTION FOR LEAVE TO AMEND AND
SUPPLEMENT ITS INFRINGEMENT
CONTENTIONS**

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

NOTICE OF MOTION AND MOTION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on Tuesday, January 8, 2013, at 10:00 a.m., or as soon thereafter as the matter may be heard by the Honorable Paul S. Grewal in Courtroom 5, United States District Court for the Northern District of California, Robert F. Peckham Federal Building, 280 South 1st Street, San Jose, CA 95113, Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung Telecommunications America, LLC (collectively "Samsung") shall and hereby do move the Court for an order granting Samsung leave to amend its infringement contentions pursuant to Patent L.R. 3-6 to allege infringement by the iPod Touch (5th Generation) (the "iPod Touch 5"), iPad (4th Generation) ("iPad 4") and the iPad Mini, which was released after Samsung served its original infringement contentions, and after Samsung filed its October 1, 2012 Motion for Leave to Supplement its Infringement Contentions (regarding the iPhone 5). To the extent necessary, Samsung also seeks the Court's clarification that its original contentions properly allege infringement of U.S. Patent No. 7,672,470 by three prior generations of the iPod Touch, or in the alternative, Samsung seeks leave to add these products to its infringement contentions. Finally, Samsung seeks leave to correct two typographical errors in its Patent Local Rule 3-1(g) contentions. This motion is based on this notice of motion and supporting memorandum of points and authorities; the supporting declaration of Todd Briggs (the "Briggs Decl."); and such other written or oral argument as may be presented at or before the time this motion is deemed submitted by the Court.

RELIEF REQUESTED

Samsung seeks an order granting it leave to amend its infringement contentions pursuant to Patent L.R. 3-6 to allege infringement by the iPod Touch 5, iPad 4, iPad Mini, and three prior generations of the iPod Touch, and to correct its Patent Local Rule 3-1(g) contentions.

1 DATED: November 21, 2012

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

4 By /s/ Todd M. Briggs

Todd M. Briggs

Attorney for SAMSUNG ELECTRONICS CO.,
LTD., SAMSUNG ELECTRONICS AMERICA,
INC., and SAMSUNG
TELECOMMUNICATIONS AMERICA, LLC

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Samsung seeks leave to supplement its infringement contentions to include three newly
4 released Apple products: the iPod Touch (5th generation) (“iPod Touch 5,” the iPad (4th
5 Generation) (“iPad 4”) and the iPad Mini. Apple officially announced the iPod Touch 5 on
6 September 12, 2012. However, the iPod Touch 5 did not ship until at least October 9, 2012. The
7 iPad 4 and iPad Mini were announced on October 24, 2012. Wi-Fi only versions were released in
8 the United States on November 2, 2012, and 4G LTE versions were released on November 16.
9 Samsung also seeks to correct and clarify its infringement contentions to address issues recently
10 raised by Apple.

11 Good cause exists to amend Samsung’s contentions because Apple’s new products were
12 not yet available when Samsung submitted its original contentions on June 15, 2012 or its first
13 motion to supplement its infringement contentions on October 1, 2012. Once the products
14 became available, Samsung acted diligently to investigate and add them to this action. Moreover,
15 Apple will not be prejudiced by this addition. The iPod Touch 5, iPad 4, and iPad Mini have the
16 same accused functionality as the versions of the iPod Touch and iPad that are already part of this
17 case. As such, the proof of infringement of the patents-in-suit by the iPod Touch 5, iPad 4, and
18 iPad Mini will be substantially the same as for other Apple devices already accused of
19 infringement in this litigation, and there will be no impact on the parties’ ongoing claim
20 construction efforts. The addition of these products to Samsung’s contentions will not cause any
21 delay or materially affect the infringement analysis. Samsung notified Apple of its intention to
22 add newly released products on November 6, 2012 and has already provided Apple with its
23 proposed infringement contentions for these products. This case is still early in the discovery
24 period and Apple will therefore have ample opportunity to prepare its defenses to Samsung’s
25 allegations of infringement with regard to the iPod Touch 5, iPad 4, and iPad Mini.

26 Samsung has moved to supplement its infringement contentions once before in this
27 litigation. On October 1, 2012, Samsung filed its Motion for Leave to Supplement Its
28 Infringement Contentions, to add the iPhone 5 as an infringing product. That motion was granted

1 by Judge Grewal on November 15. Samsung was not able to include the iPod Touch 5 or the new
2 iPad products in its earlier motion because those products were not released until October 9, 2012
3 (iPod), November 2, 2012 (Wi-Fi iPads), and November 16 (4G LTE iPads).

4 Samsung also seeks clarification from the Court as whether its original infringement
5 contentions regarding U.S. Patent No. 7,672,470 (“’470 patent”) include three prior generations of
6 the iPod Touch. Samsung's infringement contentions for the ’470 patent identified the Accused
7 Devices as “all Apple products including a built-in speaker and an external audio output port.”
8 The second, third and fourth generations of the iPod Touch include a built-in speaker and an
9 external audio output port. However, Apple has taken the position that the iPod Touch should not
10 be considered an Accused Device because it was not expressly listed in Samsung's infringement
11 contentions. To the extent the Court agrees with Apple's position, Samsung seeks leave to amend
12 its infringement contentions to expressly list the iPod Touch.

13 Finally, Samsung seeks leave to correct two typographical errors in its Patent Local Rule
14 3-1(g) contentions regarding the model numbers of Samsung products that practice the ’470
15 patent.

16 Amendment here would preserve judicial resources, because it is more efficient to dispose
17 of the infringement issues regarding the iPod Touch 5, iPad 4, iPad Mini, and prior generations of
18 the iPod Touch and the patents-in-suit in one action. Samsung respectfully requests that the
19 Court grant it leave to add these products to its infringement contentions.

20 **II. FACTS**

21 Samsung’s Initial Infringement Contentions. On May 2, 2012, the Court set deadlines for
22 service of Patent Local Rule 3-1 infringement contentions, ordering both parties to serve their
23 contentions by June 15, 2012. Dkt. No. 160. The Court set the close of fact discovery for July 8,
24 2013, with expert discovery to take place after that. *Id.* The parties served their initial
25 infringement contentions on the Court-ordered deadline. In its infringement contentions,
26
27
28

1 Samsung alleged infringement of two UMTS standards patents¹ and six feature patents² by
 2 Apple's iPhone, iPad, and iPod Touch devices and any "newer but unreleased versions of the
 3 accused products that have recently been announced by Apple."³ Declaration of Todd Briggs
 4 ("Briggs Decl.") Ex. 1. Samsung further indicated it would seek leave to supplement its
 5 contentions to "include any additional Apple products it identifies through discovery and its
 6 continuing investigation." *Id.*

7 '470 Patent Accused Devices. Exhibit C to Samsung's Patent Local Rule 3-1 disclosures
 8 consisted of a claim chart identifying where in the Accused Devices each limitation of the asserted
 9 claims of the '470 patent is found. Briggs Decl. Ex. 2. The claim chart used the iPhone 4S as an
 10 exemplary product. In a footnote, the claim chart defines Accused Devices as "all Apple products
 11 including a built-in speaker and an external audio output port, including, without limitation, all
 12 models of iPhone, iPad, Mac, MacBook and iMac." *Id.* at n.1. Apple's Interrogatory No. 16 asks
 13 Samsung to identify the accused products for each asserted patent. Samsung responded to
 14 Interrogatory No. 16 identifying, among others, "all generations of the iPod Touch as products
 15 alleged to infringement the '470 patent." In a letter dated October 22, 2012, Apple objected to
 16 Samsung's interrogatory responses. Briggs. Decl. Ex. 4. Among its objections, Apple stated that
 17 Samsung did not identify the iPod Touch in its infringement contentions, and that it would
 18 "oppose these untimely additions to Samsung's list of Accused Apple Products." *Id.* at 2.

19 '470 Patent Practicing Products. Exhibit I to Samsung's Patent Local Rule 3-1 disclosures
 20 consisted of a series of charts disclosing the Samsung products that practice the Samsung patents-

22 ¹ Samsung's U.S. Patent No. 7,756,087 and U.S. Patent No. 7,551,596.

23 ² Samsung's U.S. Patent No. 7,672,470; U.S. Patent No. 7,577,757; U.S. Patent No.
 24 7,232,058; U.S. Patent No. 6,292,179; U.S. Patent No. 6,226,449; and U.S. Patent No. 5,579,239.

25 ³ Samsung has also alleged infringement by Apple's Mac, Mac Mini, Mac Pro, MacBook,
 26 ² Samsung's U.S. Patent No. 7,672,470; U.S. Patent No. 7,577,757; U.S. Patent No.
 27 7,232,058; U.S. Patent No. 6,292,179; U.S. Patent No. 6,226,449; and U.S. Patent No. 5,579,239.

28 ³ Samsung has also alleged infringement by Apple's Mac, Mac Mini, Mac Pro, MacBook,
 MacBook Air, MacBook Pro, iMac, and Apple TV products, but those products are relevant to this
 Motion only to the extent that they are components of an accused system that also includes the
 iPod Touch 5, iPad 4 and/or iPad Mini.

1 in-suit. Briggs Decl. Ex. 3. The chart identifying products that practice the '470 Patent contains
2 two typographical errors. This chart identifies models UN22D5000NDXZA" and
3 "LN22D450G1DXZA." *Id.* at 5. The correct model numbers are "UN22D5000FXZA" and
4 "LN22D450G1FXZA." Apple's Interrogatory No. 14 asks Samsung to identify information
5 about each "Samsung Covered Product" practicing Samsung's patents-in-suit. Samsung
6 responded by identifying the first sale date in the United States for products with the correct model
7 numbers. On October 22, 2012, Apple objected and stated "To the extent that Samsung intends to
8 claim practicing products, they must be fully disclosed in Samsung's interrogatory responses and
9 Patel [*sic*] Local Rule 3-1(g) disclosures." Briggs Decl. Ex. 4, at 2.

10 Samsung's Earlier Motion. On September 12, 2012, Apple officially announced the
11 release of the iPhone 5. Dkt. No. 267-2, at ¶ 3 & Ex. B. Samsung obtained an iPhone 5 upon its
12 release and immediately began investigating whether the iPhone 5 practiced its patented
13 technologies. Dkt. No. 267-2, at ¶ 5. Samsung provided Apple with its proposed amendments to
14 its infringement contentions, to include the iPhone 5, and on October 1, 2012, Samsung filed its
15 first Motion for Leave to Supplement Its Infringement Contentions. Dkt. No. 267. That motion
16 was granted by Judge Grewal on November 15, 2012. Dkt. No. 302. In granting the motion,
17 Judge Grewal ordered that the amended contentions this motion address "shall be served no later
18 than November 23, 2012." *Id.* at 12.

19 The Instant Motion – New Products. Also on September 12, 2012, Apple announced the
20 iPod Touch 5. Briggs Decl. Ex. 5. However, the iPod Touch 5 was not immediately released for
21 sale. According to news reports, it began shipping on October 9. Briggs Decl. Ex. 6. Samsung
22 ordered an iPod Touch 5 shortly after Apple announced it, and received it on October 15, 2012.
23 Samsung thereafter immediately reviewed the device for infringement of the patents at issue in
24 this case. Briggs Decl. ¶ 8.

25 Apple announced the iPad 4 and iPad Mini on October 23, 2012. Briggs Decl. Ex. 7. As
26 with the iPad already at issue in this case, the new iPad devices ship in a Wi-Fi-only configuration
27 and a 4G LTE-enabled configuration. Samsung obtained the Wi-Fi-only configurations of the
28 iPad 4 and iPad Mini devices when they became available on November 2, 2012, and immediately

1 reviewed them for infringement of its patents. Briggs Decl. ¶ 10. Samsung promptly obtained
2 the 4G LTE-enabled configurations when they became available on November 16, 2012. *Id.*

3 On November 6, 2012, at the hearing on Samsung's first Motion for Leave to Supplement
4 Its Infringement Contentions, Samsung informed Apple that it expected to seek leave to amend its
5 infringement contentions to add additional newly released products to the case. Briggs Decl. Ex.
6 11, at 15:16-19. On November 19, 2012, Samsung provided Apple with its proposed
7 amendments to its infringement contentions, to include the iPod Touch 5 and iPad Mini. Briggs
8 Decl. Ex. 8. Samsung also requested Apple stipulate to service of its amended contentions. *Id.*
9 On November 21, Apple declined to stipulate and indicated it would respond in due course to the
10 instant motion. Briggs Decl. Ex. 9.

11 The iPod Touch 5 has the same accused functionalities as the previously accused versions
12 of the iPod Touch. Samsung seeks, with its proposed amendment, to add the iPod Touch 5 as an
13 accused device that infringes Samsung's six feature patents at issue. The iPad 4 and iPad Mini
14 have the same accused functionalities as the previously accused versions of the iPad. Therefore,
15 Samsung seeks with its proposed amendment to add the iPad 4 and iPad Mini as an accused device
16 that infringes Samsung's two UMTS-related patents and six feature patents at issue.

17 **III. LEGAL STANDARD**

18 A party may amend its infringement contentions "only by order of the Court upon a timely
19 showing of good cause." Patent L.R. 3-6. "Good cause" requires a showing that "the party
20 seeking leave to amend acted with diligence promptly when new evidence is revealed." *O2*
21 *Micro Int'l Ltd., v. Monolithic Power Systems, Inc.*, 467 F.3d 1355, 1363, 1366 (Fed. Cir. 2006).
22 Once the moving party shows it was diligent in amending its contentions, the court considers
23 whether the non-moving party "would suffer prejudice if the motion to amend were granted."
24 *Acer, Inc. v. Technology Properties Ltd.*, 2010 WL 3618687 (N.D. Cal. 2010). "The rules thus
25 seek to balance the right to develop new information in discovery with the need for certainty as to
26 the legal theories." *Golden Hour Data Systems, Inc. v. Health Services Integration, Inc.*, 2008
27 WL 2622794 (N.D. Cal. 2008), *citing O2 Micro*, 467 F.3d at 1365-1366.

1 The governing Patent Local Rule provides “non-exhaustive” examples of circumstances
 2 that may support a finding of good cause, including “discovery of nonpublic information about the
 3 Accused Instrumentality which was not discovered, despite diligent efforts, before the service of
 4 the Infringement Contentions.” Patent L.R. 3-6(c). Northern District of California courts have
 5 found good cause when a defendant commercially releases new products. *See, e.g., Network*
 6 *Appliance Inc. v. Sun Microsystems Inc.*, 2009 WL 2761924, *3 (N.D. Cal. 2009) (specifically
 7 granting leave to add products released after infringement contentions were served); *Board of Trs.*
 8 *of Leland Stanford Junior Univ. v. Roche Molecular Sys.*, 2008 WL 624771, at *2 (N.D. Cal.
 9 2008) (granting leave to amend infringement contentions where patentee put defendant on notice
 10 that it intended to amend one week after the newly accused product became available).

11 **IV. ARGUMENT**

12 **A. Samsung Has Been Diligent In Discovering The New Infringing Products And** 13 **Seeking The Amendment**

14 There is good cause to allow Samsung to amend its infringement contentions to add the
 15 brand new iPod Touch 5, iPad 4, and iPad Mini devices to this lawsuit.

16 In determining whether a party exercised diligence in amending its contentions, a court
 17 will consider whether that party was diligent in discovering the new infringing information, and
 18 whether the party was then diligent in moving to amend its contentions. Absent undue prejudice,
 19 good cause may be found where the moving party makes a “[r]ecent discovery of nonpublic
 20 information about the Accused Instrumentality which was not discovered, despite diligent best
 21 efforts, before the service of the Infringement Contentions.” Patent L.R. 3-6(c). For example,
 22 the court in *Board of Trs. of Leland Stanford* granted Stanford’s motion for amendment where
 23 Stanford put Roche on notice *one week* after the infringing product came out – even though
 24 Stanford then waited five months to file its motion. 2008 WL 624771, at *3 (“Stanford did not
 25 have its head in the sand; upon discovering that TaqMan products were approved for sale in the
 26 United States, it immediately served amended contentions upon Roche.”).

27 Samsung has been diligent in its discovery of the new infringing product, *and* diligent in
 28 seeking to amend. Samsung could not have known whether the rumored iPod Touch 5 and iPad

1 Mini (and unannounced iPad 4) would practice its patented technologies when it filed its
2 infringement contentions on June 15. These products were not on the market at that time, nor was
3 any detailed technical information publically available, and the products could not have been
4 included in the contentions. *See Google, Inc. v. Netlist, Inc.*, 2010 WL 1838683, *2 (N.D. Cal.
5 2010) (the “critical issue” is not *when* the moving party discovered the information, but whether
6 they *could have* discovered it earlier). Nor could Samsung have included the iPod Touch 5 in its
7 earlier Motion for Leave to Supplement, as the product was not shipped until, at the earliest,
8 October 9, 2012, and Samsung obtained the iPod Touch 5 only on October 15. Further, the iPad
9 4 and iPad Mini were not even announced until October 23, Wi-Fi versions did not ship until
10 November 2, and 4G LTE versions did not ship until November 16. Nonetheless, as soon as the
11 iPod Touch 5, iPad 4, and iPad Mini were available for purchase, Samsung began its investigation
12 of the products. Four days after the Wi-Fi-only versions of the iPad 4 and iPad Mini were
13 released, having determined that the iPod Touch 5, iPad 4, and iPad Mini practiced its patented
14 technologies, Samsung put Apple on notice that it intended to amend its infringement contentions
15 to include Apple’s newly released products. Three days after the 4G LTE-enabled iPad 4 and
16 iPad Mini were released, Samsung provided Apple with a copy of its proposed amendments. This
17 motion was filed two days later.

18 **B. Apple Will Not Be Prejudiced By The Addition Of The New Products**

19 Apple will suffer no prejudice by Samsung’s second supplemental contentions. As to the
20 new Apple products, Samsung informed Apple that it expected to seek leave to amend its
21 infringement contentions to add the iPod Touch 5, iPad 4, and iPad Mini soon after the products
22 were released for sale. Briggs Decl. Exs. 8, 11. Samsung has now confirmed that the iPod
23 Touch 5, iPad 4, and iPad Mini have the same accused functionalities as the previously accused
24 versions of the iPod Touch and iPad, and Samsung is not seeking to add any new patent claims, so
25 proof of infringement and any defenses asserted by Apple will remain substantially the same.
26 Briggs Decl. ¶ 12 & Exs. 8, 10. Thus, the addition of the iPod Touch 5, iPad 4, and iPad Mini to
27 Samsung’s contentions will not delay or materially affect Apple’s analysis regarding infringement
28 or validity.

1 Samsung has already provided Apple with a copy of its proposed amended infringement
2 contentions. Briggs Decl. Ex. 8. This case is still in the early phases of discovery, so Apple will
3 have ample time to prepare its defenses regarding the iPod Touch 5, iPad 4, and iPad Mini.
4 Indeed, discovery is not scheduled to close for another eight months, on July 8, 2013. Apple will
5 not be subject to any duplicative discovery from Samsung: Apple has engaged in only limited
6 document production and has Samsung not taken any fact depositions related to any of Apple's
7 infringing products. Expert discovery is not scheduled to close until August 30, 2013.
8 Additional discovery relating to the iPod Touch 5, iPad 4, and iPad Mini can be completed
9 without extending the fact or expert discovery periods. Thus, any impact on Apple of the
10 proposed amendments to the infringement contentions would be minor and manageable.
11 *Vasudevan Software*, 2011 WL 940263 at *2 (granting leave to amend would have a minor effect
12 on prior work where discovery had not been completed); *see also Golden Hour Data Systems*,
13 2008 WL 2622794 at *4 (granting defendant's motion for leave to amend invalidity contentions
14 where defendant was not motivated by gamesmanship but by discovery of new information, where
15 opposing party was on notice of the substance of the proposed amendments, where months
16 remained in the fact discovery period, and where expert discovery had not yet begun).

17 Finally, Apple did not oppose Samsung's request to add the iPhone 5 to this case and
18 admitted that it would not be prejudiced by Samsung's supplemental invalidity contentions. *See*
19 Dkt. No. 279, at 2. The Court, in granting Samsung's motion to supplement, observed that Apple
20 has "ample time to investigate Samsung's infringement theories and prepare their defenses
21 accordingly." Dkt. No. 302, at 5. The same logic holds here with the iPod Touch 5, iPad 4, and
22 iPad Mini.

23 **C. Samsung Properly Identified The iPod Touch As An Accused Product**

24 Apple's objection that the iPod Touch was not identified as an Accused Device in
25 Samsung's original infringement contentions for the '470 patent is objectively meritless.
26 Samsung's contentions comprised a '470 patent claim chart, including screenshots, showing how
27 an exemplary Accused Device—the iPhone 4S—meets each element of the asserted claims. The
28 '470 patent claim chart defines "Accused Devices" as "all Apple products" which, like the iPhone

1 4S and iPod Touch, include “a built-in speaker and an external audio output port.” As Apple
2 knows, the accused functionality in the iPhone 4S is substantively the same as that in the iPod
3 Touch Generations 2-4, and screenshots of the iPod Touch would mirror those of the iPhone 4S.
4 Accordingly, Apple cannot credibly argue that Samsung's infringement contentions failed to put it
5 on notice that the iPod Touch is an Accused Device.

6 Samsung's contentions listed some exemplary product models that meet the definition of
7 '470 patent Accused Devices. In particular, Samsung listed “without limitation, all models of
8 iPhone, iPad, Mac, MacBook and iMac” (emphasis added). The iPod Touch was not included in
9 the exemplary list because—as Apple well knows—not all models of the iPod Touch (i.e., the first
10 generation) include “a built-in speaker and an external audio output port.” Therefore, Apple
11 cannot rely on the fact that the iPod Touch was not included in the exemplary list to argue that the
12 iPod Touch is not an Accused Device. Unlike other models of Apple's iPod product line, the iPod
13 Touch clearly meets the definition of '470 patent Accused Devices in Samsung's contentions.

14 Nevertheless, to the extent the Court finds that Apple's objection has merit, Samsung
15 respectfully seeks leave to amend its '470 patent infringement contentions to expressly identify the
16 iPod Touch (versions 2-4) as Accused Devices that infringe each of the previously asserted
17 claims. Leave should be granted because Apple will suffer no prejudice. The Court's November
18 15 Order permitted Apple to assert claims of its '502 patent against *seventeen* devices it did not
19 originally accuse, without a showing of diligence, because there is “ample time left on the pretrial
20 clock” to abate any prejudice. Dkt. No. 302, at 11. The same reasoning applies even if the Court
21 considers Samsung's assertion of the '470 patent against the previous iPod Touch models (three
22 generations of one product) to be new. As mentioned above, the infringement analysis for these
23 products is the same as the corresponding prior versions of the iPhone that are already in the
24 case. Accordingly, this amendment would add no new asserted claims or theories of
25 infringement, and Apple will have the same ample time to prepare its defenses.

26 **D. Samsung's Typographical Errors Also Caused No Prejudice**

27 Samsung's request to correct two typographical errors in its Patent Local Rule 3-1(g)
28 contentions related to its own products is akin to the minor corrections Apple put forward in its

1 recent motion to amend infringement contentions. *See* Dkt. No. 269, at 17 (correcting erroneous
 2 product name in infringement chart); Dkt. No. 302, at 8 (granting Apple leave to amend). These
 3 changes are unrelated to Samsung's infringement theories and no prejudice will result to Apple
 4 from allowing the amendment.

5 **E. Judicial Efficiency Weighs In Favor Of Allowing The Amendments**

6 Judicial resources will be preserved if the Court grants Samsung's motion to amend its
 7 infringement contentions. If the amendment is not allowed, the only way Samsung could
 8 vindicate its rights in the patents-in-suit against the iPod Touch 5, iPad 4, and iPad Mini would be
 9 to file a separate action based on the same patents. It will be more efficient for the parties and the
 10 Court to dispose of all issues related to the patents-in-suit in a single action. *Board of Trs. of*
 11 *Leland Stanford*, 2008 WL 624771 at *4 ("[I]t is more efficient to dispose of all the issues
 12 amongst a set of parties in one action, without splitting the litigation into various pieces in front of
 13 different judges or creating the wasteful task of analyzing administrative motions to relate
 14 cases.").

15 **V. CONCLUSION**

16 For the foregoing reasons, Samsung respectfully requests that the Court grant Samsung's
 17 motion for leave to amend its infringement contentions.

18
 19 DATED: November 21, 2012

QUINN EMANUEL URQUHART &
 SULLIVAN, LLP

20
 21
 22 By /s/ Todd M. Briggs

Todd M. Briggs

23 Attorney for SAMSUNG ELECTRONICS CO.,
 24 LTD., SAMSUNG ELECTRONICS AMERICA,
 25 INC., and SAMSUNG
 26 TELECOMMUNICATIONS AMERICA, LLC
 27
 28

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

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

APPLE INC., a California corporation,

Plaintiff,

vs.

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

Defendants.

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

**DECLARATION OF TODD BRIGGS IN
SUPPORT OF SAMSUNG'S MOTION
FOR LEAVE TO AMEND AND
SUPPLEMENT INFRINGEMENT
CONTENTIONS**

DECLARATION OF TODD BRIGGS

I, Todd 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 1 is a true and correct copy of the Samsung Defendants' Disclosure of Asserted Claims and Infringement Contentions, served pursuant to Patent Local Rules 3-1 and 3-2 on June 15, 2012.

3. Attached hereto as Exhibit 2 is a true and correct copy of Exhibit C to Samsung Defendants' Disclosure of Asserted Claims and Infringement Contentions.

4. Attached hereto as Exhibit 3 is a true and correct copy of Exhibit I to Samsung Defendants' Disclosure of Asserted Claims and Infringement Contentions.

5. Attached hereto as Exhibit 4 is a true and correct copy of a October 22, 2012, letter from Michael Silhasek, counsel for Apple, to Michael Fazio, counsel for Samsung.

6. Attached hereto as Exhibit 5 is a true and correct copy of an Apple press release entitled "Apple Introduces New iPod Touch & iPod Nano," dated September 12, 2012, and downloaded November 19, 2012, from <http://www.apple.com/pr/library/2012/09/12Apple-Introduces-New-iPod-touch-iPod-nano.html>.

7. Attached hereto as Exhibit 6 is a true and correct copy of a news article from GigaOm, entitled "Apple's New iPod Touch Starts Shipping," dated October 9, 2012. The article indicates that the iPod Touch 5th Generation began shipping on or about October 9, 2012.

8. Samsung pre-ordered the iPod Touch 5th Generation and received it on October 15, 2012. Samsung immediately investigated the device to determine if it practiced Samsung's patents-in-suit.

1 9. Attached hereto as Exhibit 7 is a true and correct copy of an Apple press release
2 entitled "Apple Introduces iPad mini," dated October 23, 2012, and downloaded on November 19,
3 2012, from <http://www.apple.com/pr/library/2012/10/23Apple-Introduces-iPad-mini.html>. This
4 press release also announces the release of the iPad 4.

5 10. Samsung obtained the iPad 4 and iPad mini (wi-fi only versions) on their release
6 date of November 2, 2012. Samsung further obtained the 4G-enabled iPad 4 and iPad mini on
7 their release date of November 16, 2012. In each case, Samsung immediately investigated the
8 devices to determine if they practiced Samsung's patents-in-suit.

9 11. On November 19, 2012, Samsung notified Apple of the amendments it intended to
10 make to its infringement contentions. Attached hereto as Exhibit 8 is a true and correct copy of a
11 November 19 email from Todd Briggs, counsel for Samsung, to Mark Selwyn and Peter Kolovos,
12 counsel for Apple, serving Samsung Defendants' Second Amended Disclosure of Asserted Claims
13 and Infringement Contentions. Samsung requested Apple indicate whether it would stipulate to
14 service of the amended contentions.

15 12. On November 21, 2012, Apple replied to Samsung and indicated it would not yet
16 take a position on whether to stipulate to service. Attached hereto as Exhibit 9 is a true and correct
17 copy of Apple's reply, a November 21 email from Peter Kolovos to Todd Briggs.

18 13. Attached hereto as Exhibit 10 is a true and correct copy of Samsung Defendants'
19 Second Amended Disclosure of Asserted Claims and Infringement Contentions and Exhibits A
20 through I thereto, as were served on Apple by email on November 19.

21 14. The claims asserted for each patent in Exhibit 10 are unchanged from the claims
22 asserted in Samsung's original Patent L.R. 3-1 and 3-2 disclosures, served on June 15, 2012, and
23 its Amended Disclosure of Asserted Claims and Infringement Contentions, filed on October 1,
24 2012.

25 15. Attached hereto as Exhibit 11 is a true and correct excerpt from the November 6,
26 2012, hearing in this case before Judge Grewal.

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

3 Executed on November 21, 2012, at Redwood Shores, California.

4 By /s/ Todd Briggs

5 Todd Briggs
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EXHIBIT 1

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17 INC. and SAMSUNG
TELECOMMUNICATIONS AMERICA, LLC
18

19 UNITED STATES DISTRICT COURT

20 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

21 APPLE INC., a California corporation,

22 Plaintiff,

23 vs.

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

27 Defendants.
28

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CASE NO. 12-CV-00630-LHK

**SAMSUNG DEFENDANTS'
DISCLOSURE OF ASSERTED CLAIMS
AND INFRINGEMENT CONTENTIONS**

[PATENT L.R. 3-1, 3-2]

Defendants Samsung Electronics Co., Ltd., Samsung Electronics America, Inc. and Samsung Telecommunications America, LLC (collectively "Samsung") submits this Disclosure of Asserted Claims and Infringement Contentions pursuant to Patent Local Rules 3-1 and 3-2 for U.S. Patent Nos. 7,756,087, 7,551,596, 7,672,470, 7,577,757, 7,232,058, 6,292,179, 6,226,449, and 5,579,239 ("Samsung patents").

**I. IDENTIFICATION OF INFRINGED CLAIMS AND ACCUSED PRODUCTS
[PATENT L.R. 3-1(a)-(d)]**

Samsung provides the information required by Patent Local Rule 3-1 subsections (a), (b), (c), and (d) in the following exhibits:

Exhibit A	U.S. Patent No. 7,756,087
Exhibit B	U.S. Patent No. 7,551,596
Exhibit C	U.S. Patent No. 7,672,470
Exhibit D	U.S. Patent No. 7,577,757
Exhibit E	U.S. Patent No. 7,232,058
Exhibit F	U.S. Patent No. 6,292,179
Exhibit G	U.S. Patent No. 6,226,449
Exhibit H	U.S. Patent No. 5,579,239

The infringement contentions set forth in Exhibits A-H are exemplary and not exhaustive.

Apple infringes the Samsung patents under 35 U.S.C. § 271(a), (b) and/or (c). Samsung further accuses any other Apple products that Apple is currently developing, making and using including but not limited any newer but unreleased versions of the accused products that have been recently announced by Apple. Accordingly, Samsung reserves its right to supplement this disclosure to include any additional Apple products it identifies through discovery and its continuing investigation. Samsung further reserves the right to supplement its disclosure to include any additional information it learns about the accused Apple products through discovery (which is at its earliest stages) and its continuing investigation.

II. LITERAL INFRINGEMENT AND DOCTRINE OF EQUIVALENTS
[PATENT L.R. 3-1(e)]

The accused Apple products literally infringe the asserted claims of the Samsung patents. To the extent that any element or limitation of the asserted claims is not found to have literal correspondence in the accused Apple products, the accused Apple products infringe under the doctrine of equivalents.

III. PRIORITY DATES
[PATENT L.R. 3-1(f)]

The asserted claims of the Samsung patents are entitled to at least the priority dates listed on the face of each patent or identified in the prosecution histories of each patent. Samsung's investigation is continuing and reserves the right to establish earlier priority and invention dates for the asserted claims in the Samsung patents.

IV. PRODUCTS PRACTICING THE CLAIMED INVENTIONS
[PATENT L.R. 3-1(g)]

Exhibit I discloses exemplary Samsung products that practice the claimed inventions of the Samsung patents.

V. APPLE'S WILLFUL INFRINGEMENT
[PATENT L.R. 3-1(h)]

Before initiating this lawsuit, Apple was aware that its products infringed many Samsung patents, including patents Samsung has asserted against Apple in this action. Despite this knowledge, Apple continued to infringe Samsung's patents and continued to act in an objectively reckless manner. Apple has willfully infringed at least U.S. Patent Nos. 7,756,087 and U.S. Patent No. 6,292,179 since at least September 2010 when Samsung informed Apple of its infringement.

VI. DOCUMENT PRODUCTION ACCOMPANYING DISCLOSURE
[PATENT L.R. 3-2]

Documents relating to Patent L.R. 3-2(a) are being produced concurrently herewith bearing bates numbers SAMNDCA630-00828589 - SAMNDCA630-00829265.

Documents relating to Patent L.R. 3-2(b) are being produced concurrently herewith bearing bates numbers SAMNDCA630-00829266 - SAMNDCA630-00832499.

1 Documents relating to Patent L.R. 3-2(c) are being produced concurrently herewith bearing
2 bates numbers SAMNDCA630-00832500 - SAMNDCA630-00835458.

3 Documents relating to Patent L.R. 3-2(d) are being produced concurrently herewith
4 bearing bates numbers SAMNDCA630-00835358 - SAMNDCA630-00835493.

5 Documents relating to Patent L.R. 3-2(e) have been previously produced bearing bates
6 numbers SAMNDCA00009434 - SAMNDCA00011027; SAMNDCA00011050 –
7 SAMNDCA00019356. Samsung will also make available for inspection Samsung devices that
8 practice the Samsung patents.

9
10 DATED: June 15, 2012

QUINN EMANUEL UROUHART & SULLIVAN LLP

11
12 By /s/ Patrick M. Shields

Patrick M. Shields

Attorneys for Defendants

13 SAMSUNG ELECTRONICS CO., LTD.,

14 SAMSUNG ELECTRONICS AMERICA, INC. and



15 SAMSUNG TELECOMMUNICATIONS

AMERICA, LLC
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EXHIBIT 2

EXHIBIT C

SAMSUNG'S PATENT L.R. 3-1(A)-(D) DISCLOSURES FOR U.S. PATENT NO. 7,672,470

ASSERTED CLAIM (PATENT L.R. 3-1(A))	ACCUSED INSTRUMENTALITY AND HOW EACH ELEMENT IS MET BY ACCUSED INSTRUMENTALITY (PATENT L.R. 3-1(B)-(D))
<p>7. An audio/visual (A/V) device which processes an audio signal for an external audio reproduction unit, the A/V device comprising:</p>	<p>Each of Apple's Accused Devices¹ is an audio/visual (A/V) device which processes an audio signal for an external audio reproduction unit. Each accused device includes an audio output port for connecting an external audio reproduction unit, such as headphones or external speakers. <i>See, e.g.,</i></p> <p>iPhone 4S technical specifications available at http://www.apple.com/iphone/specs.html:</p> <div data-bbox="562 558 833 636"> <p>External Buttons and Connectors</p>  </div> <div data-bbox="1465 558 1808 591"> <p>Connectors and Input/Output</p>  </div> <p>iPhone 4 technical specifications available at http://support.apple.com/kb/SP587:</p>

¹ “Accused Devices” refers to all Apple products including a built-in speaker and an external audio output port, including, without limitation, all models of iPhone, iPad, Mac, MacBook and iMac.

Connectors and input/output

- 30-pin dock connector
- 3.5-mm stereo headphone minijack
- Built-in speaker

New iPad technical specifications available at <http://www.apple.com/ipad/specs/>:

Input and Output

- 30-pin dock connector port
- 3.5-mm stereo headphone minijack
- Built-in speaker
- Microphone
- 30-pin dock connector port
- 3.5-mm stereo headphone minijack
- Built-in speaker
- Microphone
- Micro-SIM card tray

iPad 2 technical specifications available at <http://support.apple.com/kb/SP622>:

Input/Output

- 30-pin dock connector port
- 3.5-mm stereo headphone minijack
- Built-in speaker
- Microphone

- 30-pin dock connector port
- 3.5-mm stereo headphone minijack
- Built-in speaker
- Micro-SIM card tray (Wi-Fi + 3G model)
- Microphone

iPad technical specifications available at <http://support.apple.com/kb/SP647>:

Input and Output

- 30-pin dock connector port
- 3.5-mm stereo headphone minijack
- Built-in speaker
- Microphone

- 30-pin dock connector port
- 3.5-mm stereo headphone minijack
- Built-in speaker
- Microphone
- Micro-SIM card tray

iMac technical specifications available at <http://www.apple.com/imac/specs.html>:

Audio

Built-in stereo speakers, built-in microphone, and headphone minijack.

- Built-in stereo speakers
- Two internal 20-watt high-efficiency amplifiers
- Headphone/optical digital audio output (minijack)
- Audio line in/optical digital audio input (minijack)
- Built-in microphone
- Support for Apple iPhone headset with microphone



MacBook Air technical specifications available at <http://www.apple.com/macbookair/specs.html>:


Audio

- Stereo speakers
- Omnidirectional microphone
- Headphone port
- Support for Apple iPhone headset with remote and microphone



MacBook Pro technical specifications available at <http://www.apple.com/macbook-pro/specs/>:

	<p>Audio</p> <ul style="list-style-type: none">• Stereo speakers• Dual microphones• Headphone port<ul style="list-style-type: none">• Support for Apple iPhone headset with remote and microphone• Support for audio line out <p>Mac mini technical specifications available at http://www.apple.com/macmini/specs.html:</p> <p>Audio</p> <ul style="list-style-type: none">■ Audio line in minijack (digital/analog)■ Audio line out/headphone minijack (digital/analog)■ HDMI port supports multichannel audio output■ Support for Apple iPhone headset with microphone■ Built-in speaker <p>Mac Pro technical specifications available at http://www.apple.com/macpro/specs.html:</p>
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	<p>Connections and audio</p> <p>Four FireWire 800 ports (two on front panel, two on back panel)</p> <p>Five USB 2.0 ports (two on front panel, three on back panel)</p> <p>Two USB 2.0 ports on included keyboard</p> <p>Front-panel headphone minijack and internal speaker</p> <p>Optical digital audio input and output TOSLINK ports</p> <p>Analog stereo line-level input and output minijacks</p> <p>Multichannel audio through Mini DisplayPort</p> 
<p>7[a] a speaker operable to output the audio signal;</p>	<p>Each Accused Device comprises an internal speaker operable to output an audio signal. <i>See above; see also, e.g.,</i></p> <p>When no external reproduction unit is connected, the iPhone 4S plays music through its built-in speakers.</p>



iPhone 4S Music Application when playing a song through the speakers:



iPhone 4S home screen, while device continues to play song started in Music Application through speakers:

	
<p>7[b] an audio output port, which is connectable to an external audio reproduction unit and operable to output the audio signal to the external audio reproduction unit;</p>	<p>Each Accused Device comprises an audio output port, which is connectable to an external audio reproduction unit and operable to output the audio signal to the external audio reproduction unit. <i>See above; see also, e.g.,</i></p> <p>iPhone 4S audio output port for headphones:</p>



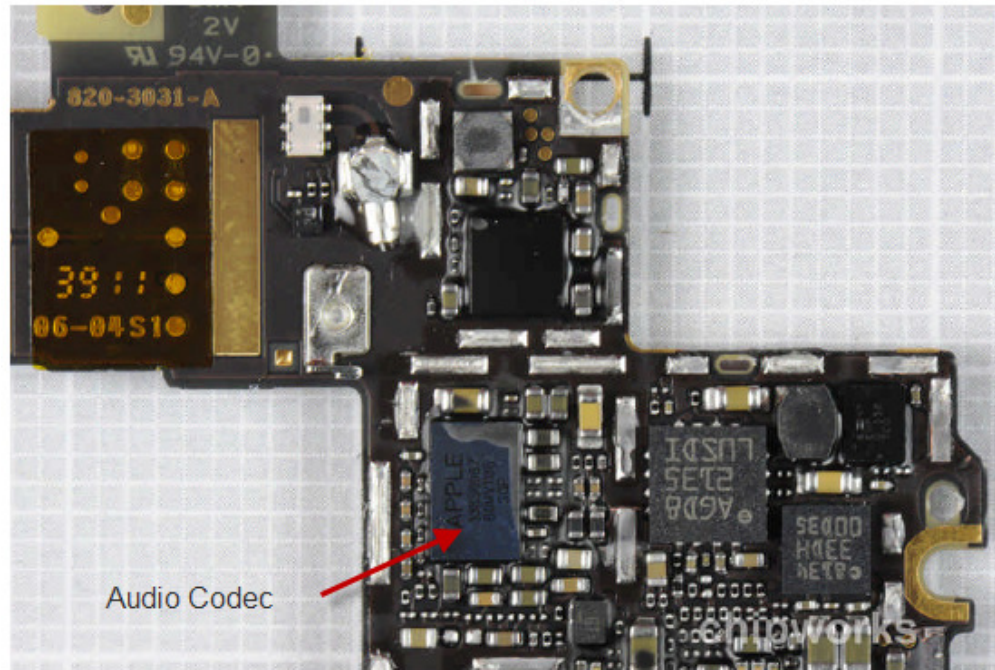
iPhone 4S with headphones connected to audio output port:



As shown below, when headphones are connected to the audio output port, the Accused Devices play music through the headphones. When headphones are not connected, the Accused Devices play music through the built-in speakers.

7[c] an audio signal processing unit operable to process the audio signal and output the processed audio signal to one of the speaker and the audio output port;

Each Accused Device comprises an audio signal processing unit operable to process the audio signal and output the processed audio signal to one of the speaker and the audio output port. For example, each device includes an audio codec chip, and associated hardware and/or software, to process audio and selectively output it to an internal speaker or an external audio port. *See, e.g.,*
iPhone 4S audio codec chip:




As shown below, when headphones are connected to the audio output port, the Accused Devices automatically play music through the headphones. When headphones are not connected, the Accused Devices play music through the built-in speakers.

7[d] a display screen operable to display one of a first On-screen Display (OSD) window, which indicates that the external audio reproduction unit is connected to the audio output port,

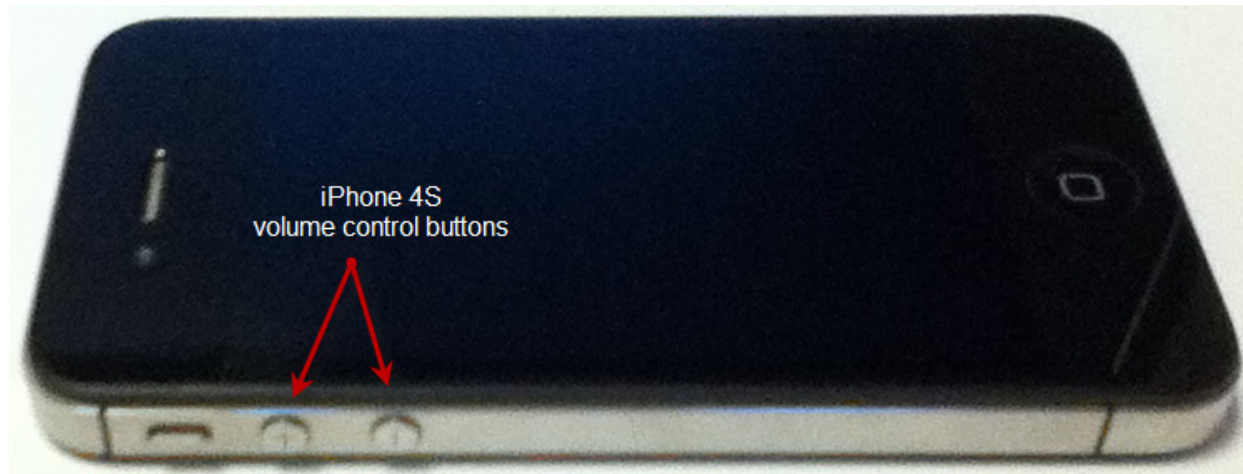
Each Accused Device comprises a display screen operable to display a first On-screen Display (OSD) window, which indicates that the external audio reproduction unit is connected to the audio output port. For example, when headphones are connected and a volume control command is received the iPhone 4S displays a "headphones" volume control window.

	
<p>7[e] and a second OSD window, which indicates that the external audio reproduction unit is not connected to the audio output port;</p>	<p>Each Accused Device comprises a display screen operable to display a second OSD window, which indicates that the external audio reproduction unit is not connected to the audio output port.</p> <p>For example, when headphones are not connected and a volume control command is received the iPhone 4S displays the following speaker volume control window.</p>

	
<p>7[f] and a control unit which is operable to receive an input command and which controls the audio signal processing unit and the display screen, wherein if the control unit receives the input command and the external audio reproduction unit is not connected to the audio output port, the control unit controls the display screen to automatically display the second OSD window.</p>	<p>Each Accused Device comprises a control unit which is operable to receive an input command and which controls the audio signal processing unit and the display screen, wherein if the control unit receives the input command and the external audio reproduction unit is connected to the audio output port, the control unit controls the display screen to automatically display the first OSD window, and wherein if the control unit receives the input command and the external audio reproduction unit is not connected to the audio output port, the control unit controls the display screen to automatically display the second OSD window.</p> <p>For example, the iPhone 4S comprises a processor, a touchscreen, and associated circuitry and software. These components receive an input command, such as the command to increase volume, when the user presses the corresponding button on the phone or touches a corresponding area of the touchscreen.</p>

reproduction unit is connected to the audio output port, the control unit controls the display screen to automatically display the first OSD window, and wherein if the control unit receives the input command and the external audio reproduction unit is not connected to the audio output port, the control unit controls the display screen to automatically display the second OSD window.

iPhone 4S volume control buttons:




If headphones are connected to the audio output port, the phone displays the volume control window corresponding to the headphones volume level.



If headphones are not connected to the audio output port, the phone displays the volume control window corresponding to the speaker volume level.



The iPhone 4S Music application also displays a different touch sensitive volume control bar depending on whether headphones are connected. When headphones are connected the displayed bar corresponds to the headphones volume level. When headphones are not connected the displayed bar corresponds to the speaker volume level.

	
<p>8. The A/V device according to claim 7,</p> <p>8[a] wherein if the control unit receives the input command and the external audio reproduction unit is connected to the audio</p>	<p>Each Accused Device is an A/V device according to claim 7, wherein if the control unit receives the input command and the external audio reproduction unit is connected to the audio output port, the control unit further controls the audio signal processing unit to automatically output the processed audio signal to the audio output port. <i>See</i> claim 7.</p> <p>For example, when the iPhone 4S detects that headphones are connected it automatically outputs the audio signal to the audio output port. Similarly, when the headphones are connected and the iPhone 4S receives a command to increase or decrease the volume, it automatically outputs the audio signal to the audio output port.</p>

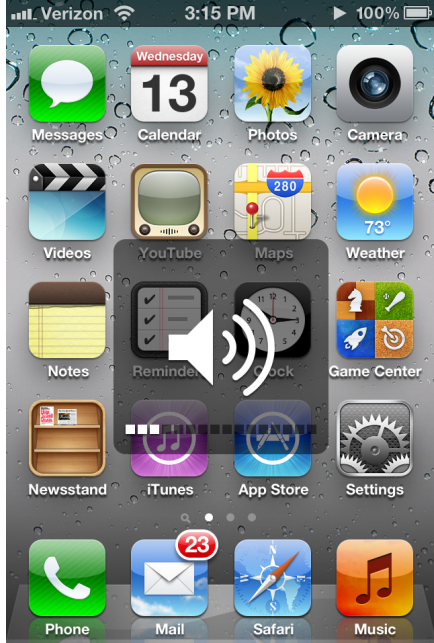
output port, the control unit further controls the audio signal processing unit to automatically output the processed audio signal to the audio output port,




8[b] and wherein if the control unit receives the input command and the external audio reproduction unit is not connected to the audio output port, the control unit further controls the audio signal processing unit to automatically output the processed audio signal to the speaker.

Each Accused Device is an A/V device according to claim 7, wherein if the control unit receives the input command and the external audio reproduction unit is not connected to the audio output port, the control unit further controls the audio signal processing unit to automatically output the processed audio signal to the speaker. *See* claim 7.

For example, when the iPhone 4S detects that headphones are not connected it automatically outputs the audio signal to the built-in speakers. Similarly, when the headphones are not connected and the iPhone 4S receives a command to increase or decrease the volume, it automatically outputs the audio signal to the built-in speakers.


	
<p>9. The A/V device according to claim 7, wherein the external audio reproduction unit includes one of headphones and an external speaker.</p>	<p>Each Accused Device is an A/V device according to claim 7, wherein the external audio reproduction unit includes one of headphones and an external speaker. <i>See</i> claim 7.</p> <p>For example, the iPhone 4S is sold with a set of headphones. In addition, other headphones or external speakers may be connected to the iPhone 4S audio output port.</p>

	
<p>10. The A/V device according to claim 7, wherein the input command includes volume control command.</p>	<p>Each Accused Device is an A/V device according to claim 7, wherein the input command includes volume control command. <i>See</i> claim 7.</p> <p>For example, the iPhone 4S includes volume control buttons, and displays volume control user interface elements in, for example, the Music application. <i>See</i> claim 7[f].</p>
<p>11. The A/V device according to claim 10, wherein the first OSD window displays previously stored volume level of external audio reproduction unit</p>	<p>Each Accused Device is an A/V device according to claim 10, wherein the first OSD window displays previously stored volume level of external audio reproduction unit and the second OSD window displays previously stored volume level of the speaker. <i>See</i> claim 10.</p> <p>For example, the headphones volume control window displays a volume bar indicating the previously stored volume level for headphones (audio output port).</p>

and the second OSD window displays previously stored volume level of the speaker.



Similarly, the built-in speakers volume control window displays a volume bar indicating the previously stored volume level for the speakers.

	
<p>12. A method for controlling an audio/visual (A/V) device having an audio output port, speaker and a display screen, wherein the A/V device processes an audio signal for an external audio reproduction unit, the method comprising:</p>	<p>Apple's Accused Devices perform the claimed method for controlling an audio/visual (A/V) device having an audio output port, speaker and a display screen, wherein the A/V device processes an audio signal for an external audio reproduction unit. <i>See</i> claim 7.</p> <p>Apple infringes this claim and the dependent claims identified herein because it has performed each and every step of the claims, including but not limited to testing and use by its employees or agents. Apple also infringes this claim by selling Accused Devices to customers and encouraging those customers to use the products in a manner that meets each and every step of this claim.</p>
<p>12[a] determining</p>	<p>Apple's Accused Devices perform the step of determining whether the external audio reproduction unit is</p>

whether the external audio reproduction unit is connected to the audio output port of the A/V device;	connected to the audio output port of the A/V device. This is evident because, for example, each Accused Device automatically outputs sound through headphones when headphones are connected. <i>See</i> claim 7.
12[b] receiving a input command;	Apple's Accused Devices perform the step of receiving an input command. For example, each device receives a volume control command. <i>See</i> claim 7(f).
12[c] if the external audio reproduction unit is connected to the audio output port of the A/V device, automatically displaying on the display screen a first OSD window indicating that the external audio reproduction unit is connected to the audio output port;	Apple's Accused Devices meet this claim element because if the external audio reproduction unit is connected to the audio output port of the A/V device, each device automatically displays on the display screen a first OSD window indicating that the external audio reproduction unit is connected to the audio output port. For example, a volume control window is displayed corresponding to the headphone volume level. <i>See</i> claim 7(f).
12[d] and if the external audio reproduction unit is not connected to the audio output port, automatically displaying on the display screen a	Apple's Accused Devices meet this claim element because if the external audio reproduction unit is not connected to the audio output port, each device automatically displays on the display screen a second OSD window indicating that the external audio reproduction unit is not connected to the audio output port. For example, a volume control window is displayed corresponding to the speaker volume level when headphones are not connected. <i>See</i> claim 7(f).

second OSD window indicating that the external audio reproduction unit is not connected to the audio output port.	
13. The method according to claim 12, 13[a] wherein if the external audio reproduction unit is connected to the audio output port of the A/V device, the method further comprises automatically outputting the processed audio signal to the audio output port,	Apple's Accused Devices perform the method of claim 12, wherein if the external audio reproduction unit is connected to the audio output port of the A/V device, the method further comprises automatically outputting the processed audio signal to the audio output port. <i>See</i> claim 8[a].
13[b] and wherein if the external audio reproduction unit is not connected to the audio output port, the method further comprises automatically outputting the processed audio signal to the speaker.	Apple's Accused Devices meet this claim element because if the external audio reproduction unit is not connected to the audio output port, each device automatically outputs the processed audio signal to the speaker. <i>See</i> claim 8[b].
14. The method according to claim 12, wherein the external audio reproduction unit	Apple's Accused Devices perform the method of claim 12, wherein the external audio reproduction unit includes one of headphones and an external speaker. <i>See</i> claim 9.

includes one of headphones and an external speaker.	
15. The method according to claim 12, wherein the input command includes volume control command.	Apple's Accused Devices perform the method of claim 12, wherein the input command includes volume control command. <i>See</i> claim 10.
16. The method according to claim 15, wherein the first OSD window displays previously stored volume level of external audio reproduction unit and the second OSD window displays previously stored volume level of the speaker.	Apple's Accused Devices perform the method of claim 15, wherein the first OSD window displays previously stored volume level of external audio reproduction unit and the second OSD window displays previously stored volume level of the speaker.. <i>See</i> claim 11.

EXHIBIT 3

EXHIBIT I

SAMSUNG'S PATENT L.R. 3-1(G) DISCLOSURES

Samsung Products Practicing Asserted Claims

U.S. Pat. No. 5,579,239		
<i>Device</i>	<i>Model</i>	<i>Claims</i>
Galaxy Tab	SCH-I800	15
Acclaim	SCH-R880	15
Captivate	SGH-I897	15
Continuum	SCH-I400	15
Droid Charge	SCH-I510	15
Epic 4G	SPH-D700	15
Exhibit 4G	SGH-T759	15
Fascinate	SGH-T959	15
Galaxy Ace	SPH-I325	15
Galaxy Prevail	SPH-M820	15
Galaxy S 4G	SCH-I500	15
Gem	SCH-I100	15
Indulge	SCH-R915	15
Infuse 4G	SCH-I997	15
Intercept	SPH-M910	15
Mesmerize	SCH-I500	15
Nexus S	SPH-D720	15

Replenish	SPH-M580	15
Showcase Galaxy S	SCH-I500	15
Sidekick	SGH-T839	15
Vibrant	SGH-T959	15

<i>Device (Project name)</i>	<i>Model</i>	U.S. Pat. No. 7,551,596 Claims	U.S. Pat. No. 7,756,087 Claims
Viper	SCH-I110 (VZW)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40
Aegis	SCH-I405 (VZW)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40
P8-VzW	SCH-I815 (VZW)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40
Stealth-V	SCH-I510 (VZW)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40
Gaudi	SPH-D710 (SPR)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40
Vino-E	SPH-M820 (BST)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40
Chief_MTR	SCH-R920 (MTR)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40
Tikal	SCH-R930 (USC)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40
Gaudi_USCC	SCH-R760U (USC)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40

Venturi	YP-G70 (Global)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40
Espresso7	GT-P3113 (XAR)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40
Espresso10	GT-P5113 (XAR)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40
Geim	SGH-I827 (ATT)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40
Vital2_SPR	SPH-M930 (SPR)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40
Vital2_BST	SPH-M930 (BST)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40
GIO_ACG	SCH-R680(ACG)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40
GIO_USC	SCH-R680 (USC)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40
Rookie_ACG	SCH-R720 (ACG)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40
Rookie_MTR	SCH-R720 (MTR)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40
P4_GalaxyTab10.1	SCH-I905U (USC)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40
Viper1	SCH-S720C (TFN)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40
Midas Verizon	SCH-I535 (VZW)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40
Jasper	SCH-I200 (VZW)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40
Espresso Tab 7"	SCH-I705 (VZW)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40
Gogh	SPH-L300 (SPR)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40

Midas Sprint	SPH-L710 (SPR)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40
Aegis-Lte	SCH-I405U (USC)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40
Gaudi NA CDMA	SCH-R760X (ACG)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40
Tikal-M	SCH-R940 (MTR)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40
Trebon-Lte	SCH-R820 (MTR)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40
Atlas	SCH-S950C (TFN)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40
Note10 TAB	GT-N8013 (XAR)	1,4,6,13,16,18	1,2,6,7,8, 9,10,14,15,16, 34,35,39,40

U.S. Pat. No. 7,672,470	
<i>Model</i>	<i>Claims</i>
UN19D4000NDXZA	7, 8, 9, 10, 11, 12, 13, 14, 15, 16
UN22D5000NDXZA	7, 8, 9, 10, 11, 12, 13, 14, 15, 16
LN19D450G1DXZA	7, 8, 9, 10, 11, 12, 13, 14, 15, 16
LN22D450G1DXZA	7, 8, 9, 10, 11, 12, 13, 14, 15, 16

EXHIBIT 4

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October 22, 2012

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Re: Apple Inc. v. Samsung Electronics Co. Ltd., et al.,
Case No. 12-cv-00630 (N.D. Cal.)

Dear Michael:

I write regarding Samsung's deficient responses to Apple's Second Set of Interrogatories. Although Samsung claims that it "has not yet completed its discovery and investigation of the facts relating to" these interrogatories, the information sought concerns the Samsung patents-in-suit and related information entirely within Samsung's control. Given that the interrogatories were served in July, we would have expected Samsung at least to have supplemented its deficient responses by this point.

Some of our specific concerns include the following:

Interrogatory No. 11

Interrogatory No. 11 requests information about any notice provided by Samsung or anyone else to Apple "of the existence and/or the alleged infringement of the Samsung Patents-in-Suit." In response, Samsung provides an approximate date of September 2010 and refers to the deposition of an Apple employee, including "the documents and exhibits discussed during that deposition." This is plainly insufficient.

Please supplement to provide all facts on which Samsung intends to rely of any alleged notice of infringement for each asserted patent. At the very least, Samsung should specify the date of any alleged notice, the manner in which the notice was given, whether the notice was provided in one or many communications, and the substance of any such notice (including which patent(s) and patent claim(s) were identified in each notice). These facts are entirely within Samsung's control. As for the deposition of Mr. Lutton cited in Samsung's response, this deposition primarily concerned *Apple's* patents in a prior case. Please identify which portions of Mr. Lutton's deposition transcript and/or associated documents and exhibits Samsung contends constitutes notice to Apple of the existence or alleged infringement of the Samsung patents-in-suit.

Interrogatory Nos. 12 and 13

Please confirm that page 8, line 2 and page 10, line 27 should read "the '757 patent" rather than "the '449 patent."

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Interrogatory No. 14

Interrogatory No. 14 requests information about Samsung products that Samsung claims practice its patents-in-suit. Samsung's response is limited to "examples of products that embody the inventions disclosed" in the '239, '470, '087, and '596 patents. These examples include the UN22D5000NFXZA and the LN22D450G1FXZA, which are not listed in Samsung's Patent Local Rule 3-1(g) disclosures.

We do not believe that "examples" provides a sufficient response to this interrogatory. To the extent that Samsung intends to claim practicing products, they must be fully disclosed in Samsung's interrogatory responses and Patent Local Rule 3-1(g) disclosures.

Interrogatory No. 15

Interrogatory No. 15 seeks information about the secondary considerations that Samsung contends are relevant to each Samsung patent-in-suit. Samsung does not substantively respond to this interrogatory, but instead claims that it will supplement its response at a later date and that evidence regarding non-obviousness will be detailed in its expert report to be served in accordance with the Court's schedule. This is insufficient, as Apple is entitled to any facts on which Samsung intends to rely to support claim for non-obviousness of its patents-in-suit long before expert reports are due.

Interrogatory No. 16

Samsung identifies all generations of the iPod Touch as Accused Products for the '470 patent. Because Samsung did not identify these products its Patent L.R. 3-1(A)-(D) disclosures, Apple will oppose these untimely additions to Samsung's list of Accused Apple Products.

Interrogatory No. 17

Interrogatory No. 17 requests "all communications with third parties relating to actual or potential licenses, sublicenses, settlement agreements, technology sharing agreements, or other agreements regarding the Samsung patents-in-suit." Samsung's response merely cites to documents related to Samsung's acquisition of the '239, '449, and '757 patents from third parties.

This interrogatory seeks communications with third parties beyond Samsung's patent acquisitions. As Samsung is aware, licensing discussions that do not culminate in an actual acquisition are relevant in this case. For example, "[t]he frequency and substance of any license requests, even if ultimately declined or ignored... sheds light both on how those outside of [Samsung] value the ... patents, as well as how [Samsung] itself values them. This is more than conceptually pertinent to [Samsung's] willingness to license the patents." D.I. 202 at 3.

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Michael Fazio, Esq.
October 22, 2012
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Accordingly, Samsung must supply the information requested by Interrogatory No. 17, including but not limited to information relating to the identity of all third parties with whom Samsung has licensed or offered to license the patents-in-suit, or received an offer to license the patents-in-suit, as well as information pertaining to such negotiations. Samsung may not rely on the early stage of discovery to justify not disclosing known information responsive to this interrogatory.

Interrogatory No. 18

Interrogatory No. 18 requests that Samsung identify all individuals involved in the prosecution of the Samsung patents-in-suit. Samsung's response merely cites to the file histories of each patent. Please specifically identify the individuals involved in the prosecution of these patents.

Interrogatory No. 19

Interrogatory No. 19 requests Samsung's factual and legal basis for its contention that it is entitled to injunctive relief for Apple's alleged infringement of the Samsung patents-in-suit. Samsung's response merely incorporates by reference its Disclosure of Asserted Claims and Infringement Contentions and claims its damages contentions will be detailed in its expert report to be served in accordance with the Court's schedule.

However, Samsung's Disclosure of Asserted Claims and Infringement Contentions provides no information regarding the factors relevant to injunctive relief, which is an appropriate subject for discovery and should be provided in response to this interrogatory.

* * *

We look forward to your complete and substantive responses to the Interrogatories identified above and ask that Samsung provide them no later than November 1, 2012. If Samsung is unwilling or unable to meet this deadline, please provide a time to meet and confer on these issues.

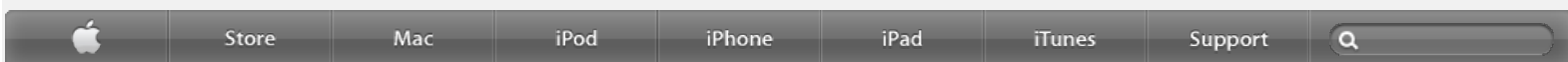
Regards,



Michael Silhasek

cc: Counsel of Record

EXHIBIT 5



Apple Press Info

Press Releases

Product Images & Info

Apple Leadership

Apple Introduces New iPod touch & iPod nano

World's Most Popular Music Players Reinvented With Ultra-Thin Designs & Amazing New Features

SAN FRANCISCO—September 12, 2012—Apple® today introduced the new lineup of the world's most popular music players including the incredible all-new iPod touch® and reinvented iPod nano®. The new iPod touch is the thinnest iPod touch ever and features a brilliant 4-inch Retina™ display; a 5 megapixel iSight® camera with 1080p HD video recording; Apple's A5 chip; Siri®, the intelligent assistant; and iOS 6, the world's most advanced mobile operating system. The new iPod touch comes in a gorgeous new ultra-thin and light anodized aluminum design, and for the first time ever, iPod touch comes in five vibrant colors. The new iPod nano is the thinnest iPod® ever featuring a 2.5-inch Multi-Touch™ display; convenient navigation buttons; built-in Bluetooth for wireless listening; and the new iPod nano comes in seven gorgeous new colors.

"With over 350 million sold, iPod is the world's most popular and beloved music player," said Philip Schiller, Apple's senior vice president of Worldwide Marketing. "Music lovers may have a difficult time deciding between the reinvented iPod nano, the thinnest iPod ever, and the all-new iPod touch with its stunning 4-inch Retina display, 5 megapixel iSight camera and ultra-thin design—both in beautiful new colors."

The new iPod touch has been redesigned with a brilliant 4-inch Retina display in an ultra-thin and light anodized aluminum body—the thinnest iPod touch ever at just 6 mm thin and weighing just 88 grams. With Apple's dual-core A5 chip inside, iPod touch delivers up to twice the processing power and up to seven times faster graphics than the fourth generation iPod touch, all while maintaining incredible battery life of up to 40 hours of music playback and up to eight hours of video playback.* And, for the first time ever, iPod touch is available in five vibrant colors.

The new iPod touch includes a 5 megapixel iSight camera with autofocus, support for 1080p video recording with video image stabilization, face detection and an LED flash, and the new panorama feature that lets you capture gorgeous panoramic photos by simply moving the camera across a scene. Every new iPod touch comes with a color-matched iPod touch loop, a clever and convenient wrist strap you can use while taking photos, recording video and playing games.

The new iPod touch comes with iOS 6, the world's most advanced mobile operating system with over 200 features, and for the first time, features Siri, the intelligent assistant that helps you get things done just by asking. Siri arrives on the new iPod touch with support for more languages, easy access to sports scores, restaurant recommendations and movie listings.** The new iPod touch also includes: built-in Facebook integration with ability to post directly from Siri; Shared Photo Streams via iCloud®; and other key iOS features like iMessage™, FaceTime®, Mail and Game Center. Now you can wirelessly display your iPod touch screen right on your HDTV with AirPlay® Mirroring, allowing you to stream photos, videos, music, apps and play games on your big screen TV.***

The reinvented iPod nano is the thinnest iPod ever, at just 5 mm, and features the largest display ever built into an iPod nano, allowing you to enjoy more of your music, photos and widescreen videos. The new iPod nano features a 2.5-inch Multi-Touch display to make navigating your music even easier; a home button to quickly get back to your home screen; and convenient buttons to easily control volume and quickly play, pause or change songs without looking. The new iPod nano gives music lovers built-in Bluetooth for wireless listening with Bluetooth-enabled headphones, speakers and cars. At 30 hours, the

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new iPod nano offers the longest music playback of any iPod nano so you can enjoy your playlists* and FM radio even longer. With built-in fitness features including a pedometer and support for Nike+, iPod nano users will be ready to take their music walking, running or anywhere they like. The new iPod nano comes in seven gorgeous new colors with fun color-matched wallpapers.

With the App StoreSM on iPod touch, users have access to the world's largest and best collection of over 700,000 apps, including over 175,000 game and entertainment titles. Customers also have the iTunes Store[®] at their fingertips, giving them instant access to the world's largest catalog of over 26 million songs, 190,000 TV episodes, 45,000 movies and 1.5 million books to purchase and download directly to their iPod touch.

Both iPod touch and iPod nano come with the new Lightning[™] connector that is smaller, smarter and more durable than the previous connector. The all-digital Lightning connector features an adaptive interface that uses only the signals that each accessory requires, and it's reversible so you can instantly connect to your accessories. The Lightning-to-30-pin Adapter is also available to connect iPod touch and iPod nano to legacy 30-pin accessories.****

iPod touch and iPod nano also come with the new Apple EarPods[™] featuring a breakthrough design for a more natural fit, increased durability and an incredible acoustic quality typically reserved for higher-end earphones.

Pricing & Availability

Pre-orders for the new iPod touch in pink, yellow, blue, white & silver, black & slate begin September 14 through the Apple Online Store (www.apple.com) for a suggested price of \$299 (US) for the 32GB model and \$399 for the 64GB model. The new iPod touch will be available in October through the Apple Online Store (www.apple.com), Apple's retail stores and Apple Authorized Resellers. The fourth generation iPod touch is available in black and white for \$199 (US) in a 16GB model and \$249 (US) in a 32GB model through the Apple Online Store (www.apple.com), Apple's retail stores and Apple Authorized Resellers. iPod touch requires a Mac with a USB 2.0 or USB 3.0 port, Mac OS X v10.6.8 or later and iTunes 10.7 or later; or a Windows PC with a USB 2.0 port and Windows 7, Windows Vista or Windows XP Home or Professional (Service Pack 3) or later and iTunes 10.7 or later. An Apple ID is required for some iPod touch features. iOS 6 will also be available as a free software update for iPod touch (fourth generation) customers allowing them to experience the amazing new features including Facebook-enabled apps like Photos; Shared Photo Streams via iCloud; and Passbook[®], the simplest way to get all your passes in one place.

iPod nano will be available in October in pink, yellow, blue, green, purple, silver and slate for a suggested price of \$149 (US) in a 16GB model through the Apple Online Store (www.apple.com), Apple's retail stores and Apple Authorized Resellers. iPod shuffle[®] is available today in pink, yellow, blue, green, purple, silver and slate for a suggested price of \$49 (US) in a 2GB model through the Apple Online Store (www.apple.com), Apple's retail stores and Apple Authorized Resellers. iPod shuffle requires a Mac[®] with a USB 2.0, Mac OS[®] X v10.6.8 or later and iTunes[®] 10.7 or later; or a Windows PC with a USB 2.0 port and Windows 7, Vista or Windows XP Home or Professional (Service Pack 3) or later and iTunes 10.7 or later. iPod nano requires a Mac with a USB 2.0 or USB 3.0 port, Mac OS X v10.6.8 or later and iTunes 10.7 or later; or a Windows PC with a USB 2.0 port and Windows 7, Vista or Windows XP Home or Professional (Service Pack 3) or later and iTunes 10.7 or later.

(PRODUCT) RED models of iPod shuffle, iPod nano and iPod touch are available through the Apple Online Store (www.apple.com) and Apple's retail stores.

* Battery life depends on device settings, usage and other factors. Actual results vary.

** Not all features are supported in all countries.

*** AirPlay Mirroring is only supported on the fifth generation iPod touch.

**** Sold separately.

Apple designs Macs, the best personal computers in the world, along with OS X, iLife, iWork and professional software. Apple leads the digital music revolution with its iPods and iTunes online store. Apple has reinvented the mobile phone with its revolutionary



iPod nano
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iPod nano
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iPhone and App Store, and is defining the future of mobile media and computing devices with iPad.

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Apple Media Helpline (408) 974-2042 media.help@apple.com

Press Info

Apple Introduces New iPod touch & iPod nano

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