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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91209883
Party	Plaintiff Samsung Electronics Co., Ltd.
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Date	09/13/2016
Attachments	Status Update and Ex. A - Opp. No. 91209883.pdf(384265 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application Serial No.: 85/299118



Date Published: November 20, 2012

SAMSUNG ELECTRONICS CO. LTD.,

Opposer,

v.

APPLE INC.

Applicant.

Opposition No. 91209883

OPPOSER'S STATUS UPDATE AS TO THE CIVIL ACTION

Opposer Samsung Electronics Co. Ltd. ("Samsung") respectfully submits this status update as to the civil action which occasioned the suspension of this proceeding, as directed by the Board's order dated September 8, 2016.

Proceedings in this matter were stayed pending the resolution of Apple, Inc. v. Samsung Electronics Co., Ltd. et al., Case No. 11-1846, in the United States District Court for the Northern District of California (the "Civil Action"). On March 6, 2014, the district court in the Civil Action issued a final judgment, from which both parties appealed. These appeals were heard by the United States Court of Appeals for the Federal Circuit under docket numbers 14-

1335 and 14-1368. On May 18, 2015, after briefing and oral argument, the Federal Circuit issued its decision. A copy of the Court's Slip Opinion is attached hereto as **Exhibit A** for the Board's convenience. The Federal Circuit held, among other things, that Apple's asserted registered and unregistered iPhone trade dresses—including the same product configuration and shape with rounded corners which Apple seeks to register here—are functional and therefore unprotectable. Slip Op. at 9-17.

Although neither Apple nor Samsung has sought further review of the Federal Circuit's relevant trade dress rulings, Samsung filed a petition for a writ of certiorari in the U.S. Supreme Court seeking review of the Federal Circuit's judgment regarding design patent infringement and damages. The U.S. Supreme Court granted Samsung's petition with respect to design patent damages. See Sup. Ct. Docket No. 15-777. The district court subsequently stayed all proceedings in the Civil Action pending resolution of matters by the Supreme Court. See Civil Action, ECF No. 3472 (March 22, 2016 Order). Samsung's petition is still pending before the Supreme Court and the proceedings in the Civil Action remain stayed. Samsung therefore respectfully suggests that the instant Opposition proceedings remain suspended until all matters associated with the Civil Action are finally and fully concluded.

Dated: September 13, 2016 Los Angeles, California

Quinn Emanuel Urquhart & Sullivan, LLP

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Certificate of Service

I hereby certify that a true and correct copy of the foregoing Opposer's Status Update As To The Civil Action has been duly served by mailing such a copy first class, postage paid to Daniel P. Hope, Dechert LLP, Cira Centre, 2929 Arch Street, Philadelphia, PA 19104-2808 on September 13, 2016.

Exhibit A

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