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Samsung Research America, Inc.

12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14 SAN FRANCISCO DIVISION

15 HUAWEI TECHNOLOGIES CO., LTD., et al.,  
16  
17 Plaintiffs,  
18 v.  
19 SAMSUNG ELECTRONICS CO., LTD., et al.,  
20 Defendants.

CASE NO. 16-cv-02787-WHO

**SAMSUNG’S MOTION TO ENJOIN  
HUAWEI FROM ENFORCING THE  
INJUNCTION ISSUED BY THE  
INTERMEDIATE PEOPLE’S  
COURT OF SHENZHEN**

**Hearing Date: March 14, 2018  
Time: 2:00 p.m.  
Place: Courtroom 2, 17th Floor  
Judge: Hon. William H. Orrick**

21 SAMSUNG ELECTRONICS CO., LTD. &  
SAMSUNG ELECTRONICS AMERICA, INC.  
22  
23 Counterclaim-Plaintiffs,  
24 v.  
25 HUAWEI TECHNOLOGIES CO., LTD.,  
HUAWEI DEVICE USA, INC., HUAWEI  
26 TECHNOLOGIES USA, INC., & HISILICON  
TECHNOLOGIES CO., LTD.  
27  
28 Counterclaim-Defendants.

**REDACTED VERSION OF  
DOCUMENT SOUGHT TO BE  
SEALED**

1 TO PLAINTIFFS AND COUNTERCLAIM-DEFENDANTS HUAWEI TECHNOLOGIES  
2 CO., LTD., HUAWEI DEVICE USA, INC., HUAWEI TECHNOLOGIES USA, INC., AND  
3 HISILICON TECHNOLOGIES CO., LTD., AND THEIR COUNSEL OF RECORD

4 PLEASE TAKE NOTICE that on March 14, 2018 at 2:00 p.m., or as soon thereafter as the  
5 matter may be heard, in the courtroom of the Honorable William H. Orrick, located at 450 Golden  
6 Gate Avenue, San Francisco, California 94102, Defendants and Counterclaim-Plaintiffs Samsung  
7 Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung Research America, Inc.  
8 (collectively “Samsung”) respectfully request that this Court enjoin Huawei Technologies Co., Ltd.,  
9 Huawei Device USA, Inc., Huawei Technologies USA, Inc., and HiSilicon Technologies Co., Ltd.  
10 (collectively “Huawei”) from taking steps to enforce, anywhere, the injunction issued by the  
11 Intermediate People’s Court of Shenzhen, China against Samsung on January 11, 2018.

12 This motion is based on this notice of motion and supporting memorandum of points and  
13 authorities, the supporting declarations of Dr. Song Lianbing, Guanbin Xie, and Tong Wang, the  
14 accompanying exhibits, reply briefing in further support of this motion and supporting declarations  
15 and accompanying exhibits, as well as other written or oral argument that Samsung may present to  
16 the Court.

17

18 DATED: February 1, 2018

Respectfully submitted,

19

QUINN EMANUEL URQUHART &  
SULLIVAN, LLP

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By /s/ Charles K. Verhoeven

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6	<i>Apple Inc. v. Qualcomm Inc.</i> ,	
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26	<i>aff'd</i> , 696 F.3d 872 (9th Cir. 2012) .....	1, 11, 12, 13, 14, 16, 17, 19, 20, 21
27	<i>Microsoft Corp. v. Motorola, Inc.</i> ,	
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1 *TCL Commc’ns Tech. Holdings, Ltd. v. Telefonaktienbolaget LM Ericsson*,  
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2

3 *TCL Commc’ns Tech. Holdings, Ltd. v. Telefonaktienbolaget LM Ericsson*,  
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4 *Unwired Planet International Ltd. v. Huawei Technologies Co., Ltd.*,  
 [2017] EWHC 711 (Pat)..... 16, 17

5

6 *Zynga, Inc. v. Vostu USA, Inc.*,  
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7  
 8 Additional Authorities

9 American National Standards Institute, *United States Standards Strategy* (2005)..... 4

10 German Institute for Standardization, *Economic benefits of standardization* (2000)..... 4

11 Impacts of Standards Users Group, *Study Into the Impact of Standardization* (2002) ..... 4

12 Mark A. Lemley, *Intellectual Property Rights and Standard-Setting Organizations*,  
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13 Mark A. Lemley & Carl Shapiro, *Patent Holdup and Royalty Stacking*,  
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14 Jeffrey I.D. Lewis, *What Is “FRAND” All About?: The Licensing of Patents Essential to*  
 15 *an Accepted Standard* (June 11, 2014)..... 6

16 Peter Swann, *The Economics of Standardization* (2000)..... 4

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