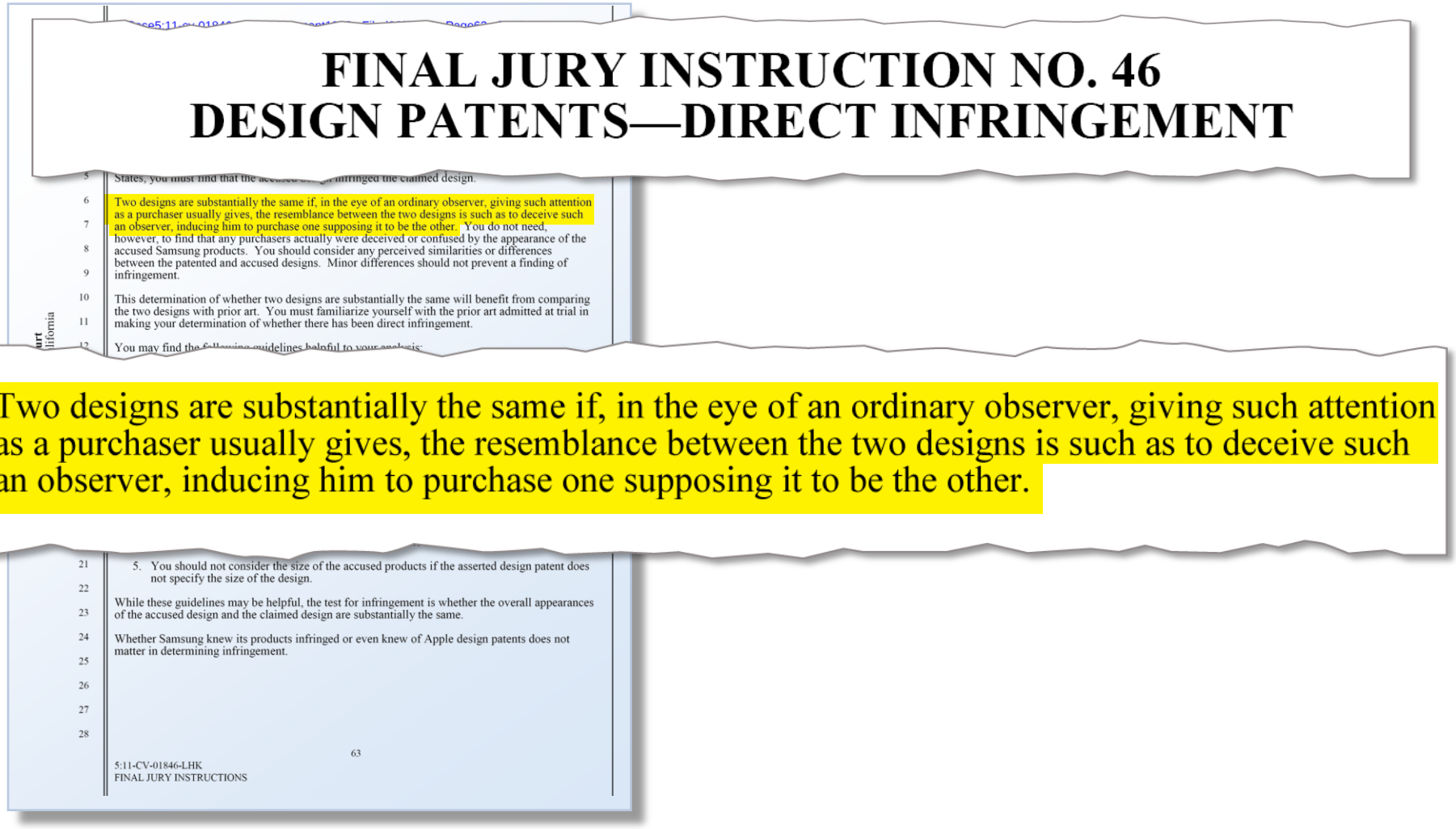
Samsung's Closing Statement

August 21, 2012

Hon. Lucy H. Koh
United States District Court
Northern District of California, San Jose Division

Jury Instruction No. 46
Design Patents – Direct Infringement



FINAL JURY INSTRUCTION NO. 46
DESIGN PATENTS—DIRECT INFRINGEMENT

States, you must find that the accused [illegible] infringed the claimed design.

Two designs are substantially the same if, in the eye of an ordinary observer, giving such attention as a purchaser usually gives, the resemblance between the two designs is such as to deceive such an observer, inducing him to purchase one supposing it to be the other. You do not need, however, to find that any purchasers actually were deceived or confused by the appearance of the accused Samsung products. You should consider any perceived similarities or differences between the patented and accused designs. Minor differences should not prevent a finding of infringement.

This determination of whether two designs are substantially the same will benefit from comparing the two designs with prior art. You must familiarize yourself with the prior art admitted at trial in making your determination of whether there has been direct infringement.

You may find the following guidelines helpful to your analysis:

5. You should not consider the size of the accused products if the asserted design patent does not specify the size of the design.

While these guidelines may be helpful, the test for infringement is whether the overall appearances of the accused design and the claimed design are substantially the same.

Whether Samsung knew its products infringed or even knew of Apple design patents does not matter in determining infringement.

63

5:11-CV-01846-LHK
FINAL JURY INSTRUCTIONS

Two designs are substantially the same if, in the eye of an ordinary observer, giving such attention as a purchaser usually gives, the resemblance between the two designs is such as to deceive such an observer, inducing him to purchase one supposing it to be the other.

(Jury Instruction No. 46)

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Whether Samsung knew its products infringed or even knew of Apple design patents does not matter in determining infringement.

(Jury Instruction No. 46)

Testimony of Peter Bressler

Peter Bressler
Apple's Expert

Q GIVEN THE ENVIRONMENT IN WHICH THESE PHONES ARE BEING SOLD AND THE DEGREE OF ADVERTISING BRANDING, YOU DON'T KNOW WHETHER ANYBODY WOULD EVER BE DECEIVED INTO THINKING THEY WERE BUYING A SAMSUNG PHONE WHEN THEY WERE BUYING AN APPLE PHONE OR VICE-VERSA; ISN'T THAT TRUE, SIR?

A COULD YOU REPEAT THAT AGAIN, PLEASE.

MR. VERHOEVEN: CAN WE READ IT BACK, PLEASE.

(WHEREUPON, THE RECORD WAS READ BY THE COURT REPORTER.)

THE WITNESS: YES.

–Trial Tr. at 1104:7-18

Testimony of Peter Bressler

Peter Bressler
Apple's Expert

Q. I'm trying to find out. We'll get to other opinions you have. I'm trying to find a baseline here right now.

Please tell me, In your expert opinion, do you believe that consumers get confused during the course of their purchasing decisions and confuse Apple devices with Samsung devices or vice versa?

A. I do not know if they get confused.

(DX807) Trial Tr. 1103:6

Testimony of Peter Bressler

Peter Bressler
Apple's Expert

Q YOU DON'T KNOW WHETHER CONSUMERS HAVE BEEN CONFUSED AT ANY TIME WHEN PURCHASING APPLE DEVICES OR SAMSUNG DEVICES INTO THINKING THEY ARE DEVICES FROM THE OTHER MANUFACTURER; CORRECT?

A I BELIEVE THAT'S CORRECT. I'M SORRY. COULD YOU REPEAT THE QUESTION?

MR. VERHOEVEN: CAN WE HAVE IT READ BACK FOR MR. BRESSLER?

(WHEREUPON, THE RECORD WAS READ BY THE COURT REPORTER.)

THE WITNESS: THAT'S CORRECT.

–Trial Tr. at 1101:23-1102:8

Testimony of Peter Bressler

Peter Bressler
Apple's Expert

Q TO THE BEST OF YOUR KNOWLEDGE, SMARTPHONE CONSUMERS EVALUATE DIFFERENT MODELS, COMPARE THEM TO ONE ANOTHER, EVEN BEFORE GOING INTO THE STORE; RIGHT?

A YES.

Q SMARTPHONE CONSUMERS CONSIDER A NUMBER OF FACTORS, SUCH AS PRICE, PERFORMANCE, AS WELL AS APPEARANCE; RIGHT?

A I GUESS.

Q DO YOU BELIEVE THAT'S TRUE?

A I SUSPECT THEY DO.

–Trial Tr. at 1103:13-23

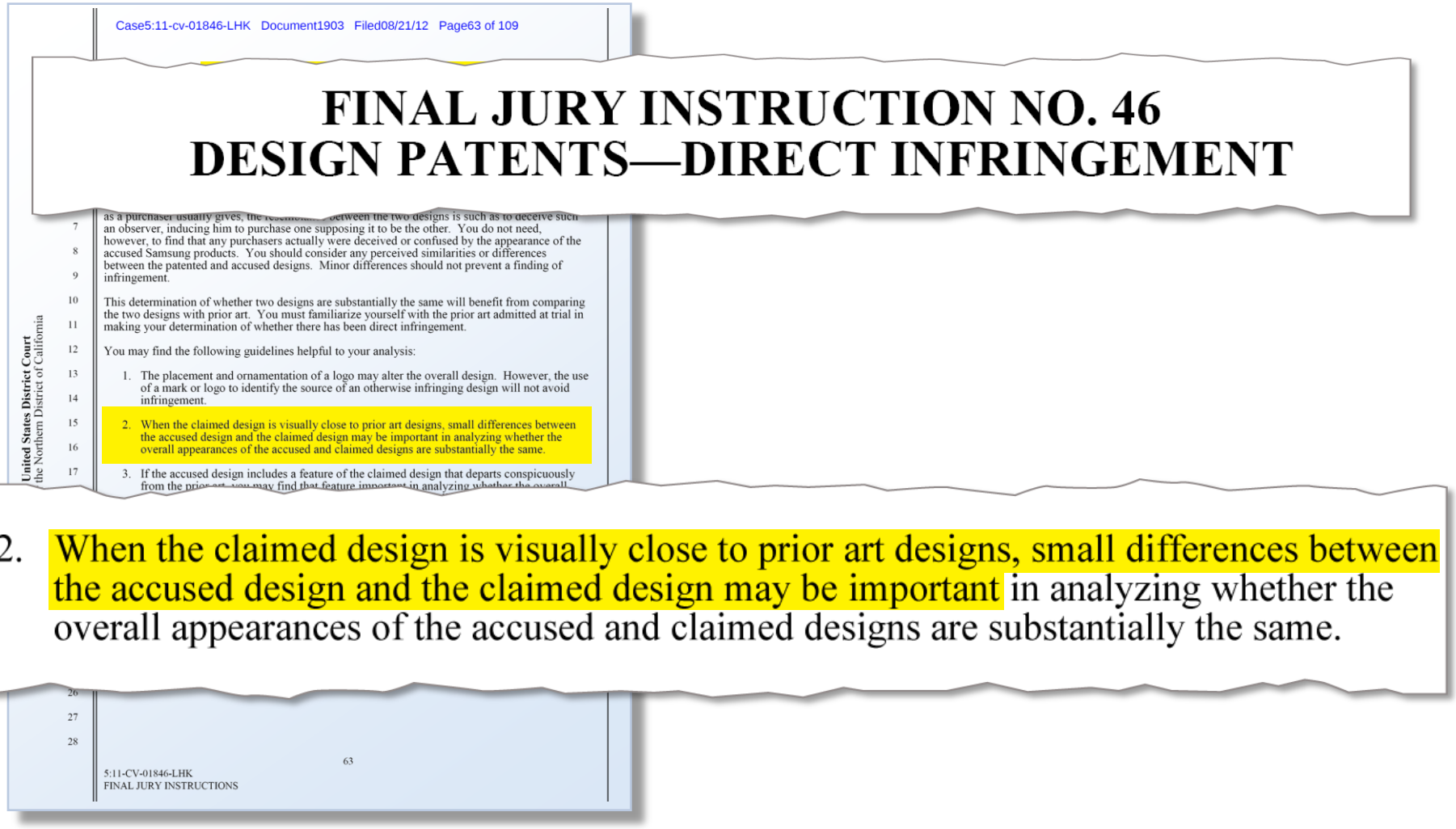
Testimony of Peter Bressler

Peter Bressler
Apple's Expert

Q YOU WOULD EXPECT THAT IF THE PURCHASER WAS ENTERING INTO A MULTI-YEAR CONTRACT, THEY WOULD KNOW WHAT BRAND OF PHONE THEY WERE BUYING; RIGHT?
A YES.
Q YOU BELIEVE, BY THE END OF THE SMARTPHONE PURCHASING PROCESS, THE ORDINARY CONSUMER WOULD HAVE TO KNOW WHICH PHONE THEY WERE BUYING; RIGHT?
A YES.

–Trial Tr. at 1103:24-1104:6

Jury Instruction No. 46
Design Patents – Direct Infringement



Case5:11-cv-01846-LHK Document1903 Filed08/21/12 Page63 of 109

FINAL JURY INSTRUCTION NO. 46
DESIGN PATENTS—DIRECT INFRINGEMENT

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This determination of whether two designs are substantially the same will benefit from comparing the two designs with prior art. You must familiarize yourself with the prior art admitted at trial in making your determination of whether there has been direct infringement.

You may find the following guidelines helpful to your analysis:

1. The placement and ornamentation of a logo may alter the overall design. However, the use of a mark or logo to identify the source of an otherwise infringing design will not avoid infringement.

2. When the claimed design is visually close to prior art designs, small differences between the accused design and the claimed design may be important in analyzing whether the overall appearances of the accused and claimed designs are substantially the same.

3. If the accused design includes a feature of the claimed design that departs conspicuously from the prior art, you may find that feature important in analyzing whether the overall

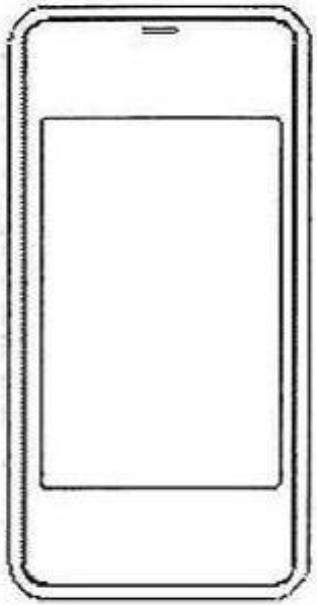
United States District Court
the Northern District of California

63

5:11-CV-01846-LHK
FINAL JURY INSTRUCTIONS

2. When the claimed design is visually close to prior art designs, small differences between the accused design and the claimed design may be important in analyzing whether the overall appearances of the accused and claimed designs are substantially the same.

(Jury Instruction No. 46)



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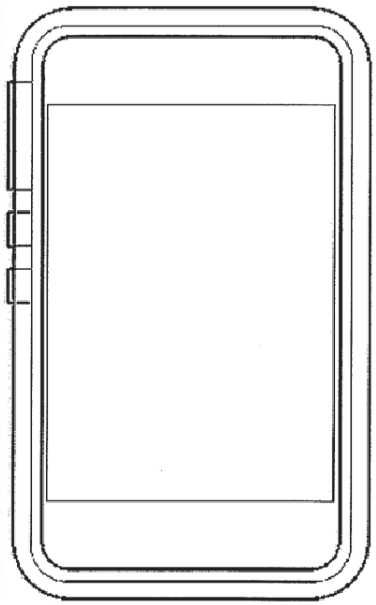

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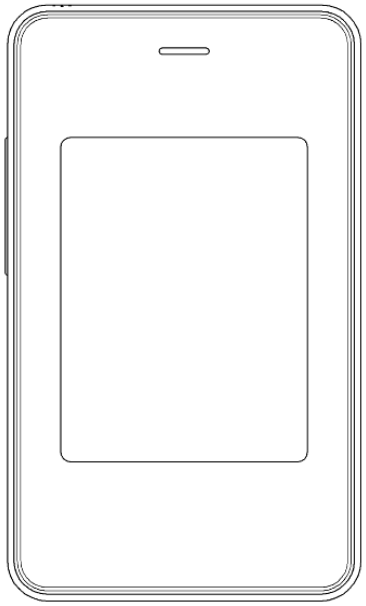
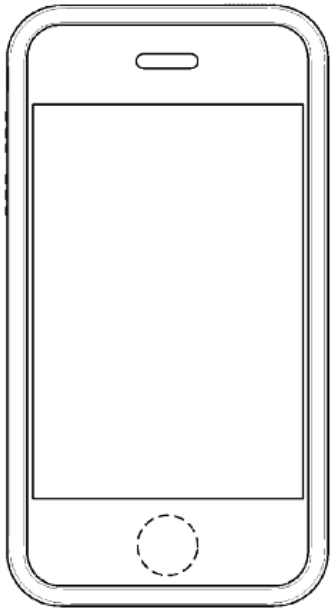


KR30-0418547

LG Prada



D’087

Testimony of Peter Bressler

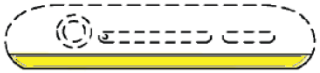
Peter Bressler
Apple's Expert

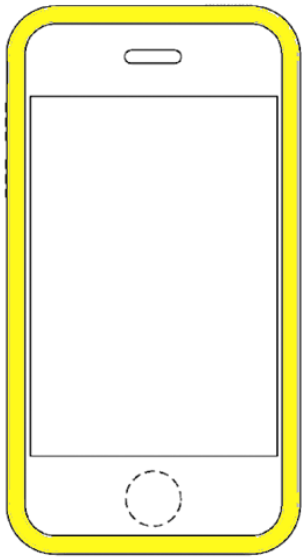
9	Q WELL, DETAILS ARE IMPORTANT ON A DESIGN
10	PATENT, AREN'T THEY? YOU SAID SO ON DIRECT?
11	A THEY ARE, YES.

–Trial Tr. at 1133:9-11

Testimony of Christopher Stringer

Christopher Stringer
Apple Designer





19 Q ANOTHER IMPORTANT DESIGN FEATURE WITH RESPECT
20 TO THE INITIAL IPHONE AND THE '087 PATENT WAS THAT
21 IT HAD THIS CONTINUOUS RIM, OR BEZEL I THINK IS THE
22 WORD YOU USED. IS THAT RIGHT?
23 A YES.
24 Q AND YOU AGREE WITH ME, THAT WAS AN IMPORTANT
25 ASPECT OF THIS DESIGN; RIGHT?

1 A YES.
2 Q AND THE -- IT WAS IMPORTANT THAT THE BEZEL GO
3 CONTINUOUSLY AND UNIFORMLY AROUND THE RIM OF THE
4 PHONE; RIGHT?
5 A YES.
6 Q AND IT WAS ALSO IMPORTANT THAT THE BEZEL BE OF
7 UNIFORM THICKNESS; CORRECT?
8 A YES.

–Trial Tr. at 513:19-514:8

Testimony of Peter Bressler

Peter Bressler
Apple's Expert

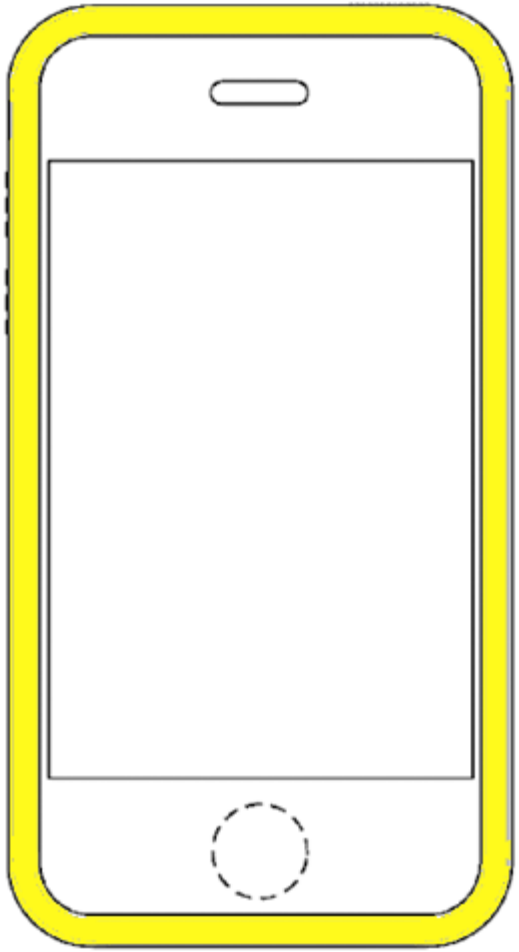
Q AND THAT'S IMPORTANT, RIGHT, THAT'S IMPORTANT, THE ABSENCE OF A BEZEL TAKES YOU OUT OF SUBSTANTIAL SIMILARITY, DOESN'T IT?

A IN THE '087 PATENT, IT DOES.

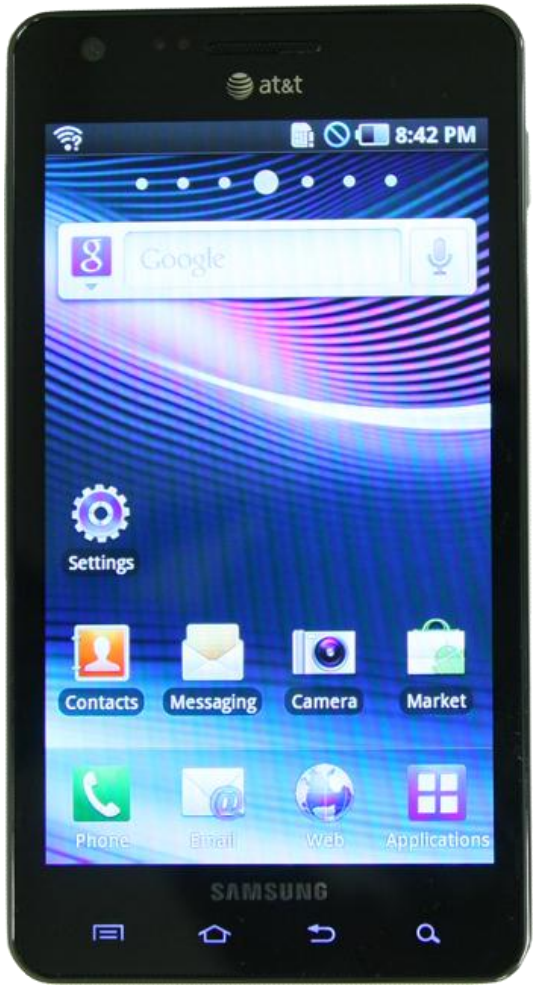
–Trial Tr. at 1121:7-10

Samsung Infuse 4G Has No Bezel

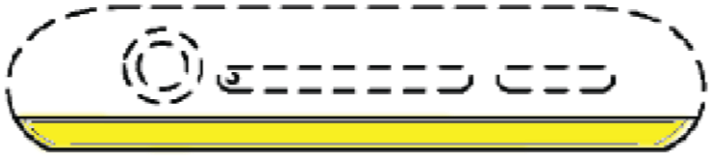
D'087 Patent



Infuse 4G



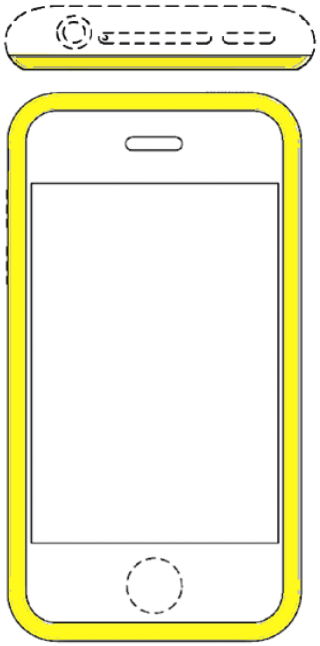
D’087 Patent



Infuse 4G

Testimony of Christopher Stringer

Christopher Stringer
Apple Designer



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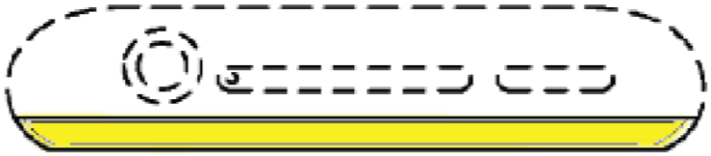
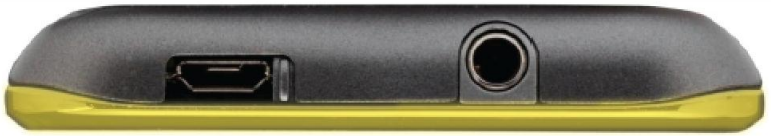
–Trial Tr. at 513:19-514:8

D’087 Patent

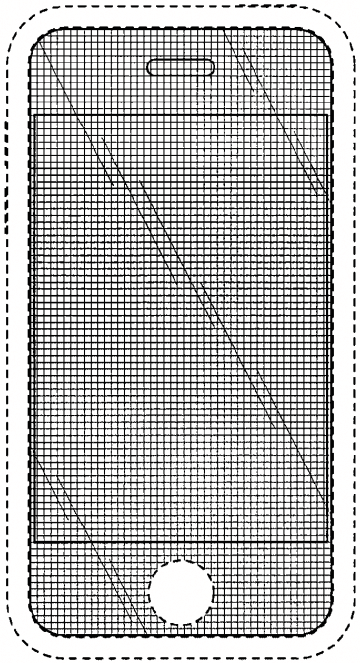


Galaxy S 4G



Testimony of Christopher Stringer

Christopher Stringer
Apple Designer



IN FACT, YOU WANTED TO CREATE A PRODUCT THAT EMBODIED THE SIMPLEST OF ICONS, AND ONE KEY IMAGE WAS THAT OF A DARK, OILY POND. IS THAT RIGHT?

A YES.

Q THAT WAS YOUR DESIGN GOAL; RIGHT?

A THAT WAS ONE --

Q GO AHEAD.

A THAT WAS ONE DESCRIPTION OF A DESIGN GOAL, YES.

Q YOU DIDN'T WANT TO PUT MULTIPLE BUTTONS ON THE FACE OF THE PHONE; CORRECT?

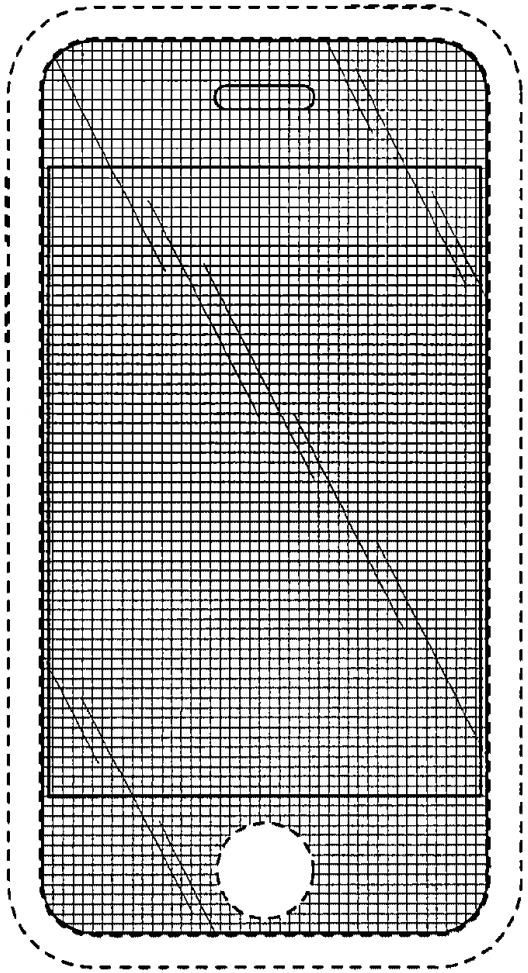
A CORRECT.

Q YOU WANTED IT TO BE AS SIMPLE AS POSSIBLE?

A YES.

–Trial Tr. at 521:23-522:12

D'677 Patent



Infuse 4G

Testimony of Peter Bressler

Peter Bressler
Apple's Expert

Q THE ORDINARY OBSERVER IS GOING TO LOOK AT THAT AND UNDERSTAND THAT'S COMMUNICATING A HOUSE AND IF THEY TOUCH IT, THEY CAN GO TO THE HOME SCREEN; RIGHT?

A THAT'S TRUE IN HOW THE PHONE OPERATES, THAT'S CORRECT.

Q SO THE USER IS GOING TO KNOW THAT, THEY'RE GOING TO SEE IT, THEY'RE GOING TO UNDERSTAND IT; RIGHT?

A YES.

Q AND THE SAME THING IS TRUE FOR THIS MENU BUTTON; RIGHT?

A YES.

–Trial Tr. at 1163:23-1164:10

Testimony of Peter Bressler

Peter Bressler
Apple's Expert

17 Q WHEN YOU CONDUCTED YOUR ANALYSIS OF THE
18 INFUSE 4G, DID YOU ACTUALLY USE ANY OF THESE
19 BUTTONS?
20 A IN TERMS OF MY ANALYSIS OF THE DESIGN PATENTS,
21 NO.

–Trial Tr. at 1164:17-21

Testimony of Christopher Stringer

Christopher Stringer
Apple Designer

Q I'M SORRY. I SHOULD HAVE SAID FOR THE RECORD, WHY DIDN'T APPLE PUT FOUR BUTTONS AT THE BOTTOM OF ANY OF ITS IPHONES?

A BECAUSE WE BELIEVED THE EASIEST DESIGN FOR THE IPHONE IS A SINGLE HOME BUTTON UNDER THE SCREEN.

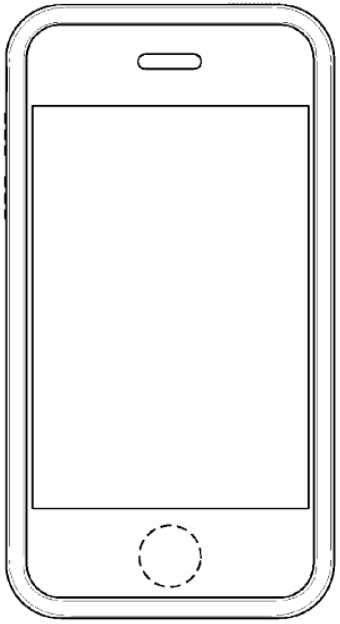
Q AND THAT SINGLE HOME BUTTON THE SCREEN IS ON EVERY IPHONE AND IPAD PRODUCT THAT HAS EVER BEEN RELEASED; CORRECT?

A THE HOME BUTTON IS ON EVERY IPHONE AND IPAD.

–Trial Tr. at 687:16-24

Testimony of Christopher Stringer

Christopher Stringer
Apple Designer



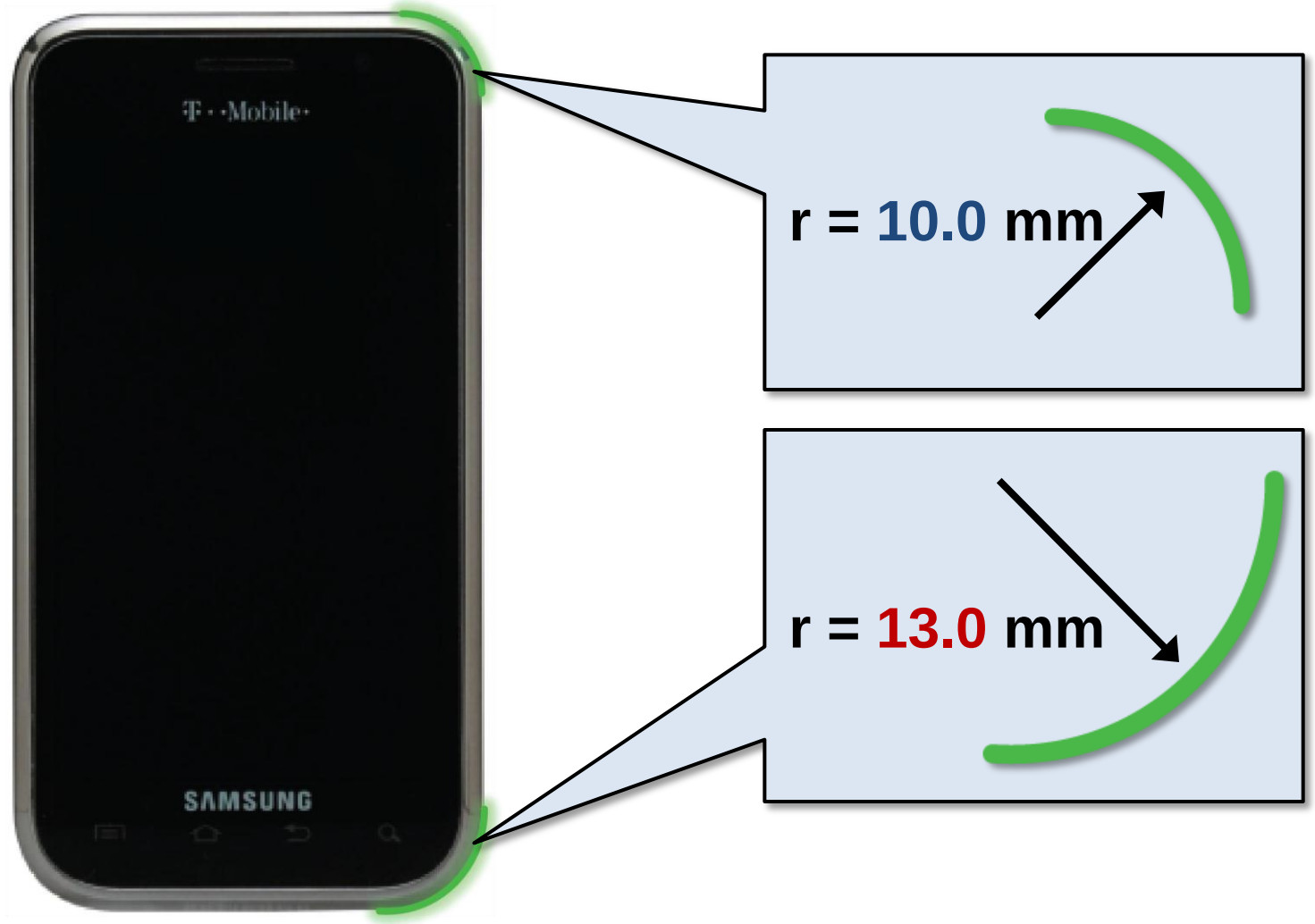
Q OKAY. NOW I'M GOING TO ASK YOU A FEW QUESTIONS ABOUT THE DESIGN ELEMENTS WITH RESPECT TO THE '087 PATENT. OKAY?

IN YOUR VIEW, ONE IMPORTANT DESIGN ASPECT OF THE '087 PATENT, AND THE INITIAL IPHONE, WAS THAT IT HAD FOUR EVENLY RADIUS CORNERS; CORRECT?

A YES.

–Trial Tr. at 513:9-15

Samsung Galaxy S 4G



Testimony of Peter Bressler

Peter Bressler
Apple's Expert

Q WHEN YOU DID YOUR ANALYSIS, YOU MADE NO EFFORT TO ASCERTAIN WHETHER THE ACCUSED PHONES HAD EQUAL RADII, DID YOU, SIR?

A I DID NOT.

Q DO YOU DISPUTE THAT THE RADII ON THE TOP OF THE -- THE TOP TWO ROUNDED CORNERS OF THE SAMSUNG GALAXY S 4G ARE DIFFERENT FROM THE RADII ON THE BOTTOM ROUNDED CORNERS?

A I COULDN'T DISPUTE YOUR MEASUREMENT BECAUSE I HAVEN'T TAKEN THEM.

–Trial Tr. at 1143:7-16

Testimony of Christopher Stringer

Christopher Stringer
Apple Designer

Q ANOTHER DESIGN ASPECT -- OR AN ASPECT OF THE DESIGN IN THE '087 PATENT THAT WAS IMPORTANT TO YOU AND YOUR TEAM AS DESIGNERS WAS THAT THE FRONT SURFACE, FOR EXAMPLE, IF YOU LOOK AT FIGURE 16 OR FIGURE 15, YOU CAN SEE IT, THE FRONT SURFACE WAS COMPLETELY FLAT ALL THE WAY ACROSS THE FRONT. THAT WAS AN IMPORTANT DESIGN ELEMENT; RIGHT?

A YES.

–Trial Tr. at 514:9-16

Testimony of Christopher Stringer

Christopher Stringer
Apple Designer

Q IN FACT, I BELIEVE YOU TESTIFIED TO THIS, BUT ISN'T IT TRUE THAT THE DESIGN HERE INTENTIONALLY WAS THAT THE BEZEL, OR THIS RIM, WAS INTENTIONALLY DESIGNED TO BE NOMINALLY FLUSH WITH THE GLASS? IS THAT RIGHT?

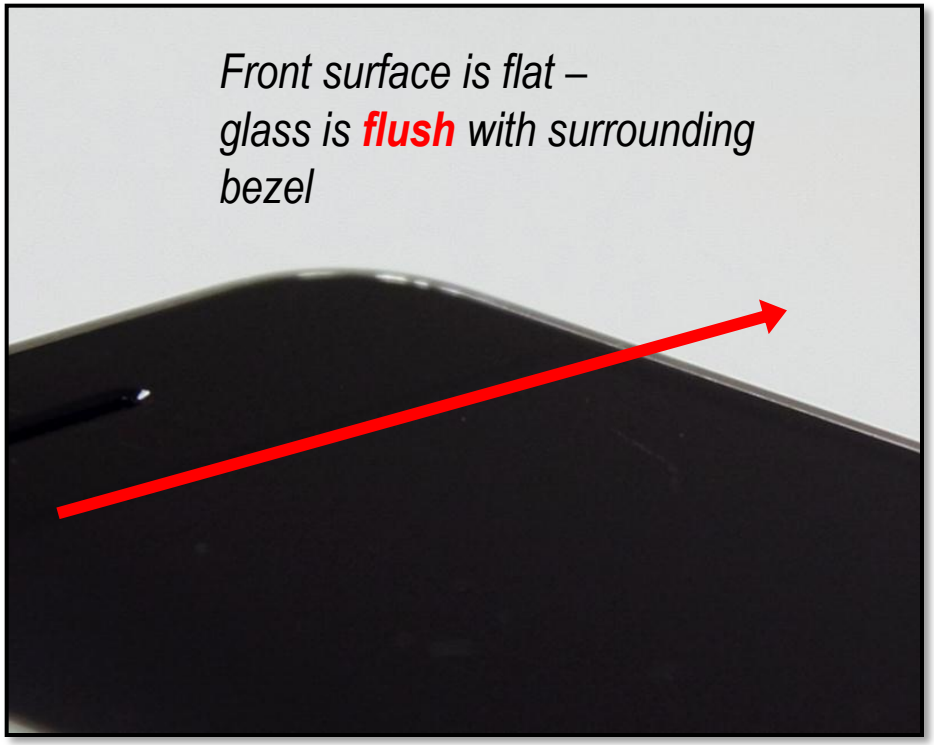
A YES.

Q SOMETHING THAT DISTINGUISHED IT FROM OTHER DESIGNS PREVIOUSLY; RIGHT?

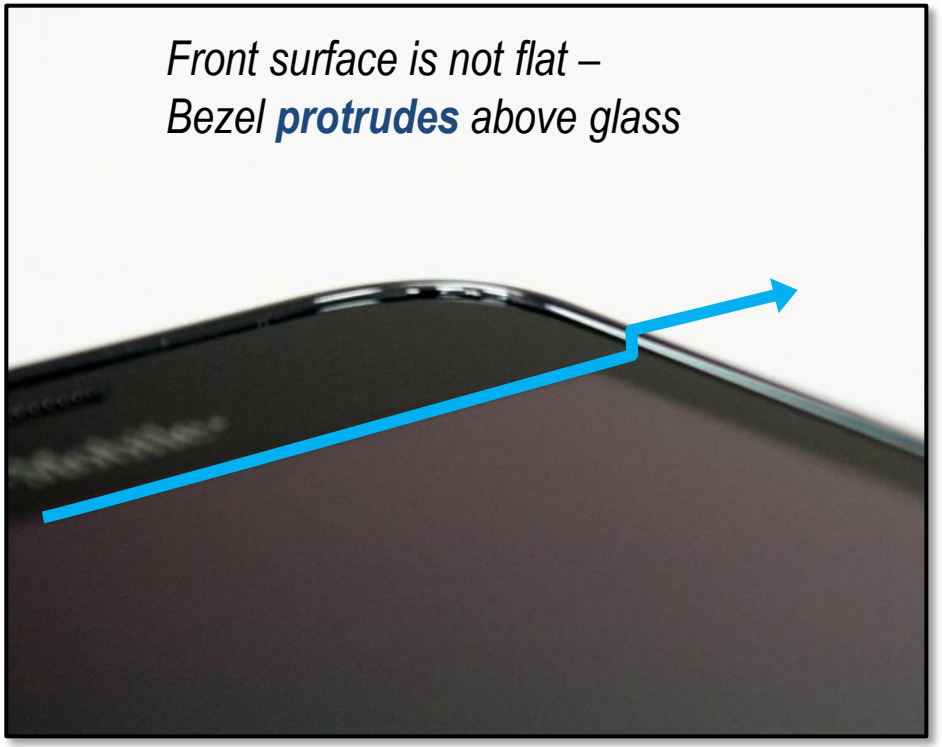
A THIS -- THAT WAS OUR DESIGN.

–Trial Tr. at 514:17-22

Initial iPhone



Samsung Galaxy S 4G



Testimony of Peter Bressler

Peter Bressler
Apple's Expert

Q SIR, YOU WOULD AGREE THAT SAMSUNG GALAXY S 4G IS NOT FLAT ALL THE WAY ACROSS? IN FACT, THE BEZEL PROTRUDES ABOVE THE GLASS?

A ABOUT A HALF A MILLIMETER, YES.

Q AND THAT'S IMPORTANT, ISN'T IT?

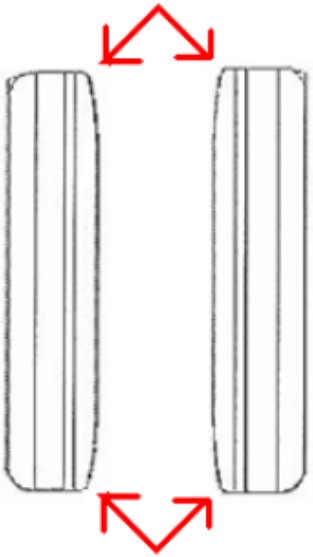
A I BELIEVE IT WAS IMPORTANT TO MR. STRINGER.

Q AND IT'S IMPORTANT FOR FUNCTIONAL REASONS? IF YOU TURN YOUR PHONE UPSIDEDOWN AND THE BEZEL PROTRUDES, THEN THE GLASS DOESN'T SCRATCH; RIGHT?

A THAT IS TRUE.

–Trial Tr. at 1138:18-1139:2

JP '638 Patent



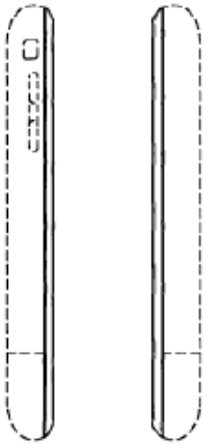


FIG. 7 FIG. 8

The red arrows point to the portions of the side views of the JP'638 design where the cambered front surface can be seen most clearly.

SDX5010.043

SDX5001.016

REBUTTAL EXPERT REPORT OF PETER W. BRESSLER at 32

PDX26.92

Testimony of Peter Bressler

Peter Bressler
Apple's Expert

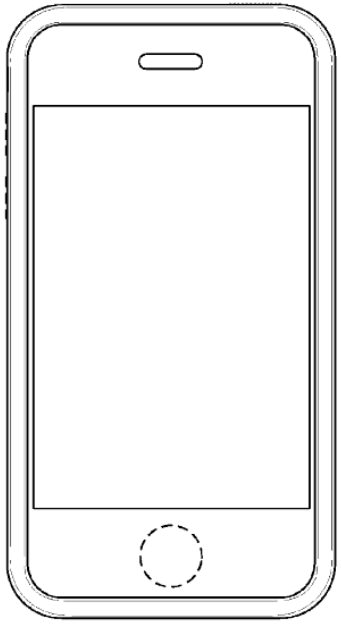
ON THE JP 683 PATENT, 26.87, COULD YOU PLEASE SUMMARIZE FOR THE JURY THE DIFFERENCES BETWEEN THIS DESIGN AND THE '677 AND '087 PATENTS?

A YES. I BELIEVE THE '638 PATENT IS SUBSTANTIALLY DIFFERENT FROM EITHER OF THOSE TWO PATENTS MOST DRAMATICALLY BECAUSE THE FRONT FACE IS NOT FLAT, WHICH CREATES AN EXTRAORDINARILY DIFFERENT OVERALL IMPRESSION.

–Trial Tr. at 3597:19-3598:1

Testimony of Christopher Stringer

Christopher Stringer
Apple Designer



Q IT WAS IMPORTANT TO YOU, AS THE DESIGN TEAM, THAT THAT LOZENGE SHAPED DESIGN ELEMENT BE CENTERED VERTICALLY ON THE PHONE; RIGHT?

A YES.

Q AND THAT -- AND THAT'S BETWEEN THE TOP OF THE DISPLAY ELEMENT, WHICH WE SEE RIGHT HERE, AND THE TOP OF THE PHONE? IS THAT CORRECT?

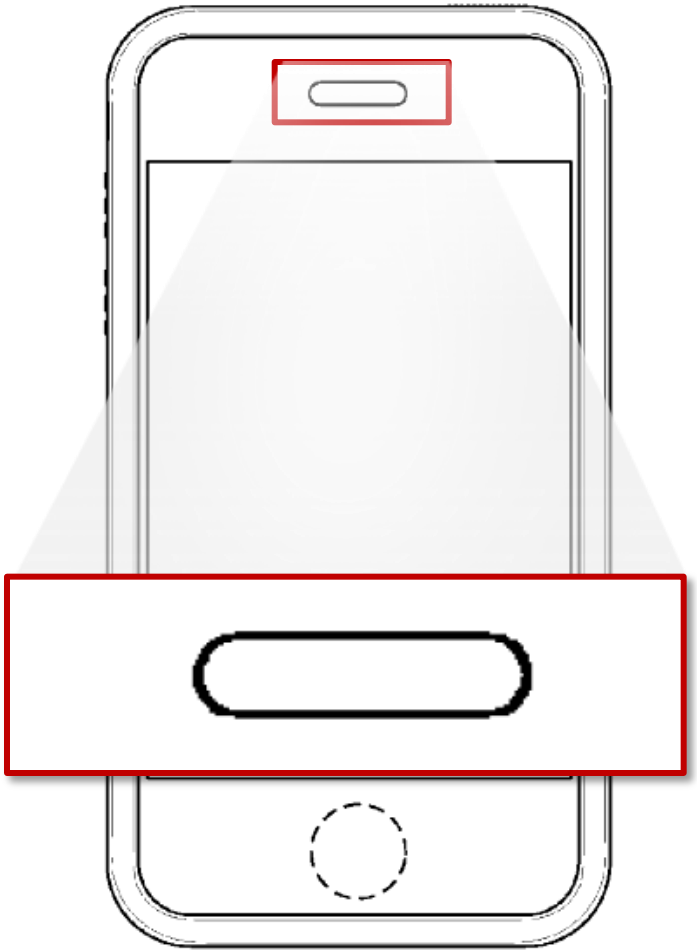
A CENTERED THAT WAY ALSO, YES.

Q OKAY. SO IT'S CENTERED IN BOTH WAYS?

A YES.

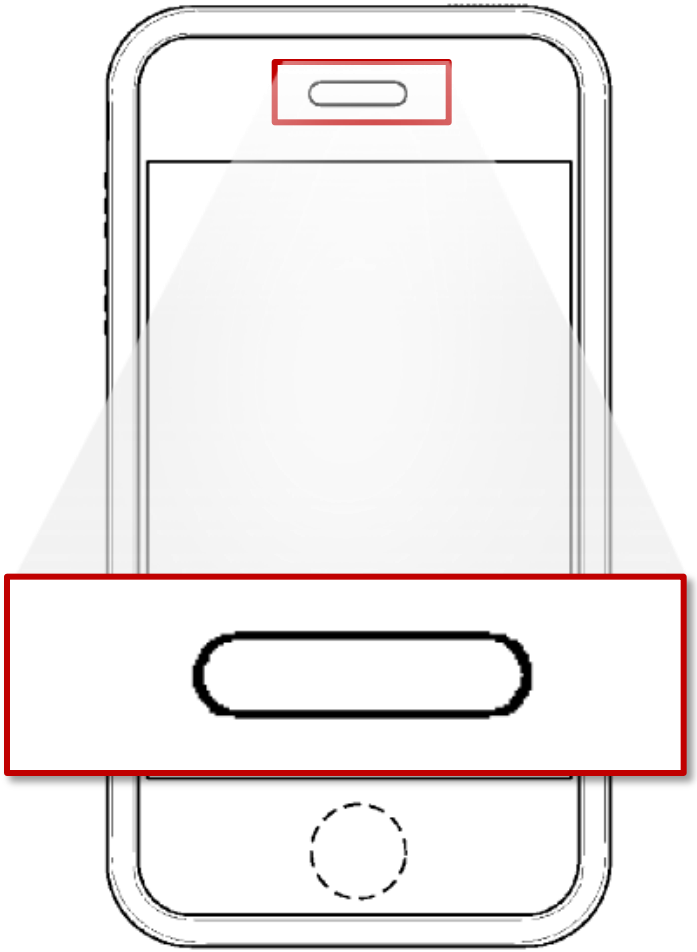
–Trial Tr. at 521:2-11

D’087 Patent



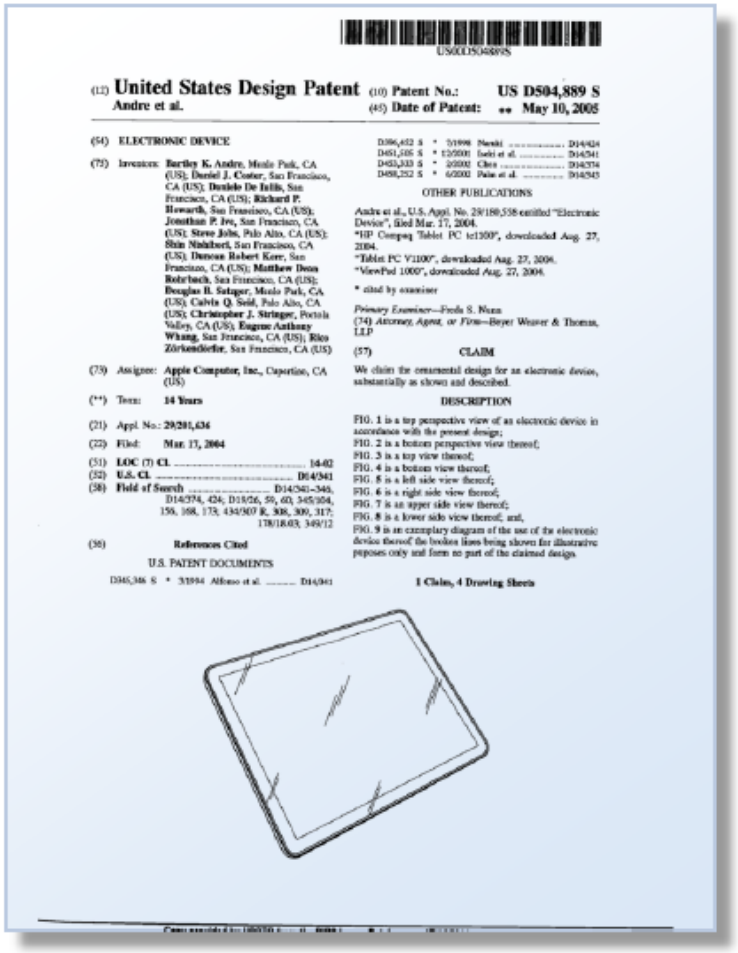
Galaxy S 4G

D’087 Patent



Infuse

US D504,889



US00D504889S

(12) **United States Design Patent** (10) **Patent No.: US D504,889 S**
Andre et al. (45) **Date of Patent: ** May 10, 2005**

(54) **ELECTRONIC DEVICE**

(75) Inventors: **Bartley K. Andre**, Menlo Park, CA (US); **Daniel J. Coster**, San Francisco, CA (US); **Duncan Robert Kerr**, San Francisco, CA (US); **Matthew Dean Rohrbach**, San Francisco, CA (US); **Douglas B. Satzger**, Menlo Park, CA (US); **Calvin Q. Seid**, Palo Alto, CA (US); **Christopher J. Stringer**, Portola Valley, CA (US); **Eugene Anthony Whang**, San Francisco, CA (US); **Rico Zörkendörfer**, San Francisco, CA (US)

(73) Assignee: **Apple Computer, Inc.**, Cupertino, CA (US)

(**) Term: **14 Years**

(21) Appl. No.: **29/201,636**

(22) Filed: **Mar. 17, 2004**

(51) **LOC (7) Cl.** 14-02
(52) **U.S. Cl.** **D14/341**
(58) **Field of Search** ..... D14/341–345, D14/374, 424; D18/26, 59, 60; 345/104, 156, 168, 173; 434/307 R, 308, 309, 317; 178/18.03; 349/12

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D453,333 S	*	2/2002	Chen	D14/374
D458,252 S	*	6/2002	Palm et al.	D14/343

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Andre et al., U.S. Appl. No. 29/180,558 entitled "Electronic Device", filed Mar. 17, 2004.
"HP Compaq Tablet PC tc1100", downloaded Aug. 27, 2004.
"Tablet PC V1100", downloaded Aug. 27, 2004.
"ViewPad 1000", downloaded Aug. 27, 2004.

* cited by examiner

Primary Examiner—Freda S. Nunn
(74) *Attorney, Agent, or Firm*—Beyer Weaver & Thomas, LLP

(57) **CLAIM**

We claim the ornamental design for an electronic device, substantially as shown and described.

DESCRIPTION

FIG. 1 is a top perspective view of an electronic device in accordance with the present design;
FIG. 2 is a bottom perspective view thereof;
FIG. 3 is a top view thereof;
FIG. 4 is a bottom view thereof;
FIG. 5 is a left side view thereof;
FIG. 6 is a right side view thereof;
FIG. 7 is an upper side view thereof;
FIG. 8 is a lower side view thereof; and,
FIG. 9 is an exemplary diagram of the use of the electronic device thereof the broken lines being shown for illustrative purposes only and form no part of the claimed design.

1 Claim, 4 Drawing Sheets

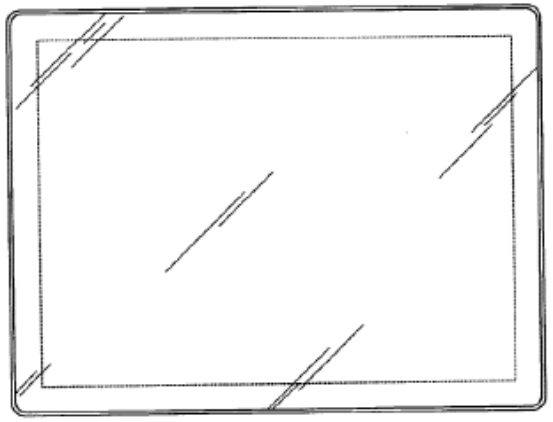


FIG. 3

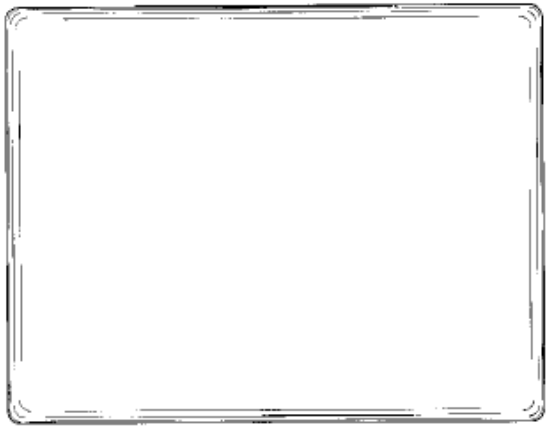
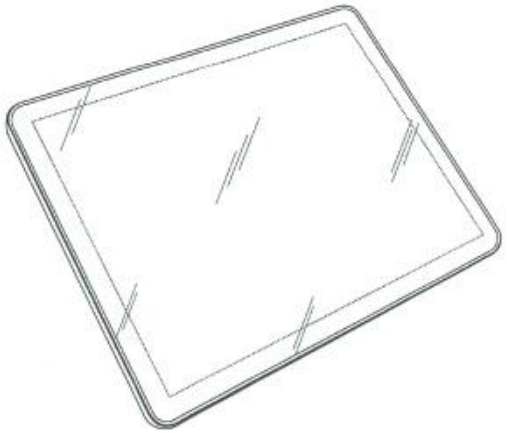


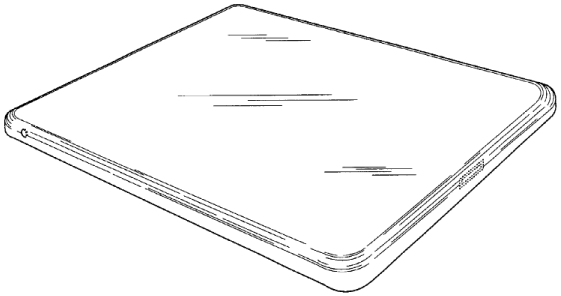
FIG. 4

FIG. 5

Compaq TC 1000

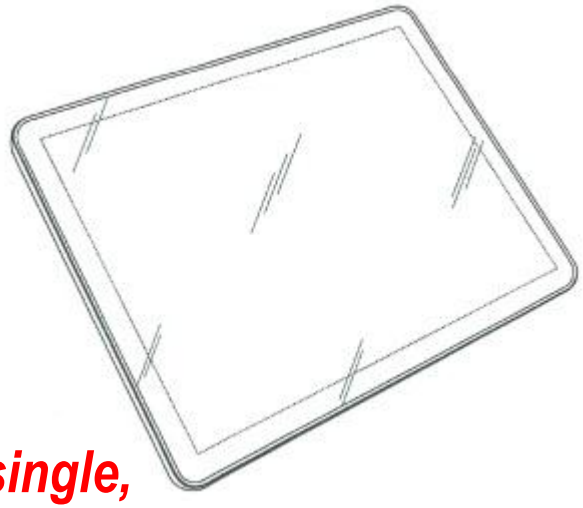
D504,889



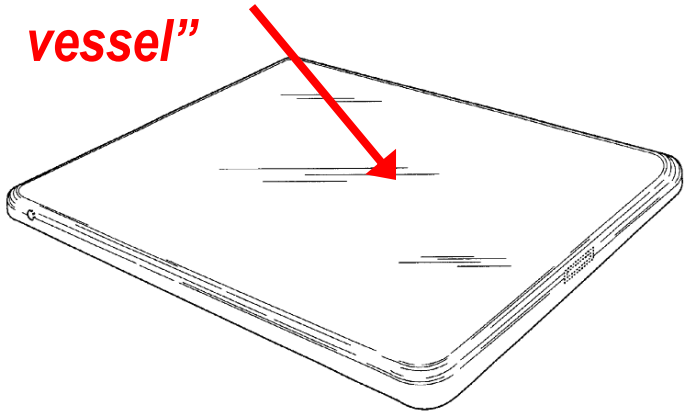


1994 Fidler Tablet

Testimony of Christopher Stringer



"single, seamless vessel"



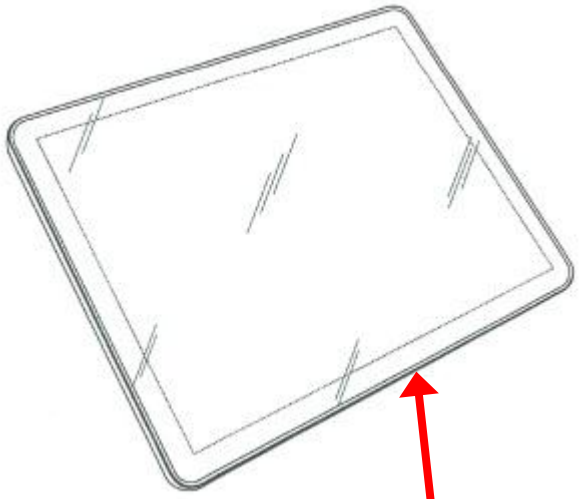
D'889

Christopher Stringer
Apple Designer

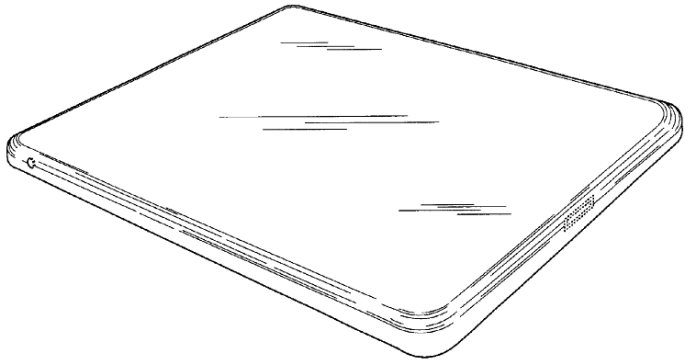
24	Q NOW, WITH RESPECT TO THE '889 DESIGN PATENT,
25	ISN'T IT CORRECT THAT THE DESIGN TEAMS' OBJECTIVES
1	WERE TO REDUCE THE PRODUCT TO WHAT WAS ESSENTIALLY
2	A SINGLE, SEAMLESS VESSEL, WHICH WAS THE REAR
3	HOUSING?
4	A THAT WAS THE INSPIRATION OF THIS DESIGN, YES.

–Trial Tr. at 522:24-523:4

Testimony of Christopher Stringer



"just one gap"



D'889

Christopher Stringer
Apple Designer

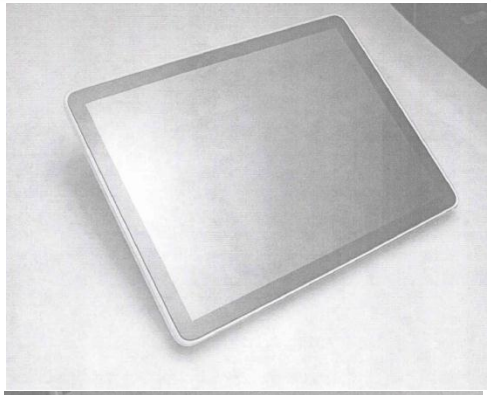
Q AND ANOTHER IMPORTANT DESIGN GOAL WAS TO HAVE JUST ONE GAP IN THE PRODUCT BETWEEN THE BACK HOUSING AND WHAT YOU REFER TO AS THE CLEAR GLASS BEZEL THAT EXTENDS ALL THE WAY ACROSS THE FRONT; RIGHT?

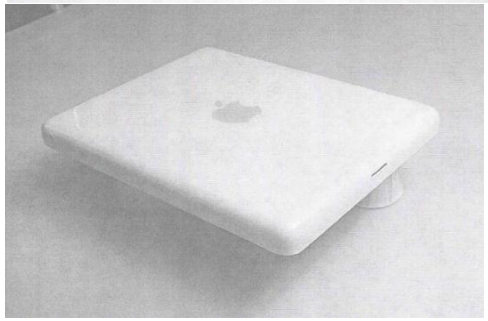
A YES.

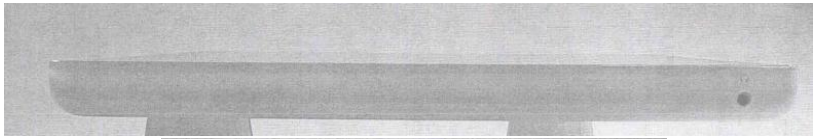
–Trial Tr. at 523:5-10

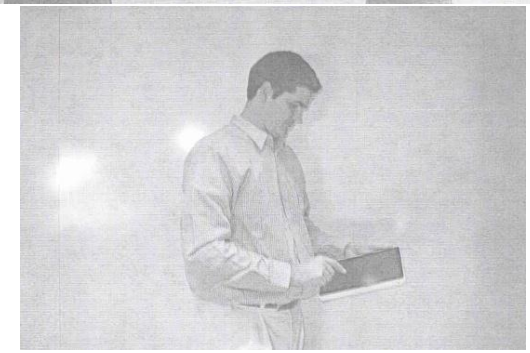
035 Model

D'889 Patent









DX-740

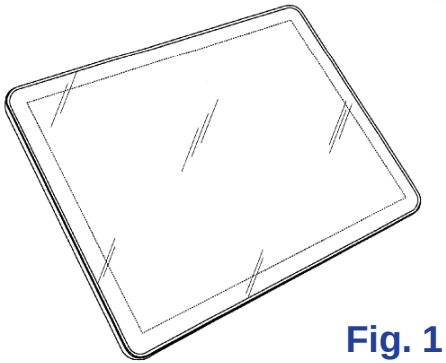


Fig. 1

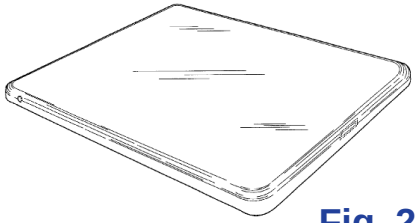


Fig. 2

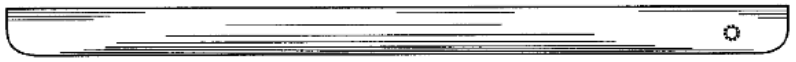
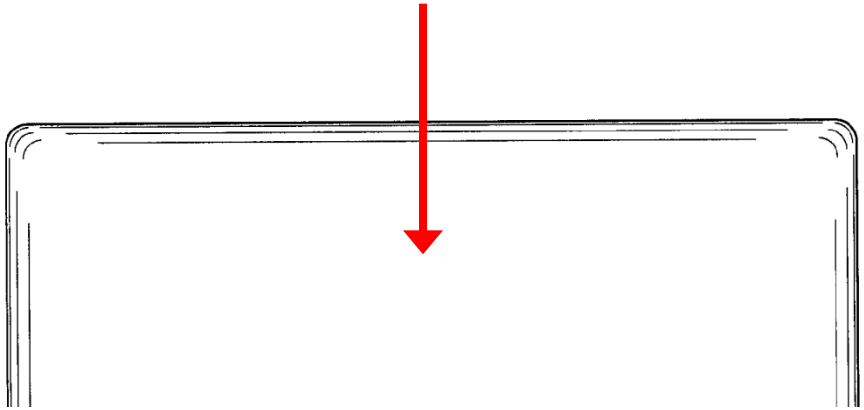


Fig. 6

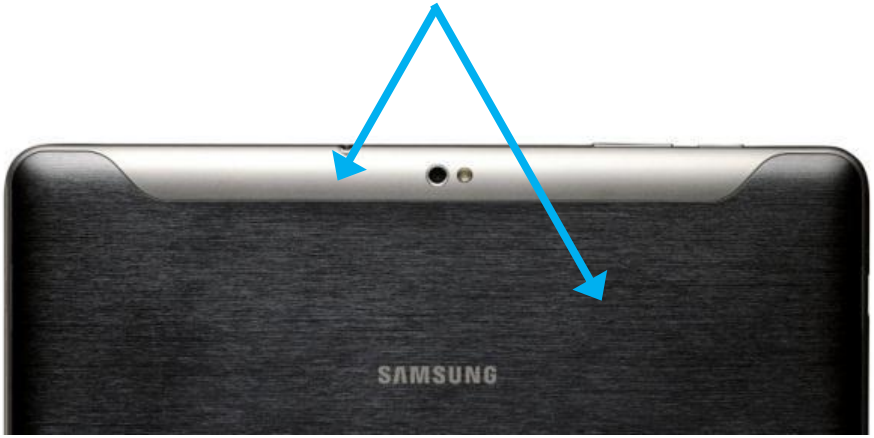
Fig. 9

Single Piece Housing



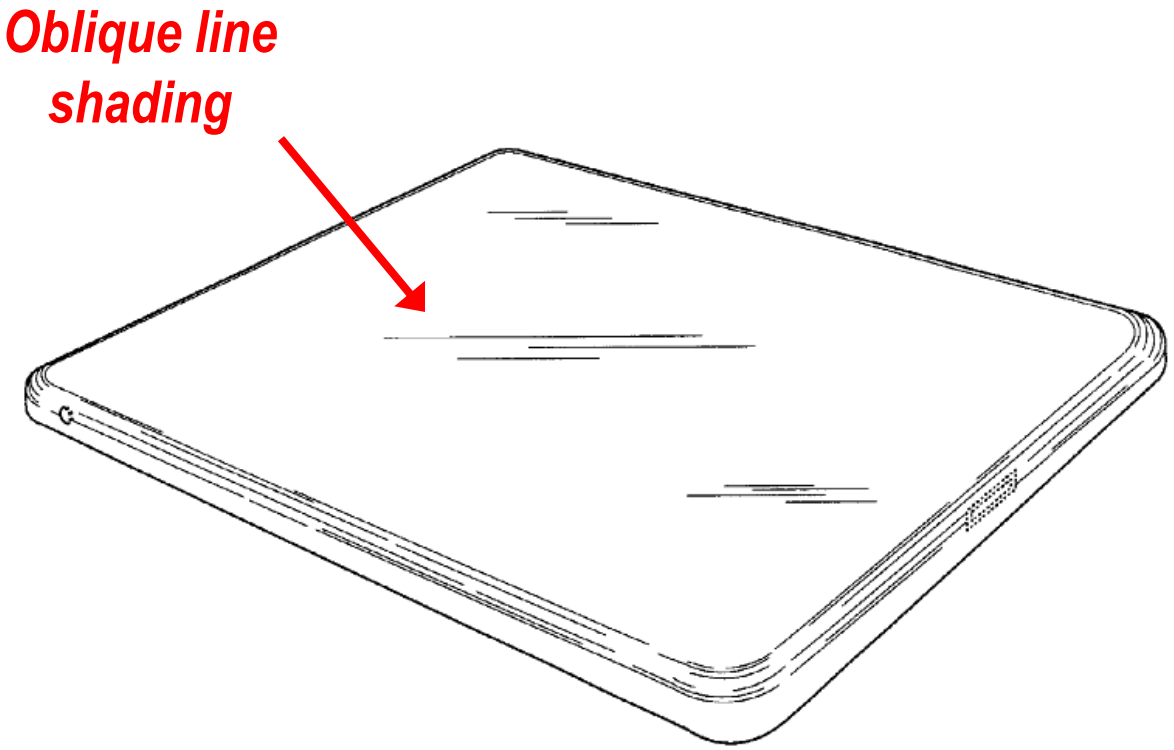
D504,889

Multiple Piece Housing



Galaxy Tab 10.1

D’889



Testimony of Peter Bressler

Peter Bressler
Apple's Expert

11 Q RIGHT. AND WHEN YOU FORMED YOUR OPINIONS FOR
12 THE '889 PATENT, YOU KNEW THAT OBLIQUE LINE SHADING
13 MUST BE USED TO SHOW TRANSPARENT, TRANSLUCENT, AND
14 HIGHLY POLISHED SURFACES; RIGHT?
15 A YES.
16 Q SO WHAT THIS IS TELLING US IS THAT THE BACK OF
17 THE '889 PATENT IS A SHINY SURFACE?
18 A I BELIEVE SO.

–Trial Tr. at 1230:11-18

Testimony of Peter Bressler

Peter Bressler
Apple's Expert

Q OKAY. WHEN YOU HOLD THIS UP AND LOOK AT IT, CAN YOU SEE YOUR REFLECTION IN IT, SIR?
A NO, I CAN'T SEE MY REFLECTION.
Q BUT YOU'RE SAYING IT'S REFLECTIVE?
A I CAN SEE LIGHTS REFLECTING OFF OF IT.
Q WELL, YOU CAN SEE LIGHT REFLECTING ON ANY SURFACE, CAN'T YOU, SIR?
A PRETTY MUCH.

–Trial Tr. at 1231:8-15

D'305 Claims a Graphical User Interface Design

US00D604305S

(12) **United States Design Patent**
Anzures et al.

(10) **Patent No.: US D604,305 S**
(45) **Date of Patent: ** *Nov. 17, 2009**

(54) **GRAPHICAL USER INTERFACE FOR A DISPLAY SCREEN OR PORTION THEREOF**

(75) Inventors: **Freddy Anzures**, San Francisco, CA (US); **Imran Chaudhri**, San Francisco, CA (US)

(73) Assignee: **Apple Inc.**, Cupertino, CA (US)

(**) Term: **14 Years**

(21) Appl. No.: **29/281,460**

(22) Filed: **Jun. 23, 2007**

(51) **LOC (9) Cl.** **32-00**
(52) **U.S. Cl.** **D14/486**
(58) **Field of Classification Search** D14/485–95; D18/24–33; D19/6, 52; D20/11; D21/324–33; 715/700–867, 973–77
See application file for complete search history.

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U.S. Appl. No. 29/281,507, Anzures et al., Icons, Graphical User Interface, and Animated Graphical User Interfaces for a Display Screen or Portion Thereof, filed Jun. 25, 2007.

(Continued)

Primary Examiner—Melanie H Tung
(74) *Attorney, Agent, or Firm*—Sterne, Kessler, Goldstein & Fox P.L.L.C.

(57) **CLAIM**

The ornamental design for a graphical user interface for a display screen or portion thereof, as shown and described.

DESCRIPTION

The patent file contains at least one drawing executed in color. Copies of this patent with a color drawing will be provided by the Office upon request and payment of the necessary fee.

FIG. **1** is a front view of a graphical user interface for a display screen or portion thereof showing our new design; and,

FIG. **2** is a front view of a second embodiment thereof.

The broken line showing of a display screen in both views forms no part of the claimed design.

1 Claim, 2 Drawing Sheets
(1 of 2 Drawing Sheet(s) Filed in Color)

Reporter: Lorrie L. Marchant, RPR CRR, CCRR, CLR, CSR 10523
EXHIBIT: 577
Witness: I. Chaudhri
Date: 10-14-2011 # pages: 4

D'305, Fig. 1

JX 1042

Jury Instruction No. 46
Design Patents – Direct Infringement

FINAL JURY INSTRUCTION NO. 46
DESIGN PATENTS—DIRECT INFRINGEMENT

States, you must find that the accused [illegible] infringed the claimed design.

Two designs are substantially the same if, in the eye of an ordinary observer, giving such attention as a purchaser usually gives, the resemblance between the two designs is such as to deceive such an observer, inducing him to purchase one supposing it to be the other. You do not need, however, to find that any purchasers actually were deceived or confused by the appearance of the accused Samsung products. You should consider any perceived similarities or differences between the patented and accused designs. Minor differences should not prevent a finding of infringement.

This determination of whether two designs are substantially the same will benefit from comparing the two designs with prior art. You must familiarize yourself with the prior art admitted at trial in making your determination of whether there has been direct infringement.

You may find the following guidelines helpful to your analysis:

Two designs are substantially the same if, in the eye of an ordinary observer, giving such attention as a purchaser usually gives, the resemblance between the two designs is such as to deceive such an observer, inducing him to purchase one supposing it to be the other.

5. You should not consider the size of the accused products if the asserted design patent does not specify the size of the design.

While these guidelines may be helpful, the test for infringement is whether the overall appearances of the accused design and the claimed design are substantially the same.

Whether Samsung knew its products infringed or even knew of Apple design patents does not matter in determining infringement.

(Jury Instruction No. 46)

Susan Kare
Apple's Expert

Q BY THE TIME THAT THE CONSUMER TURNS ON THE PHONE, SEES THE SAMSUNG NAME PROMINENTLY DISPLAYED, SEES THE DROID ADVERTISEMENT AND ANIMATION, WOULDN'T YOU AGREE THAT NO CONSUMER WOULD BE CONFUSED AS TO WHICH PHONE THEY HAVE BY THAT TIME?

A I CAN'T AGREE BECAUSE I HAVEN'T -- I DON'T -- I DON'T KNOW ABOUT CONSUMER BEHAVIOR STARTING -- I DON'T KNOW ABOUT THE QUESTION YOU'RE ASKING ME. THAT'S OUTSIDE MY FOCUS.

Q IT'S OUTSIDE YOUR EXPERTISE?

A YES, AS A GRAPHIC U/I DESIGNER.

–Trial Tr. at 1425:12-22

Susan Kare
Apple's Expert

Q IS IT FAIR TO SAY THAT YOU DIDN'T INVESTIGATE THE FUNCTIONALITY OF THE ICONS AND HOW THEY WORK AND HOW A USER WOULD INTERACT WITH THEM AS PART OF YOUR ANALYSIS?

A YES.

Q AND YOU DIDN'T COMPARE -- YOU DIDN'T CONSIDER, AS PART OF YOUR ANALYSIS FOR YOUR EXPERT OPINION, HOW A USER WOULD INTERACT WITH THOSE ICONS WAS PART OF YOUR ANALYSIS, DID YOU?

A NO.

–Trial Tr. at 1470:12-16; 3475:20-24

D'305, Fig. 1

JX 1042

Fascinate

JX 1013

D'305, Fig. 1

JX 1042

Fascinate

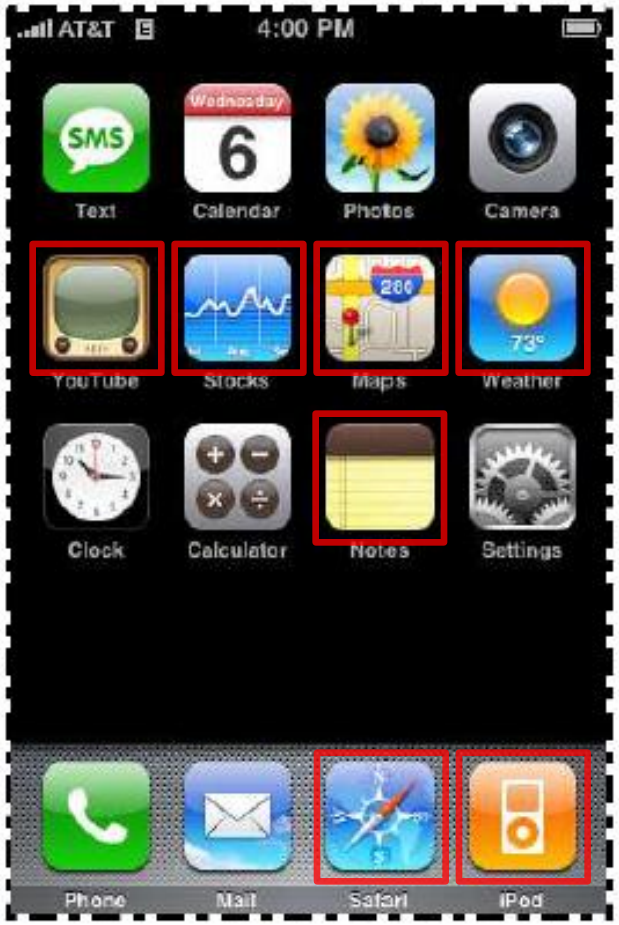
JX 1013

D'305, Fig. 1

JX 1042

Fascinate

JX 1013



D'305, Fig. 1

JX 1042

Fascinate

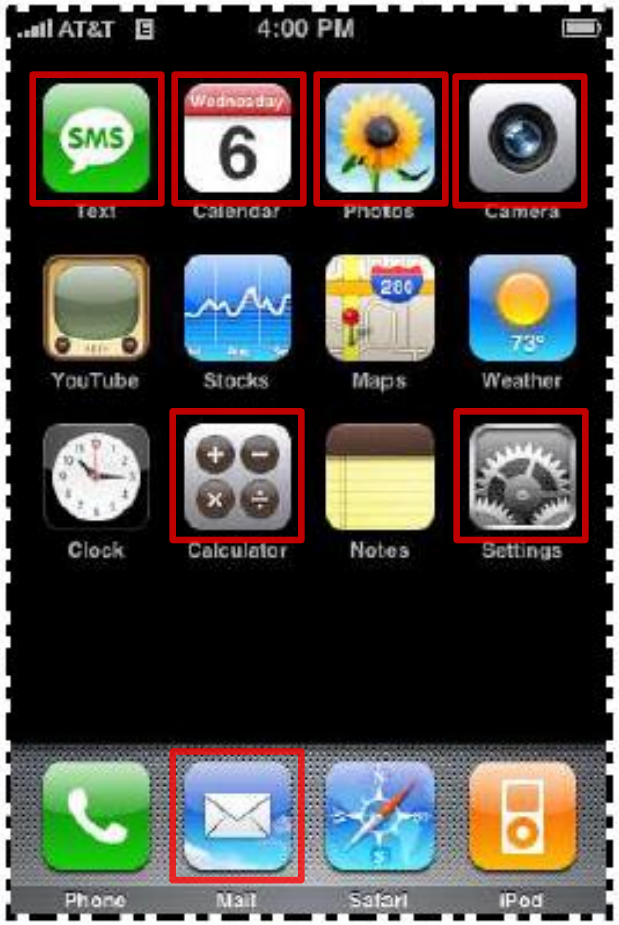
JX 1013

D'305, Fig. 1

JX 1042

Fascinate

JX 1013



D'305, Fig. 1

JX 1042

Fascinate

JX 1013

Susan Kare
Apple's Expert

14 DR. KARE, YOU'RE NOT TESTIFYING TO THIS
15 JURY THAT THIS SMS ICON IS SUBSTANTIALLY SIMILAR TO
16 THIS OTHER ICON THAT SAYS, "MESSAGES," ARE YOU?
17 A NO.

***

1 Q IT'S NOT SUBSTANTIALLY SIMILAR, IS IT?
2 A NO.

–Trial Tr. at 1429:14-17; 1430:1-2

Susan Kare
Apple's Expert

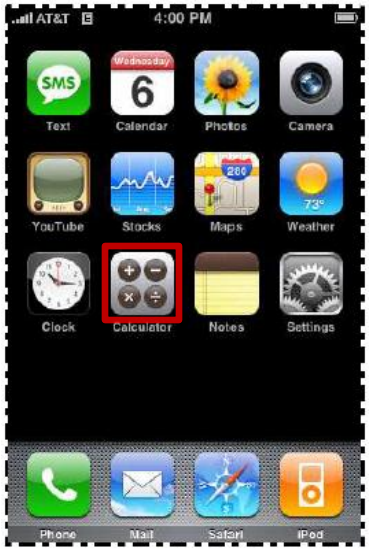
23	Q	THAT CALENDAR ICON IS NOT SUBSTANTIALLY
24		SIMILAR TO THE CALENDAR ICON IN THE D'305; RIGHT?
25	A	NO.

–Trial Tr. at 1430:23-25

Susan Kare
Apple's Expert

21 Q IT'S OBVIOUSLY A DIFFERENT IMAGE THAN THE
22 PICTURE OF THE FLOWER IN THE D'305; RIGHT?
23 A YES.

–Trial Tr. at 1444:21-23



Susan Kare
Apple's Expert

Q	DR. KARE, YOU WOULD AGREE WITH ME THAT THE CALCULATOR ICON IN THE FASCINATE IS NOT SUBSTANTIALLY SIMILAR TO THE CALCULATOR ICON IN THE D'305?
A	YES.

–Trial Tr. at 1434:7-11

D'305, Fig. 1

JX 1042

Fascinate

JX 1013

D'305, Fig. 1

JX 1042

Fascinate

JX 1013

Susan Kare
Apple's Expert

9 DO YOU BELIEVE
10 THAT APPLE OWNS THE IMAGE OF THE OLD RETRO PHONE
11 RECEIVER?
12 A I DON'T KNOW.

16 Q APPLE DOESN'T OWN THE COLOR GREEN FOR GO, DOES
17 IT?
18 A NO. I DON'T -- I DON'T KNOW, BUT I WOULD
19 ASSUME NO.

–Trial Tr. at 1438:9-12, 16-19

Susan Kare
Apple's Expert

Q YOU ALSO POINT TO THIS CLOCK ICON. THIS IS A PICTURE OF THE FRONT FACE OF A CLOCK; RIGHT?
A YES.
Q AND WHEN YOU HIT THE CLOCK ICON, YOU LAUNCH THE CLOCK APPLICATION; RIGHT?
A YES. YES.
Q APPLE DOESN'T OWN THE PICTURE OF THE CLOCK, DOES IT?
A I DON'T KNOW.

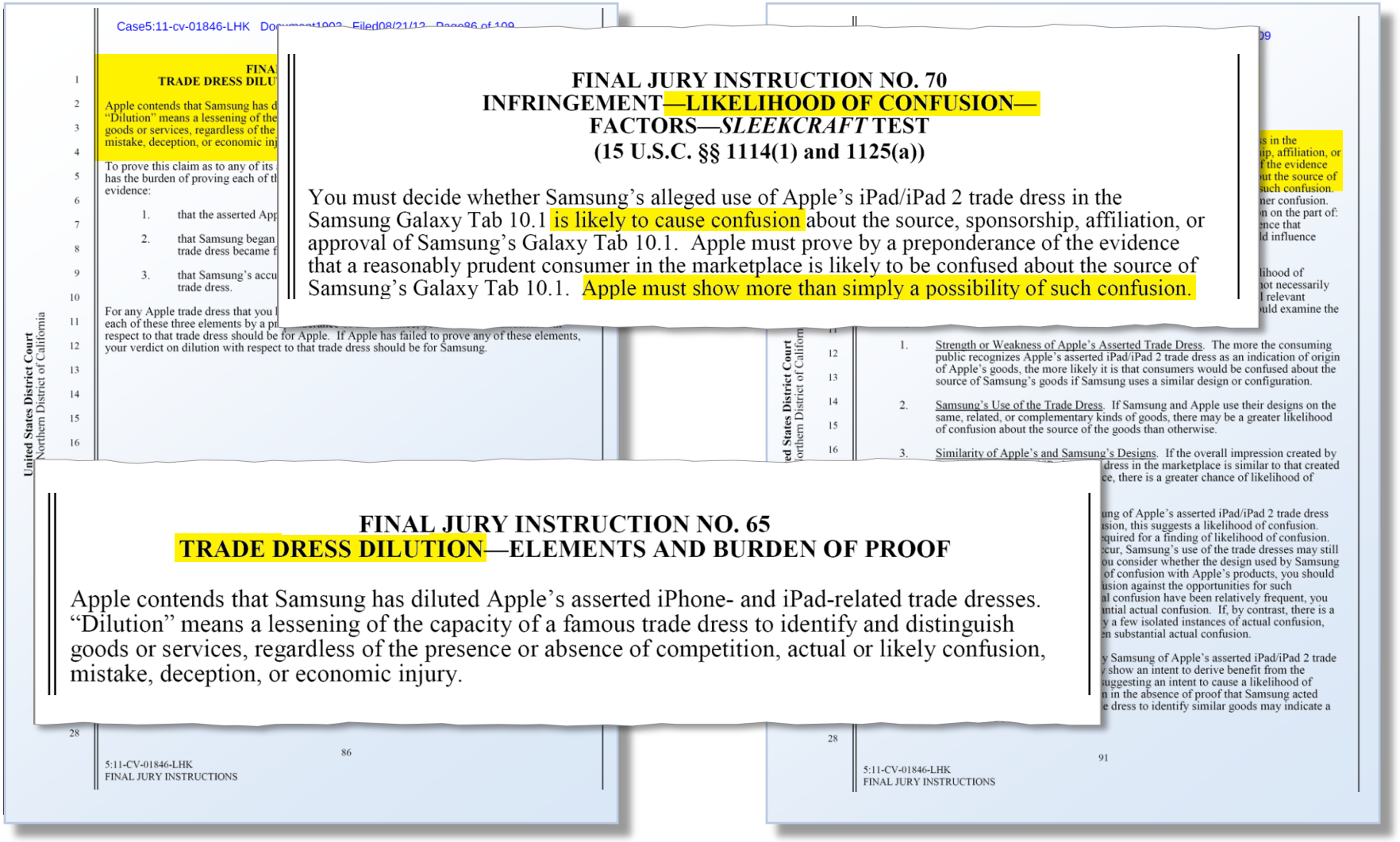
–Trial Tr. at 1440:4-12

Susan Kare
Apple's Expert

Q YOU'RE NOT TELLING THE JURY THAT APPLE OWNS THE RIGHT TO HAVE A COLORFUL MATRIX OF ICONS, ARE YOU?
A NO.
Q AND YOU'RE NOT TELLING THE JURY THAT APPLE OWNS THE EXCLUSIVE RIGHT TO HAVE THE ICONS ARRANGED IN ROWS AND COLUMNS IN A GRID MATRIX, ARE YOU?
A NO.

–Trial Tr. at 1475:25-1476:7

Jury Instruction Nos. 65 and 70 — Trade Dress



FINAL JURY INSTRUCTION NO. 70
INFRINGEMENT—LIKELIHOOD OF CONFUSION—
FACTORS—*SLEEKCRAFT* TEST
(15 U.S.C. §§ 1114(1) and 1125(a))

You must decide whether Samsung's alleged use of Apple's iPad/iPad 2 trade dress in the Samsung Galaxy Tab 10.1 is likely to cause confusion about the source, sponsorship, affiliation, or approval of Samsung's Galaxy Tab 10.1. Apple must prove by a preponderance of the evidence that a reasonably prudent consumer in the marketplace is likely to be confused about the source of Samsung's Galaxy Tab 10.1. Apple must show more than simply a possibility of such confusion.

FINAL JURY INSTRUCTION NO. 65
TRADE DRESS DILUTION—ELEMENTS AND BURDEN OF PROOF

Apple contends that Samsung has diluted Apple's asserted iPhone- and iPad-related trade dresses. "Dilution" means a lessening of the capacity of a famous trade dress to identify and distinguish goods or services, regardless of the presence or absence of competition, actual or likely confusion, mistake, deception, or economic injury.

(Jury Instruction Nos. 65 and 70)

Testimony from Russell Winer

Russell Winer
Apple's Expert

Q DR. WINER, YOU HAVE NO EMPIRICAL EVIDENCE TO SHOW THAT SAMSUNG'S ACTIONS HAVE DILUTED APPLE'S BRAND; RIGHT?

A CORRECT.

Q AND YOU HAVE NO HARD DATA TO SHOW THAT SAMSUNG'S ACTIONS HAVE DILUTED APPLE'S BRAND; RIGHT?

A I WAS NOT ASKED TO DO THAT.

–Trial Tr. at 1534:14-21

Testimony from Russell Winer

Russell Winer
Apple's Expert

Q SO IT'S YOUR TESTIMONY TO THIS JUROR THAT CONSUMERS, USING THE DEGREE OF CARE THAT THEY WOULD NORMALLY USE, TURNING ON THIS PHONE, SEEING THE SAMSUNG, SEEING THE SWIRL THAT TURNS INTO THE SAMSUNG, SEEING IT GLOW TWO TIMES, HAVING TO NAVIGATE BEYOND THE HOME SCREEN TO THE APPLICATION SCREEN, THAT THOSE CONSUMERS WOULD BE CONFUSED AND WOULDN'T KNOW THAT THIS IS A SAMSUNG SOURCED PRODUCT? IS THAT YOUR TESTIMONY?

A NO, I DON'T AGREE WITH THAT.

–Trial Tr. at 1543:4-13

Apple's Internal Documents

HTC P3600i
(August 2007)

LG CU915 Vu
(March 2008)

HTC Touch Diamond
(May 2008)

Nokia N96
(February 2008)

Sony XPERIA X1
(February 2008)

RIM Blackberry
Storm 2 9550
(November 2009)

HTC EVO 4G
(June 2010)

HTC myTouch 4G
(November 2010)

Motorola Droid X
(July 2010)

HTC HD7
(November 2010)

Motorola Atrix
(February 2011)

LG Optimus 3D
(April 2011)

LG Optimus Black
(April 2011)

Motorola Droid
Bionic LTE 4G
(Q2 2011)

HTC Desire S
(Q2 2011)

HTC Incredible S
(Q2 2011)

HP Pre^3
Summer 2011

Images from Apple internal presentation titled "State of Mobile 2011" (Exh. 712) and internal Apple spreadsheet with OEM handset models (Exh. 709)

Timeline of Samsung Smartphones

Samsung Products Before iPhone

i700
Mar. 2004

i730
Jul. 2005

i830
Jan. 2006

BlackJack i607
Nov. 2006

Apple iPhone Announced

Jan. 9, 2007

2004 | 2005 | 2006 | 2007

PX. 3

Slide 24 of Apple's Opening

Samsung Phone Designs

DEFENDANT'S EXHIBIT
NO. 684.001
United States District Court
Northern District of California
No. 11-CV-01846-LHK (PSG)
Apple v. Samsung
Date Admitted: _____ By: _____

Before

Bar-type Touch-screen Display

Flipper Mock-up (2006)

F700 Mock-up (2006)

"Slide" Design (2006)

"Vessel" Mock-up (Aug.2006)

"Slide" Design (2006)

Merit (2006)

Card3 (2006)

"Wrap" Model (Aug.2006)

"Framer" Model (Aug.2006)

F300 (Oct. '06)

Bar-type

I700 (3Q, '03)

Blackjack (4Q, '06)

Slide-type

i830 (Jan. '06)

D908 (Aug. '06)

Folder-type

E700 (3Q, '03)

T100 (2002)

iPhone (Jan. 2007)

After

F700 (Feb. 2007)

i8910 (May 2009)

Jet (Jun.2009)

Impression (Apr. 2009)

Gem (Feb.2011)

Galaxy S2 (2011)

SCH-I500 (2010)

Gravity Touch (June 2010)

Bar-type

Replenish (May 2011)

E590 (Jan. 2007)

Intensity II (July 2010)

Slide-type (TSD)

Reclaim (Jan. 2009)

Gravity (Nov. 2008)

Folder-type

U410 (Oct. 2007)

U700 (3Q, 2007)

Testimony of Justin Denison

Justin Denison
Chief Strategy Officer
Samsung's Witness

Q I MEAN, DOES -- DOES SAMSUNG EVER SEEK TO SELL ITS PRODUCTS BY CAUSING CONSUMERS TO BE CONFUSED INTO THINKING THAT, YOU KNOW, YOU'RE -- YOU THINK YOU'RE BUYING AN APPLE PRODUCT BUT YOU'RE ACTUALLY GETTING A SAMSUNG PRODUCT?

A NO. WE WANT CONSUMERS TO HEAR OUR MESSAGE, UNDERSTAND THAT OUR MESSAGE IS OURS, AND GO OUT AND BUY OUR DEVICE.

–Trial Tr. at 888:5-12

Testimony of Jin Soo Kim

Jin Soo Kim
Samsung's Witness

Q AND, FINALLY, MR. KIM, IN DOING THE WORK THAT YOU DID IN DESIGNING TABLETS FOR SAMSUNG AND SMARTPHONES FOR SAMSUNG, AT ANY TIME DID YOU COPY THE WORK OF ANY OTHER SMARTPHONE MANUFACTURER?

A I HAVE NOT.

–Trial Tr. at 2821:1-5

Testimony of Jin Soo Kim

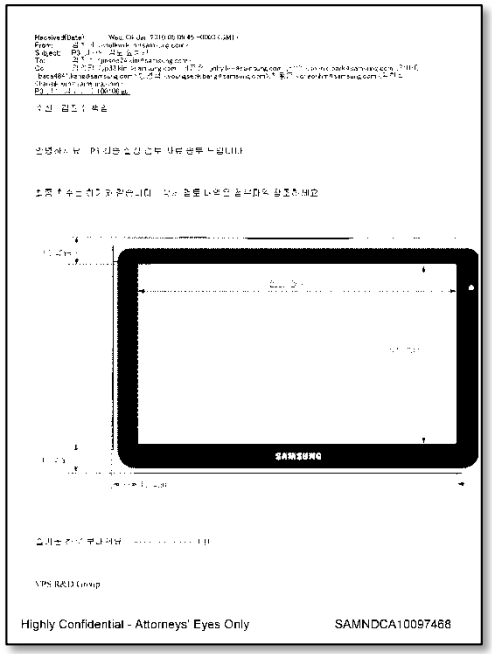
Jin Soo Kim
Samsung's Witness

25 Q WHEN DID SAMSUNG BEGIN WORKING ON THE GALAXY
1 TAB 10.1 PROJECT?
2 A THAT WOULD BE OCTOBER 2009.
3 Q AND WHEN DID YOU PERSONALLY BEGIN WORKING ON
4 THAT PROJECT?
5 A THE SAME TIME, OCTOBER OF 2009.
6 Q AND CAN YOU TELL US WHETHER THAT WAS BEFORE OR
7 AFTER APPLE ANNOUNCED THE IPAD.
8 A THAT WOULD BE BEFORE.

–Trial Tr. at 2802:25-2803:8

Testimony of Jin Soo Kim

Jin Soo Kim
Samsung's Witness



DX900

6	Q	AND WHAT IS THE DATE OF THAT DOCUMENT?
7	A	THAT WOULD BE JANUARY 6TH, 2010.
8	Q	AND IN TERMS OF THE CONTENT OF THIS DOCUMENT,
9		WHAT DOES IT SAY?
10	A	THIS IS A, THE OVERALL REVIEW OF THE SIZES
11		CONCERNING THE GALAXY TAB 10.1, BASICALLY
12		DISCUSSING THE DISPLAY SIZE, AND ALSO THE BORDER
13		AREA SIZE.
14	Q	AND IS THIS DATED BEFORE APPLE ANNOUNCED THE
15		IPAD?
16	A	YES, THAT'S CORRECT.

–Trial Tr. at 2804:6-16

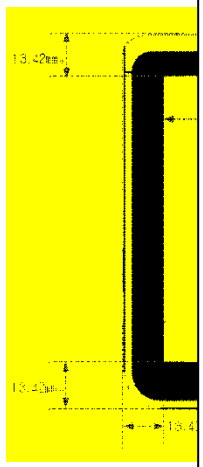
January 6, 2010 Email

Received(Date): Wed, 06 Jan 2010 05:09:45 +0000 (GMT)
From: 김철권 <chulkwi.kim@samsung.com>
Subject: P3 디자인 검토 요청의
To: 김진수 <jinsoo24.kim@samsung.com>
Cc: 김용귀 <yp.33.kim@samsung.com>,이정현 <johy.lee@samsung.com>,박소 <soon.e.park@samsung.com>,
<bada4841.kang@samsung.com>,민영석 <youngseok.bang@samsung.com>,추홍근 <cheonhm@samsung.com>,손한소
<hansik.kim@samsung.com>
P3 설계 검토의뢰 100106.ppt

수신 : 김진수 책임

안녕하세요. P3 최종 실장 검토

최종 치수는 하기와 같습니다.

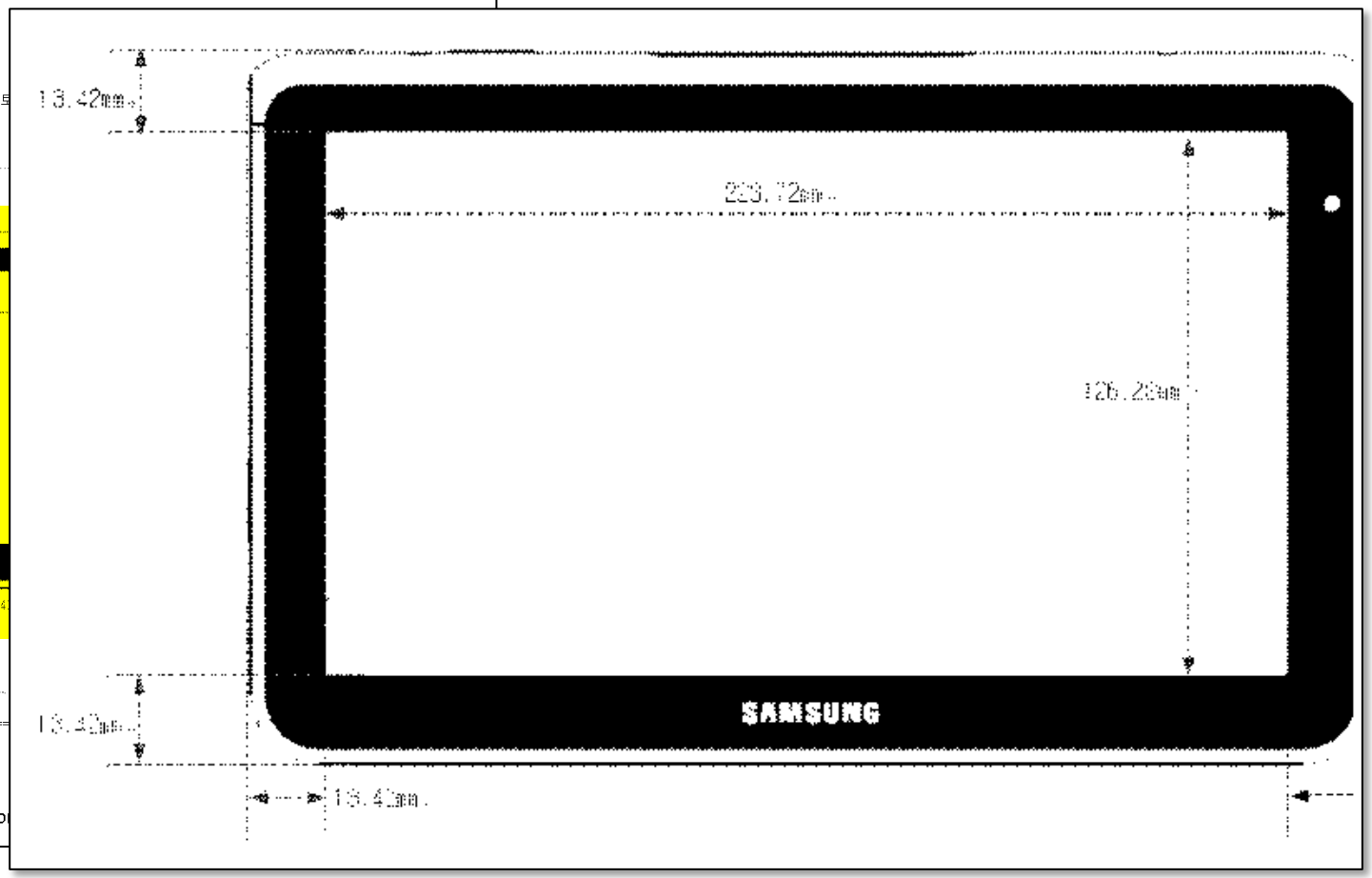


즐거운 하루 보내세요

VPS R&D Group

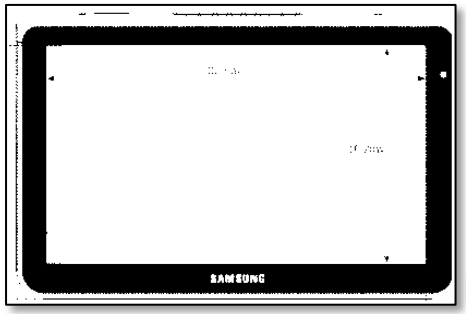
Highly Confidential - Atto

Received(Date): Wed, 06 Jan 2010 05:09:45 +0000 (GMT)



DX 900

Oct. 2009
Galaxy Tab 10.1 Development Started
Trial Tr. at 2802:25-2803:5



DX900

Jan. 6, 2010
Samsung 10.1 prototype (email)

Jan. 27, 2010
iPad announcement

2009 | **January 2010**

PX-42: Feb. 16, 2010 Email From Hyun Kim

Jin Soo Kim
Samsung's Witness

Q BUT THE P3 WAS NEVER RELEASED INTO THE UNITED STATES, WAS IT?

A THAT IS CORRECT, IT WAS NOT RELEASED.

* * *

I THINK YOU TOLD US THE P1 IS THE GALAXY 7.0.

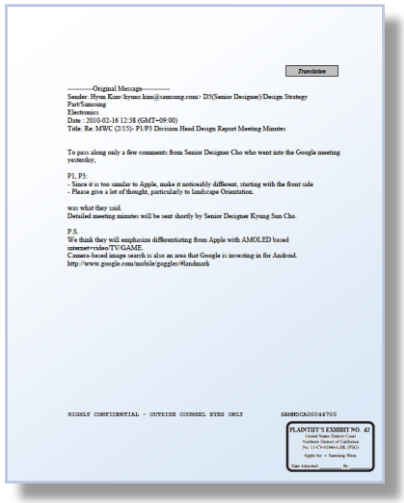
A YES, THAT'S CORRECT.

* * *

Q SIR, IS IT YOUR UNDERSTANDING THAT THERE ARE ANY DESIGN CLAIMS REGARDING THE GALAXY 7.0 PRODUCT?

A NO.

–Trial Tr. at 2824:3-5, 2834:14-16, 2835:15-17



PX-42

Testimony of Jeeyuen Wang

Jeeyuen Wang
Samsung's Witness

Q ALL RIGHT. WERE YOU AND THE TEAM THAT YOU LEAD RESPONSIBLE FOR DESIGNING THE ICONS AND THE LAYOUT OF THE ICONS ON THE MENU PAGE FOR THE GALAXY PHONES?

A YES, THAT IS CORRECT.

Q IN DOING THAT, DID YOU COPY ANY APPLE ICONS OR THE LAYOUT ON THE APPLE APPLICATION PAGE?

A NOT AT ALL.

–Trial Tr. at 2523:11-18

Testimony of Jeeyuen Wang

Jeeyuen Wang
Samsung's Witness

Q AND WHAT OTHER ICONS HAVE YOU USED FOR PHONES AND WHAT WAS YOUR EXPERIENCE WITH THEM?

A YES. WELL, WE HAVE TRIED QUITE A FEW DIFFERENT ICONS AND THERE WERE EVEN CERTAIN DIRECTIVES COMING FROM UP ABOVE TELLING US TO COME UP WITH SOMETHING OF A DESIGN THAT'S MORE SOPHISTICATED, SOMETHING THAT LOOKS MORE LIKE A SMARTPHONE.

SO WE TRIED DIFFERENT ICONS. FOR EXAMPLE, WE TRIED AN ICON THAT LOOKED LIKE A CELL PHONE WITH AN ANTENNA, AND THEN WE ALSO TRIED AN ICON THAT LOOKED MORE LIKE A SMARTPHONE.

BUT WHAT HAPPENED WAS THAT THE PEOPLE WOULD ACTUALLY MISTAKE THESE ICONS. SOME PEOPLE THOUGHT THIS WAS A GAME OR MAYBE A PDA OR EVEN A CALCULATOR. SO WE HAD SOME PROBLEMS.

–Trial Tr. at 2533:25-2534:15

Testimony of Jeeyuen Wang

Jeeyuen Wang
Samsung's Witness

Q DO YOU HAVE A NAME THAT YOU USE FOR THIS PARTICULAR TYPE OF ICON FOR A PHONE?

...

THE WITNESS: IN OUR DESIGN TEAM, WE CALLED IT A DUMBBELL ICON.

BY MR. QUINN:

Q AND HOW LONG HAS SAMSUNG USED THIS DUMBBELL STYLE ICON ON THE PHONES?

...

THE WITNESS: THAT ICON WAS IN USE EVEN BEFORE I HAD JOINED THE COMPANY IN 2002. AND THIS WAS USED BY SAMSUNG. I'M SAYING THAT THE DUMBBELL SHAPE HAD BEEN USED IN SAMSUNG EVEN PRIOR TO 2002.

–Trial Tr. at 2534:25-2535:1, 5-9, 13-16

Testimony of Jeeyuen Wang

Jeeyuen Wang
Samsung's Witness

Before 2002:
Dumbbell Shaped
Phone Icon Used

Trial Tr. at 2535:14-2537:25

Jan 2007:
iPhone

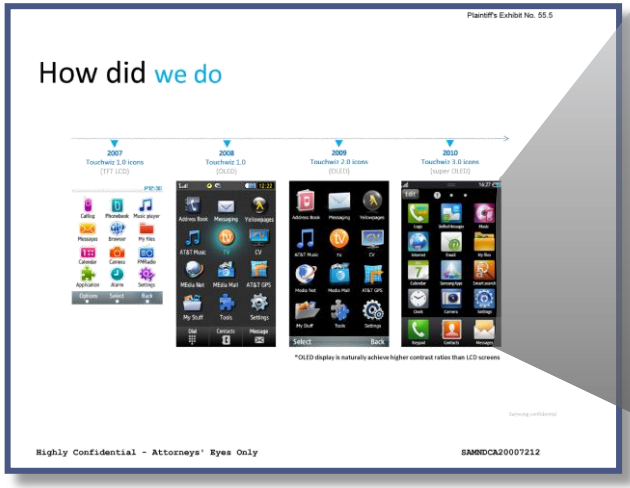
2002 **2007**

Testimony of Jeeyuen Wang

Jeeyuen Wang
Samsung's Witness

4	Q ALL RIGHT. SO FAR AS YOU'RE AWARE, ARE THESE
5	EVEN, THESE BADA PHONES, ARE THEY ACCUSED IN THIS
6	CASE? DO THEY HAVE ANYTHING TO DO WITH THIS CASE
7	SO FAR AS YOU'RE AWARE?
8	A NO.

–Trial Tr. at 2555:4-8



PX55.5

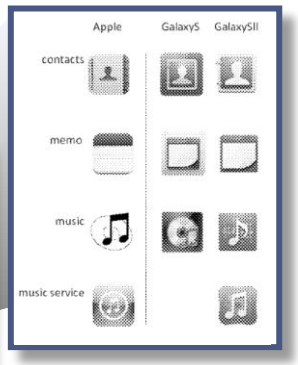
Testimony of Jeeyuen Wang

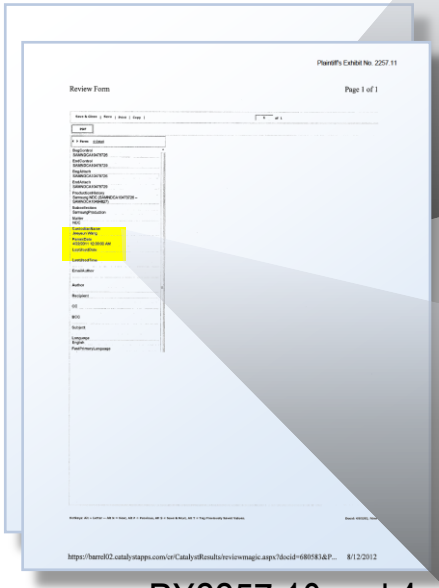
Jeeyuen Wang
Samsung's Witness

16 Q DO YOU RECALL BEING ASKED BY PEOPLE ON THE
17 I.P. TEAM AT SAMSUNG TO HELP PULL TOGETHER SOME
18 INFORMATION ABOUT ICONS AFTER APPLE HAD MADE A
19 CLAIM? DO YOU RECALL THAT?
20 A YES, I DO RECALL.

* * *

21 Q HOW LONG AFTER -- HOW LONG AFTER YOU HAD
22 DESIGNED THE GALAXY ICONS WAS THIS? THIS IS -- HOW
23 LONG BEFORE THIS DATE, APRIL 22, 2011 HAD YOU
24 DESIGNED THE GALAXY ICONS?
25 A WELL, THIS WOULD BE A TIME WHEN OVER A YEAR
1 WOULD HAVE PASSED SINCE THE DESIGNING OF GALAXY S I
2 ICONS.





CustodianName
Jeeyeun Wang

ParentDate
4/22/2011 12:00:00 AM

PX2257.10 and 4

–Trial Tr. at 2556:21-2557:2, 2557:16-20

Feasibility Review on Standalone AP Business for Smart Phone Market

2007.9.

SYSTEM LSI

PLAINTIFF'S EXHIBIT NO. 34
United States District Court
Northern District of California
No. 11-CV-01846-LHK (PSG)
Apple Inc. v. Samsung Elecs.
Date Admitted:_____ By:_____

Highly Confidential - Attorneys' Eyes Only

PX34.1

Testimony of Justin Denison

Justin Denison
Chief Strategy Officer
Samsung's Witness

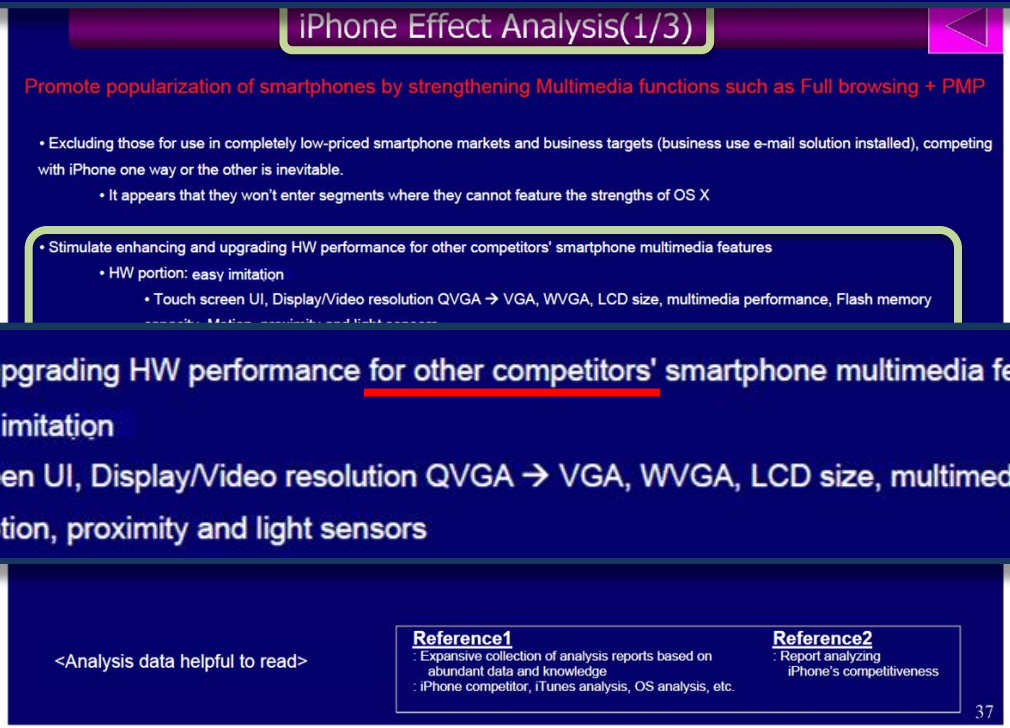
Q AND WHAT IS THE DIVISION OF SAMSUNG THAT MAKES THAT APPLICATIONS PROCESSOR THAT'S THEN SUPPLIED TO APPLE TO BE THE PROCESSOR FOR THE IPHONE?

A THAT'S THE, WHAT WE CALL THE SYSTEM LSI DIVISION WITHIN SAMSUNG SEMICONDUCTOR.

–Trial Tr. at 969:18-22

Plaintiff's Exhibit No. 34.37

iPhone Effect Analysis(1/3)



• Stimulate enhancing and upgrading HW performance for other competitors' smartphone multimedia features
• HW portion: easy imitation
• Touch screen UI, Display/Video resolution QVGA → VGA, WVGA, LCD size, multimedia performance, Flash memory capacity, Motion, proximity and light sensors

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PX34.37

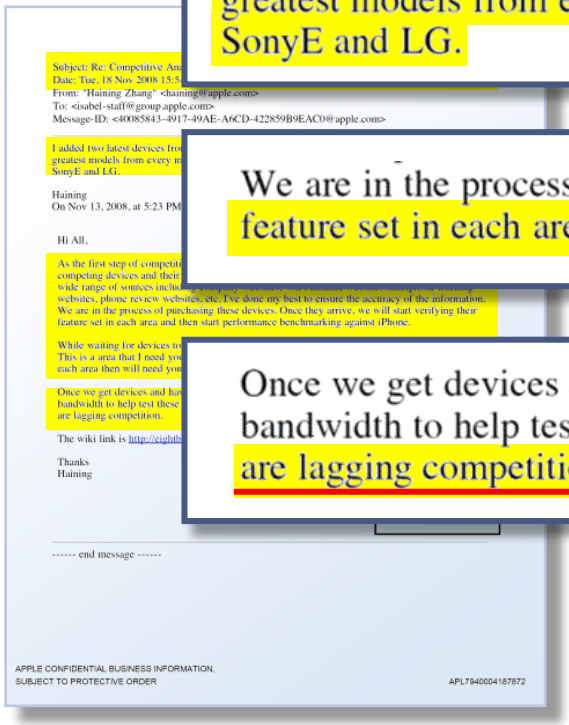
Apple November 18, 2008 Email

Subject: Re: Competitive Analysis
Date: Tue, 18 Nov 2008 15:54:13 -0800
From: "Haining Zhang" <haining@apple.com>
To: <isabel-staff@group.apple.com>

I added two latest devices from Sony Ericsson and LG. We now have a final list of latest and greatest models from every major smartphone vendor, RIM, HTC, Nokia, Samsung, Motorola, SonyE and LG.

We are in the process of purchasing these devices. Once they arrive, we will start verifying their feature set in each area and then start performance benchmarking against iPhone.

Once we get devices and have performance metrics finalized, Hooman's team will allocate some bandwidth to help test these devices. Each functional team will need to analyze the area that we are lagging competition.


Subject: Re: Competitive Ana
Date: Tue, 18 Nov 2008 15:5
From: "Haining Zhang" <haining@apple.com>
To: <isabel-staff@group.apple.com>
Message-ID: <40085843-4917-49AE-A6CD-422859B9EAC0@apple.com>

I added two latest devices fro
greatest models from every m
SonyE and LG.

Haining
On Nov 13, 2008, at 5:23 PM

Hi All,

As the first step of competit
competing devices and their
wide range of sources includ
websites, phone review websites, etc. I've done my best to ensure the accuracy of the information.
We are in the process of purchasing these devices. Once they arrive, we will start verifying their
feature set in each area and then start performance benchmarking against iPhone.

While waiting for devices to
This is a area that I need you
each area then will need you

Once we get devices and har
bandwidth to help test these
are lagging competition.

The wiki link is http://eighth

Thanks
Haining

------ end message ------

APPLE CONFIDENTIAL BUSINESS INFORMATION,
SUBJECT TO PROTECTIVE ORDER
APL7940004187872

DX2517.001

Testimony of Christopher Stringer

Christopher Stringer
Apple Designer

Q ONE OF THE THINGS THAT YOU ALSO DO AS AN INDUSTRIAL DESIGNER IS YOU PAY ATTENTION TO MOBILE PHONES AND SMARTPHONES MANUFACTURED AND SOLD BY YOUR COMPETITORS, DON'T YOU?

A ON OCCASION WE PAY SOME ATTENTION.

Q YOU ACTUALLY GET COMPETITIVE ANALYSES DONE AND REVIEW THOSE OF YOUR COMPETITION, DON'T YOU?

A THERE IS A COMPETITIVE ANALYSIS EXERCISE THAT'S PERFORMED BY OUR PRODUCT DESIGN.

–Trial Tr. at 531:19-532:2

January 19, 2011 Email from Christopher Stringer

Defendant's Exhibit No. 687 .002

Paul,

I need your latest summary of our enemies for an ID brainstorm on Friday. If you have any more data beyond this please could you update the chart. I wonder if there is anything worth noting about the HP/Palm leak.

Thanks, Chris.

DX687.002

On Jan 19, 2011, at 2:49 PM, Chris Stringer wrote:

Paul,

I need your latest summary of our enemies for an ID brainstorm on Friday. If you have any more data beyond this please could you update the chart. I wonder if there is anything worth noting about the HP/Palm leak.

Thanks, Chris.

On Jan 10, 2011, at 7:42 PM, Paul Meade wrote:

Folks,

The previous version of the chart I distributed was the version making its way around the web. I added K93/K94 to the comparison and added a few more interesting parameters which I thought were useful. As soon as we learn more about the LG G-Slate I will include it as this makes up the majority of the real near term competition.

Paul

<Screen shot 2011-01-10 at 7.38.04 PM.png>

On Jan 10, 2011, at 3:37 PM, Michael Culbert wrote:

Paul,

You should include K94 on the charts. It is also important to note that not all A9 cores are

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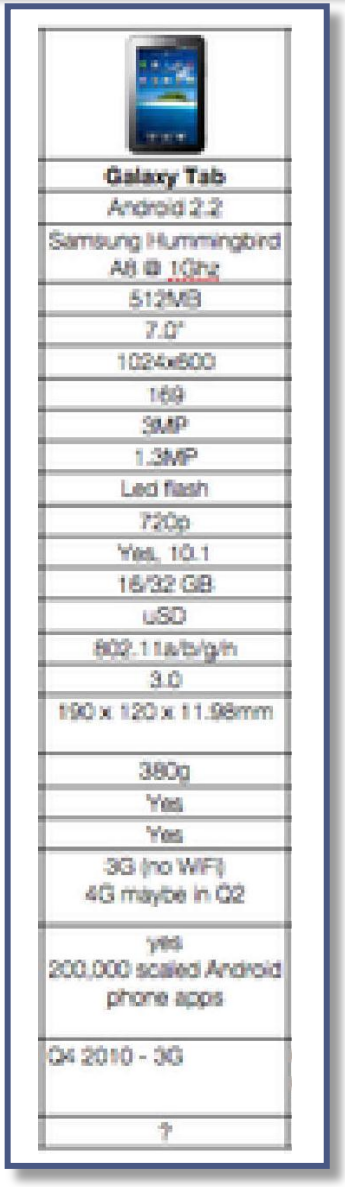
DX687.009



Galaxy Tab
Android 2.2
Samsung Hummingbird A8 @ 1Ghz
512MB
7.0"
1024x600
169
3MP
1.3MP
Led flash
720p
Yes, 10.1
16/32 GB
uSD
802.11a/b/g/n
3.0
190 x 120 x 11.98mm
380g
Yes
Yes
3G (no WiFi) 4G maybe in Q2
yes 200,000 scaled Android phone apps
Q4 2010 - 3G
?

March 8, 2006 Email from Richard Howarth

DEFENDANT'S EXHIBIT
NO. 962.001

Subject: on: the sony vs apple competition
Date: Wed, 08 Mar 2006 02:46:30 +0000
From: "Richard Howarth" <howarth@apple.com>
To: "Jonathan Ive" <ive@apple.com>
Message-ID: <7A6182E5-4376-471D-B232-5DA75826BD17@apple.com>

hi Jony,

i'm worried about the extrudo shape we're using for P2 etc. looking at what shin's doing with the sony-style chappy, he's able to achieve a much smaller-looking product with a much nicer shape to have next to your ear and in your pocket. also note that it's only half a step away from where we were with the metal band, black insides before we changed to the 3-equal-striped sandwich which i show below. It looks a lot smaller to me and it makes the X a load narrower, which is something i've been going on about for ages because i'm worried that the round sides are so inefficient. I agree that the one we did below isn't right, and it looks old next to the extrusion, but it does have the size and shape/comfort benefits i mentioned before and these are hard to ignore with a product we have to carry and use all day, every day. i'm really worried that we're making something that is going to look and be too wide.

i'm also worried that if we start cutting volume buttons on the side, then it removes some of the purity of the extrusion idea and seems like the wrong shape for the job. We can only add so much too it before it becomes a style/ a shape, rather than the most efficient construction method and that would be bad.

r.

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APLNDC0003040119

From: "Richard Howarth" <howarth@apple.com>
To: "Jonathan Ive" <ive@apple.com>

i'm worried about the extrudo shape we're using for P2 etc. looking at what shin's doing with the sony-style chappy, he's able to achieve a much smaller-looking product with a much nicer shape to have next to your ear and in your pocket.

but it does have the size and shape/comfort benefits i mentioned before and these are hard to ignore with a product we have to carry and use all day, every day.

Apple Document: Mini-Teardown: Samsung Galaxy S

DEFENDANT'S EXHIBIT NO. 2519.001

Mini-Teardown:
Samsung Galaxy S
(T-Mobile Vibrant)

iPod/iPhone New Tech 8.10.10

- Summary p2
- Product Specs p3
- Features p4
- Disassembly p5
- HW Components p10
- Software Features p12
- Additional Comments p13

Contributors:

Jeff Mehlman
iPod/iPhone New Tech
jmehlman@apple.com

Ryan Garrone
iPod/iPhone New Tech
rgarrone@apple.com

Wednesday, September 8, 2010

DEFENDANT'S EXHIBIT
NO. 2519.001
United States District Court
Northern District of California
No. 11-CV-1846-LHK (PSG)
Apple v. Samsung
Date Admitted:_____ By: _____

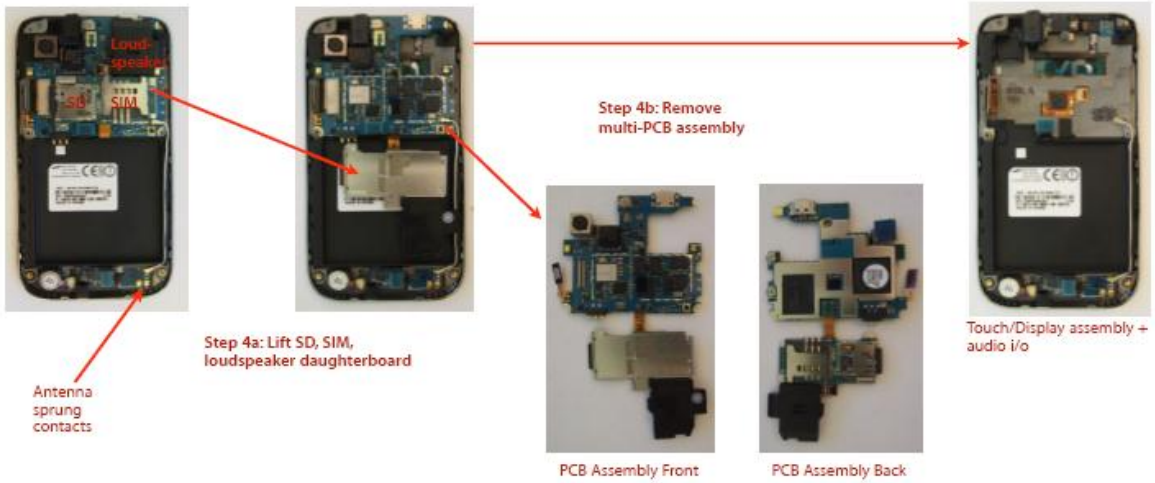
APPLE CONFIDENTIAL BUSINESS INFORMATION,
SUBJECT TO PROTECTIVE ORDER

DX2519.001

Apple Document: Mini-Teardown: Samsung Galaxy S

DEFENDANT'S EXHIBIT NO. 2519.007

Disassembly (3)



Wednesday, September 8, 2010

APPLE CONFIDENTIAL BUSINESS INFORMATION,
SUBJECT TO PROTECTIVE ORDER

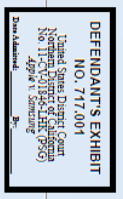
APL7940012391987

DX2519.007

Apple Document: Samsung Galaxy Tab 10.1 Take-Apart

Samsung Galaxy Tab 10.1 Take-Apart

iPad PD - 5/24/2011



2/11/2012 iPod PD - Apple Confidential

Saturday, February 11, 2012

Highly Confidential - Attorneys' Eyes Only

APLNDC0002868532

DX717.01

Apple Document: Samsung Galaxy Tab 10.1 Take-Apart

Galaxy Tab 10.1 | Component Overview

2/11/2012 iPod PD - Apple Confidential

Saturday, February 11, 2012

Highly Confidential - Attorneys' Eyes Only

APLNDC0002868541

Defendant's Exhibit No. 717 .010

DX717.010

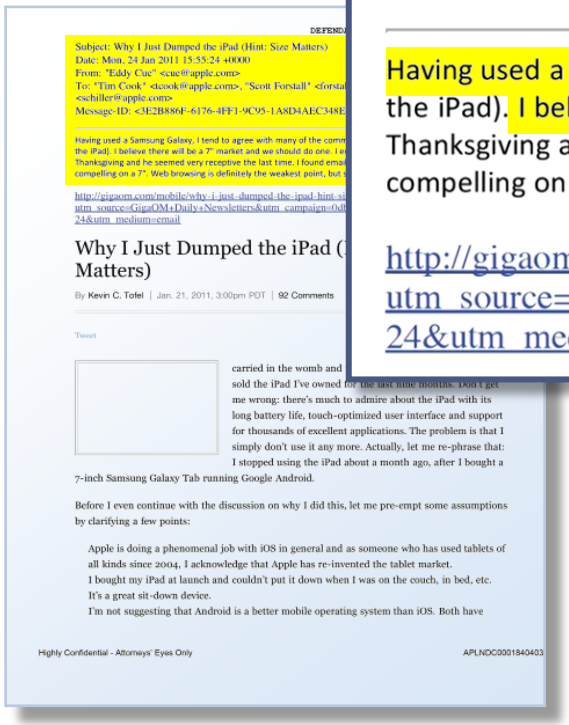
Apple January 24, 2011 Email

DEFENDANT'S EXHIBIT NO. 2522.001

Subject: Why I Just Dumped the iPad (Hint: Size Matters)
Date: Mon, 24 Jan 2011 15:55:24 +0000
From: "Eddy Cue" <cue@apple.com>
To: "Tim Cook" <tcook@apple.com>, "Scott Forstall" <forstall@apple.com>, "Phil Schiller" <schiller@apple.com>
Message-ID: <3E2B886F-6176-4FF1-9C95-1A8D4AEC348E@apple.com>

Having used a Samsung Galaxy, I tend to agree with many of the comments below (except actually moving off the iPad). I believe there will be a 7" market and we should do one. I expressed this to Steve several times since Thanksgiving and he seemed very receptive the last time. I found email, books, facebook and video very compelling on a 7". Web browsing is definitely the weakest point, but still usable.

http://gigaom.com/mobile/why-i-just-dumped-the-ipad-hint-size-matters/?utm_source=GigaOM+Daily+Newsletters&utm_campaign=0db2e2cd90-c:mob,tec,vid,apl+d:01-24&utm_medium=email


Why I Just Dumped the iPad (
Matters)

By Kevin C. Tofel | Jan. 21, 2011, 3:00pm PDT | 92 Comments

carried in the womb and
sold the iPad I've owned for the last nine months. Don't get
me wrong: there's much to admire about the iPad with its
long battery life, touch-optimized user interface and support
for thousands of excellent applications. The problem is that I
simply don't use it any more. Actually, let me re-phrase that:
I stopped using the iPad about a month ago, after I bought a
7-inch Samsung Galaxy Tab running Google Android.

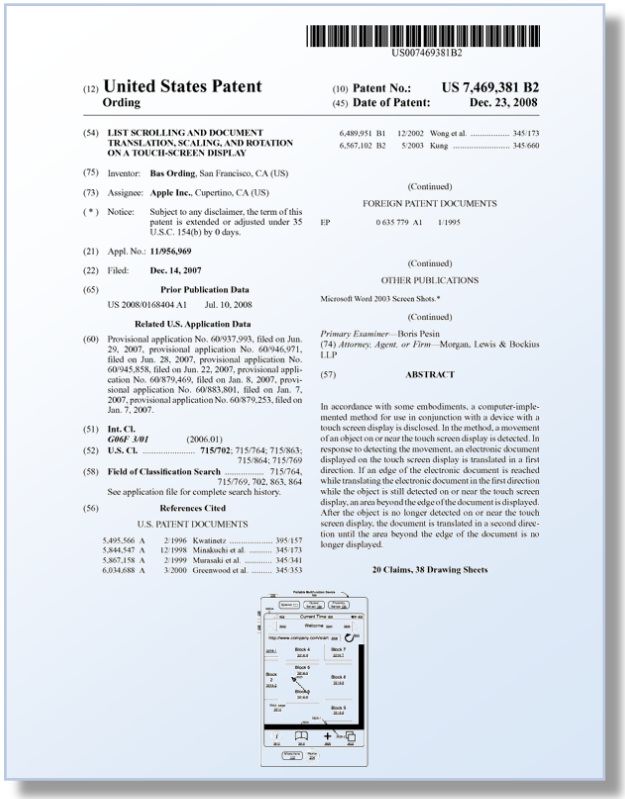
Before I even continue with the discussion on why I did this, let me pre-empt some assumptions by clarifying a few points:

Apple is doing a phenomenal job with iOS in general and as someone who has used tablets of all kinds since 2004, I acknowledge that Apple has re-invented the tablet market.
I bought my iPad at launch and couldn't put it down when I was on the couch, in bed, etc.
It's a great sit-down device.
I'm not suggesting that Android is a better mobile operating system than iOS. Both have

Highly Confidential - Attorneys' Eyes Only APLNDC0001840403

DX2522.001

Apple's Utility Patents



US007469381B2

(12) **United States Patent**
Ording

(10) **Patent No.: US 7,469,381 B2**
(45) **Date of Patent: Dec. 23, 2008**

(54) **LIST SCROLLING AND DOCUMENT TRANSLATION, SCALING, AND ROTATION ON A TOUCH-SCREEN DISPLAY**

(75) Inventor: **Bas Ording**, San Francisco, CA (US)

(73) Assignee: **Apple Inc.**, Cupertino, CA (US)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) Appl. No.: **11/956,969**

(22) Filed: **Dec. 14, 2007**

(65) **Prior Publication Data**

US 2008/0168404 A1 Jul. 10, 2008

Related U.S. Application Data

(60) Provisional application No. 60/937,993, filed on Jun. 29, 2007, provisional application No. 60/946,971, filed on Jun. 28, 2007, provisional application No. 60/945,858, filed on Jun. 22, 2007, provisional application No. 60/879,469, filed on Jan. 8, 2007, provisional application No. 60/883,801, filed on Jan. 7, 2007, provisional application No. 60/879,253, filed on Jan. 7, 2007.

(51) **Int. Cl.**
G06F 3/01 (2006.01)

(52) **U.S. Cl.** **715/702**; 715/764; 715/863; 715/864; 715/769

(58) **Field of Classification Search** 715/764, 715/769, 702, 863, 864
See application file for complete search history.

(56) **References Cited**

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(Continued)

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(Continued)

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(Continued)

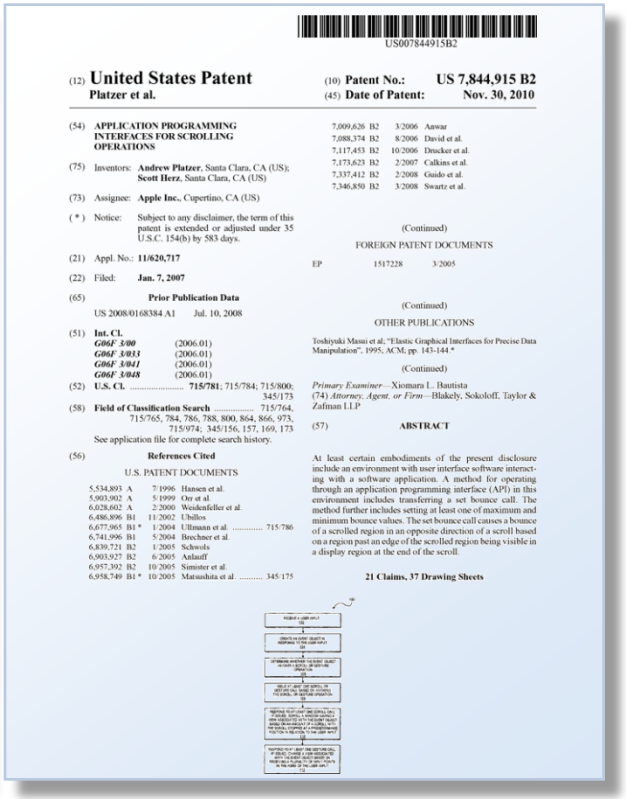
Primary Examiner—Boris Pesin
(74) *Attorney, Agent, or Firm*—Morgan, Lewis & Bockius LLP

(57) **ABSTRACT**

In accordance with some embodiments, a computer-implemented method for use in conjunction with a device with a touch screen display is disclosed. In the method, a movement of an object on or near the touch screen display is detected. In response to detecting the movement, an electronic document displayed on the touch screen display is translated in a first direction. If an edge of the electronic document is reached while translating the electronic document in the first direction while the object is still detected on or near the touch screen display, an area beyond the edge of the document is displayed. After the object is no longer detected on or near the touch screen display, the document is translated in a second direction until the area beyond the edge of the document is no longer displayed.

20 Claims, 38 Drawing Sheets

'381 Patent



US007844915B2

(12) **United States Patent**
Platzer et al.

(10) **Patent No.: US 7,844,915 B2**
(45) **Date of Patent: Nov. 30, 2010**

(54) **APPLICATION PROGRAMMING INTERFACES FOR SCROLLING OPERATIONS**

(75) Inventors: **Andrew Platzer**, Santa Clara, CA (US); **Scott Herz**, Santa Clara, CA (US)

(73) Assignee: **Apple Inc.**, Cupertino, CA (US)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 583 days.

(21) Appl. No.: **11/620,717**

(22) Filed: **Jan. 7, 2007**

(65) **Prior Publication Data**

US 2008/0168384 A1 Jul. 10, 2008

(51) **Int. Cl.**
G06F 3/00 (2006.01)
G06F 3/033 (2006.01)
G06F 3/041 (2006.01)
G06F 3/048 (2006.01)

(52) **U.S. Cl.** **715/781**; 715/784; 715/800; 345/173

(58) **Field of Classification Search** 715/764, 715/765, 784, 786, 788, 800, 864, 866, 973, 715/974; 345/156, 157, 169, 173
See application file for complete search history.

(56) **References Cited**

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(Continued)

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(Continued)

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Toshiyuki Masui et al; "Elastic Graphical Interfaces for Precise Data Manipulation", 1995, ACM; pp. 143-144.*

(Continued)

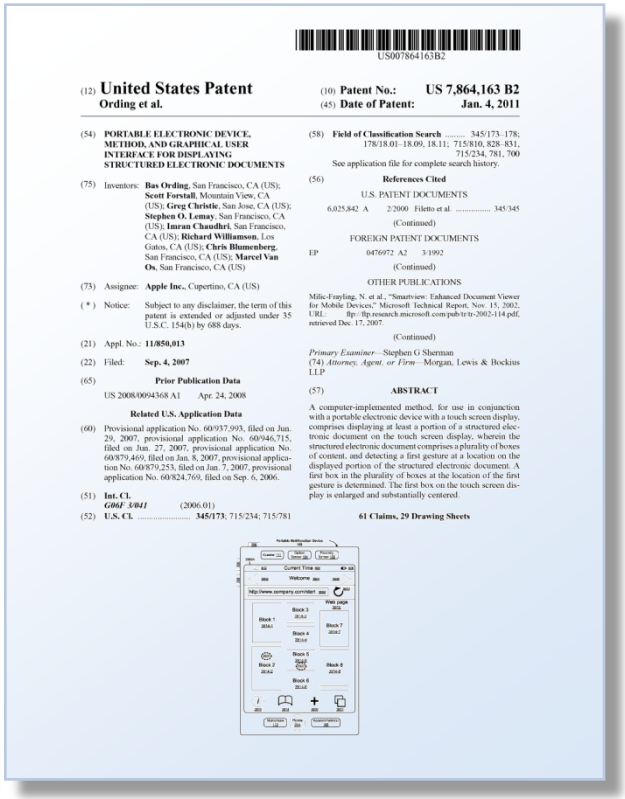
Primary Examiner—Xiomara L. Bautista
(74) *Attorney, Agent, or Firm*—Blakely, Sokoloff, Taylor & Zafman LLP

(57) **ABSTRACT**

At least certain embodiments of the present disclosure include an environment with user interface software interacting with a software application. A method for operating through an application programming interface (API) in this environment includes transferring a set bounce call. The method further includes setting at least one of maximum and minimum bounce values. The set bounce call causes a bounce of a scrolled region in an opposite direction of a scroll based on a region past an edge of the scrolled region being visible in a display region at the end of the scroll.

21 Claims, 37 Drawing Sheets

'915 Patent



US007864163B2

(12) **United States Patent**
Ording et al.

(10) **Patent No.: US 7,864,163 B2**
(45) **Date of Patent: Jan. 4, 2011**

(54) **PORTABLE ELECTRONIC DEVICE, METHOD, AND GRAPHICAL USER INTERFACE FOR DISPLAYING STRUCTURED ELECTRONIC DOCUMENTS**

(75) Inventors: **Bas Ording**, San Francisco, CA (US); **Scott Forstall**, Mountain View, CA (US); **Greg Christie**, San Jose, CA (US); **Stephen O. Lemay**, San Francisco, CA (US); **Imran Chaudhri**, San Francisco, CA (US); **Richard Williamson**, Los Gatos, CA (US); **Chris Blumenberg**, San Francisco, CA (US); **Marcel Van Os**, San Francisco, CA (US)

(73) Assignee: **Apple Inc.**, Cupertino, CA (US)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 688 days.

(21) Appl. No.: **11/850,013**

(22) Filed: **Sep. 4, 2007**

(65) **Prior Publication Data**

US 2008/0094368 A1 Apr. 24, 2008

Related U.S. Application Data

(60) Provisional application No. 60/937,993, filed on Jun. 29, 2007, provisional application No. 60/946,715, filed on Jun. 27, 2007, provisional application No. 60/879,469, filed on Jan. 8, 2007, provisional application No. 60/879,253, filed on Jan. 7, 2007, provisional application No. 60/824,769, filed on Sep. 6, 2006.

(51) **Int. Cl.**
G06F 3/041 (2006.01)

(52) **U.S. Cl.** **345/173**; 715/234; 715/781

(58) **Field of Classification Search** 345/173–178; 178/18.01–18.09, 18.11; 715/810, 828–831, 715/234, 781, 700
See application file for complete search history.

(56) **References Cited**

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(Continued)

Primary Examiner—Stephen G Sherman
(74) *Attorney, Agent, or Firm*—Morgan, Lewis & Bockius LLP

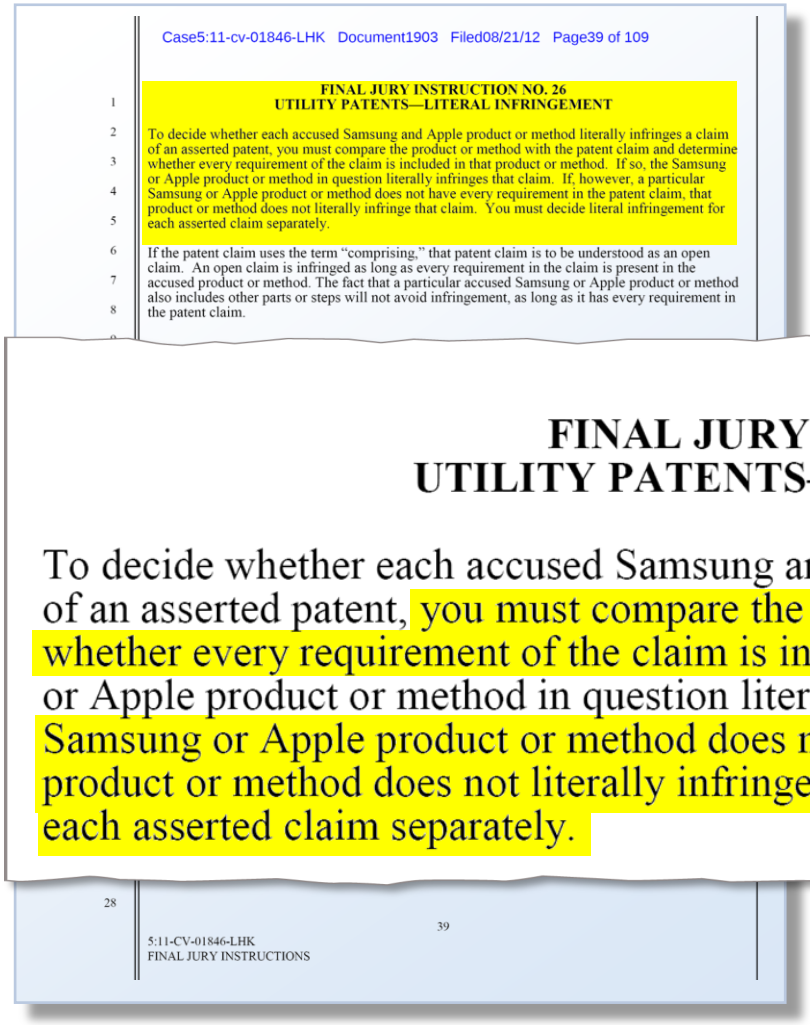
(57) **ABSTRACT**

A computer-implemented method, for use in conjunction with a portable electronic device with a touch screen display, comprises displaying at least a portion of a structured electronic document on the touch screen display, wherein the structured electronic document comprises a plurality of boxes of content, and detecting a first gesture at a location on the displayed portion of the structured electronic document. A first box in the plurality of boxes at the location of the first gesture is determined. The first box on the touch screen display is enlarged and substantially centered.

61 Claims, 29 Drawing Sheets

'163 Patent

The Court's Instruction Regarding Infringement



Case5:11-cv-01846-LHK Document1903 Filed08/21/12 Page39 of 109

FINAL JURY INSTRUCTION NO. 26
UTILITY PATENTS—LITERAL INFRINGEMENT

To decide whether each accused Samsung and Apple product or method literally infringes a claim of an asserted patent, you must compare the product or method with the patent claim and determine whether every requirement of the claim is included in that product or method. If so, the Samsung or Apple product or method in question literally infringes that claim. If, however, a particular Samsung or Apple product or method does not have every requirement in the patent claim, that product or method does not literally infringe that claim. You must decide literal infringement for each asserted claim separately.

If the patent claim uses the term "comprising," that patent claim is to be understood as an open claim. An open claim is infringed as long as every requirement in the claim is present in the accused product or method. The fact that a particular accused Samsung or Apple product or method also includes other parts or steps will not avoid infringement, as long as it has every requirement in the patent claim.

39

5:11-CV-01846-LHK
FINAL JURY INSTRUCTIONS

FINAL JURY INSTRUCTION NO. 26
UTILITY PATENTS—LITERAL INFRINGEMENT

To decide whether each accused Samsung and Apple product or method literally infringes a claim of an asserted patent, you must compare the product or method with the patent claim and determine whether every requirement of the claim is included in that product or method. If so, the Samsung or Apple product or method in question literally infringes that claim. If, however, a particular Samsung or Apple product or method does not have every requirement in the patent claim, that product or method does not literally infringe that claim. You must decide literal infringement for each asserted claim separately.

(Jury Instruction No. 26)

Testimony of Ravin Balakrishnan

Ravin Balakrishnan
Apple's Expert

Q I'M ASKING YOU MORE GENERALLY. AREN'T THERE BOUNCE EFFECTS THAT ARE NOT COVERED BY CLAIM 19?

A JUST GENERALLY OUT THERE?

Q YES.

A SURE. YOU CAN HAVE ALL KINDS OF THINGS THAT BOUNCE THAT DON'T --

Q ALL RIGHT.

A THAT DON'T MEET THE ELEMENTS OF CLAIM 19.

–Trial Tr. at 1783:13-20

Apple's Insufficient Proof of Infringement of '381 Patent

Samsung Products Infringing '381 in Gallery

Exhibit 4G

(JX1028)

Epic 4G

(JX1012)

Fascinate

(JX1013)

Indulge

(JX1026)

PDX 27.35

Balakrishnan Demonstrative PDX29.21

PDX27.35

The Court's Instructions Regarding Invalidity

FINAL JURY INSTRUCTION NO. 31
UTILITY PATENTS—ANTICIPATION

A utility patent claim is invalid if the claimed invention is not new. For the claim to be invalid because it is not new, all of its requirements must have existed in a single device or method that predates the claimed invention, or must have been described in a single previous publication or patent that predates the claimed invention. In patent law, these previous devices, methods, publications or patents are called "prior art references." If a patent claim is not new we say it is "anticipated" by a prior art reference.

– If the claimed invention was already made by someone else in the United States before the date of conception of the claimed invention, if that other person had not abandoned the invention or kept it secret;

If the patent holder and the alleged infringer dispute who is a first inventor, the person who first conceived of the claimed invention and first reduced it to practice is the first inventor. If one person conceived of the claimed invention first, but reduced to practice second, that person is the first inventor only if that person (a) began to reduce the claimed invention to practice before the other party conceived of it, and (b) continued to work diligently to reduce it to practice. A claimed invention is "reduced to practice" when it has been tested sufficiently to show that it will work for its intended purp
a patent application filed with the PTO.

– If the claimed invention was already described in anothe
U.S. patent application that was based on a patent applicat
holder's application filing date or the date of conception o

Since certain of them are in dispute, you must determine dates of
inventions and prior inventions. Conception is the mental part of
when the invention is shown in its complete form by drawings, di
forms of evidence presented at trial.

(Jury Instruction No. 31)

FINAL JURY INSTRUCTION NO. 33
UTILITY PATENTS—OBVIOUSNESS

Not all innovations are patentable. A utility patent claim is invalid if the claimed invention would have been obvious to a person of ordinary skill in the field at the time of invention. This means that even if all of the requirements of the claim cannot be found in a single prior art reference that would anticipate the claim or constitute a statutory bar to that claim, a person of ordinary skill in the field who knew about all this prior art would have come up with the claimed invention.

ility patent claim is invalid if the claimed invention would
y skill in the field at the time of invention. This means
claim cannot be found in a single prior art reference that
a statutory bar to that claim, a person of ordinary skill in
t would have come up with the claimed invention.

im is obvious should be based upon your determination of

ary skill in the field that someone would have had at the
deciding the level of ordinary skill, you should consider
ding:

ion and experience of persons working in the field;

ns encountered in the field; and

f the technology.

content of the prior art. The parties disagree as to whether
luded in the prior art you use to decide the validity of
claims at issue. In order to be considered as prior art to a particular patent at issue here, these references must be reasonably related to the claimed invention of that patent. A reference is reasonably related if it is in the same field as the claimed invention or is from another field to which a person of ordinary skill in the field would look to solve a known problem.

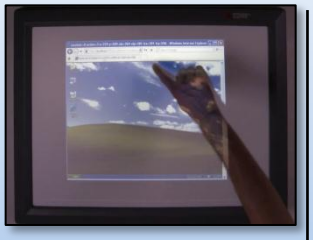
Third, you must decide what differences, if any, existed between the claimed invention and the prior art.

Finally, you should consider any of the following factors that you find have been shown by the evidence:

(Jury Instruction No. 33)

Tablecloth (2005) on the DiamondTouch

Prior Art	’381 Patent

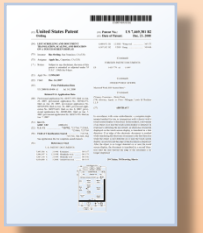


January 2005
Tablecloth publicly demonstrated in MERL lobby
DX655 (Source Code); DX696 (Article); TR 2293.9-19

January 18, 2005
Tablecloth demonstrated to Senator Bob Kerrey
TR2296:14-299:10; DX713

October 2005
DiamondTouch on sale
Price List DX661; TR2286:25-2289:6
Purchase Order DX662; TR3389:-2290:18

January 7, 2007
Application filed

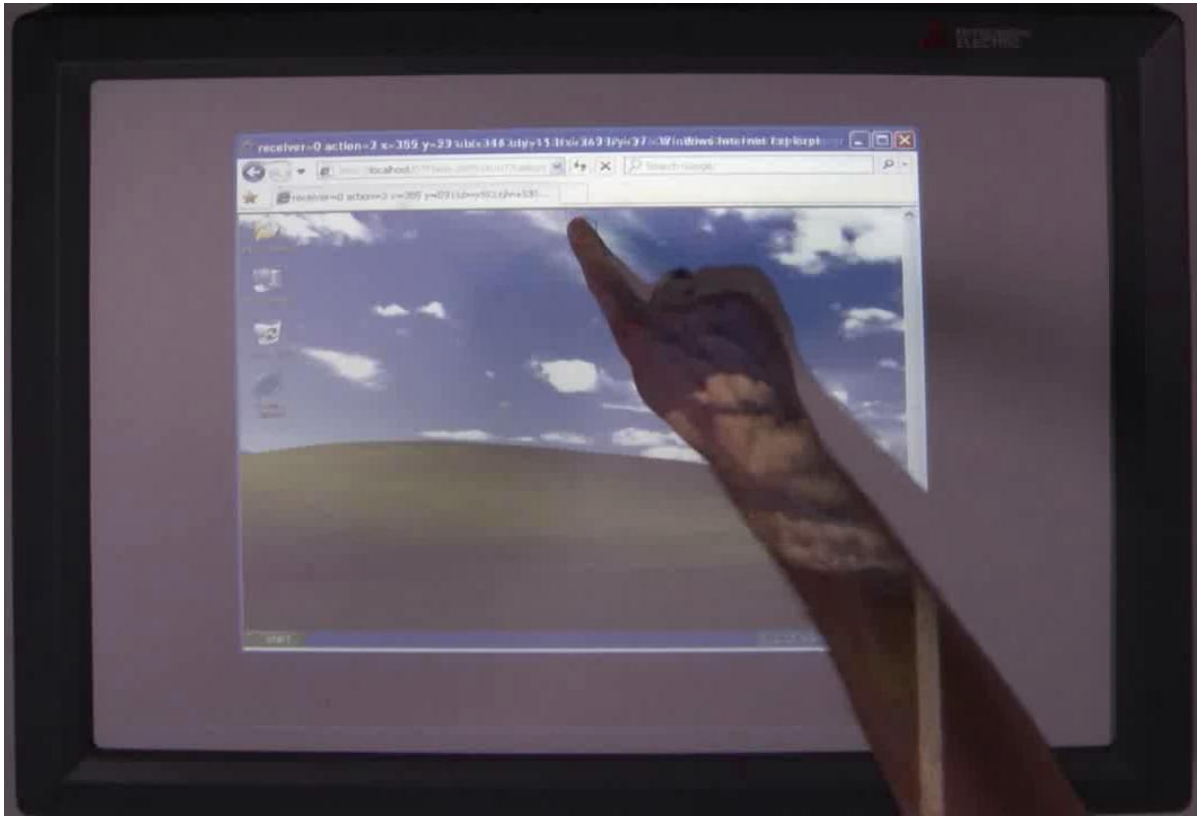


December 14, 2007
’381 issued to Apple

2004 | 2005 | 2006 | 2007

Tablecloth (2005) on the DiamondTouch

Tablecloth



SDX3952.102

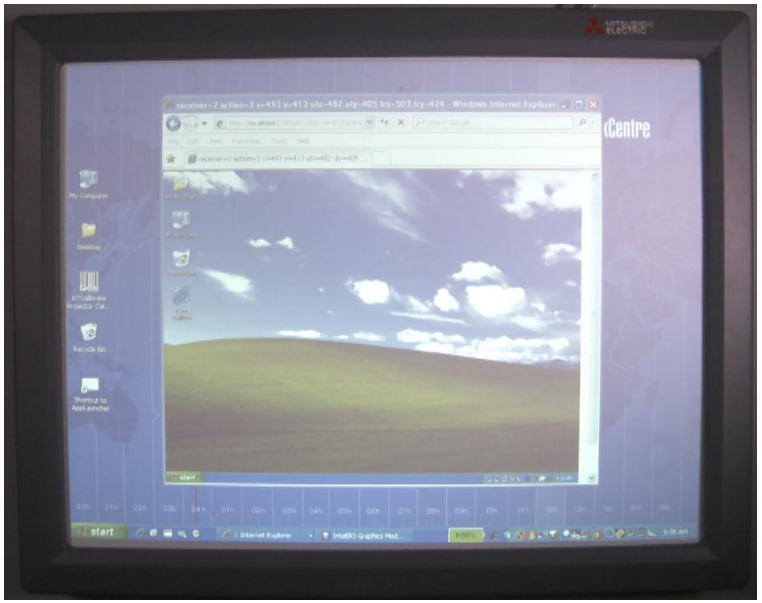
iPhone

Apple Opening Slide 56

Tablecloth (2005) on the DiamondTouch

19. A device, comprising:
a touch screen display;
one or more processors;
memory; and
one or more programs, wherein the one or more programs are stored in the memory and configured to be executed by the one or more processors, the programs including:
instructions for displaying a first portion of an electronic document;
instructions for detecting a movement of an object on or near the touch screen display;
instructions for translating the electronic document displayed on the touch screen display in a first direction to display a second portion of the electronic document, wherein the second portion is different from the first portion, in response to detecting the movement;
instructions for displaying an area beyond an edge of the electronic document and displaying a third portion of the electronic document, wherein the third portion is smaller than the first portion, in response to the edge of the electronic document being reached while translating the electronic document in the first direction while the object is still detected on or near the touch screen display; and
instructions for translating the electronic document in a second direction until the area beyond the edge of the electronic document is no longer displayed to display a fourth portion of the electronic document, wherein the fourth portion is different from the first portion, in response to detecting that the object is no longer on or near the touch screen display.

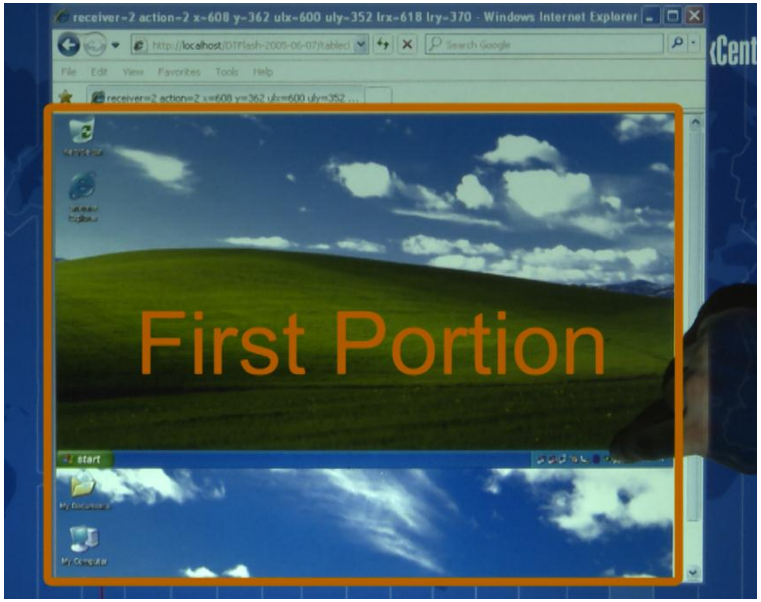
Exh. JX-1045 ('381 Patent, Claim 19)



DX-696

Tablecloth (2005) on the DiamondTouch

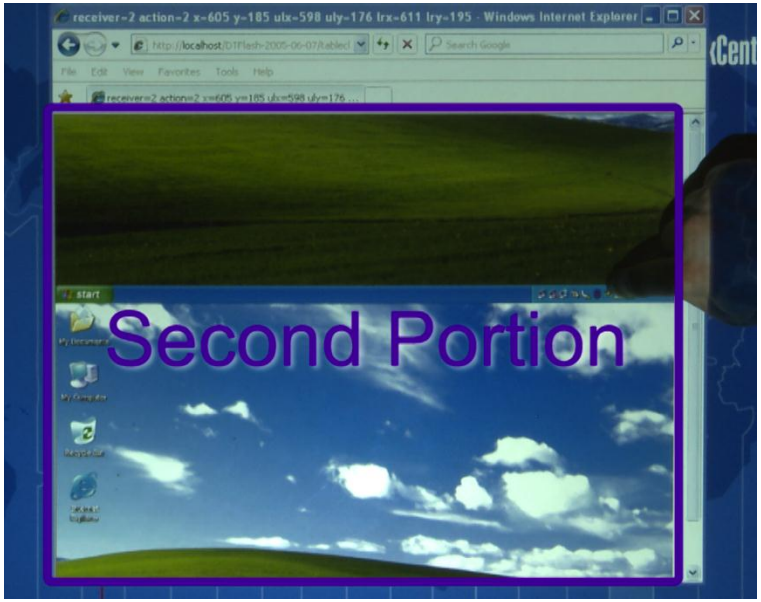
19. A device, comprising:
a touch screen display;
one or more processors;
memory; and
one or more programs, wherein the one or more programs are stored in the memory and configured to be executed by the one or more processors, the programs including:
instructions for displaying a first portion of an electronic document;
instructions for detecting a movement of an object on or near the touch screen display;
instructions for translating the electronic document displayed on the touch screen display in a first direction to display a second portion of the electronic document, wherein the second portion is different from the first portion, in response to detecting the movement;
instructions for displaying an area beyond an edge of the electronic document and displaying a third portion of the electronic document, wherein the third portion is smaller than the first portion, in response to the edge of the electronic document being reached while translating the electronic document in the first direction while the object is still detected on or near the touch screen display; and
instructions for translating the electronic document in a second direction until the area beyond the edge of the electronic document is no longer displayed to display a fourth portion of the electronic document, wherein the fourth portion is different from the first portion, in response to detecting that the object is no longer on or near the touch screen display.



Exh. JX-1045 ('381 Patent, Claim 19)

Tablecloth (2005) on the DiamondTouch

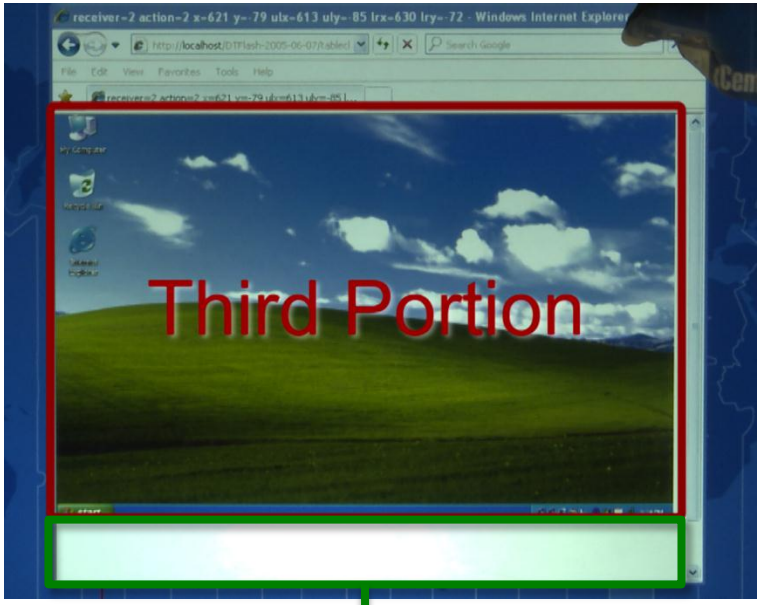
19. A device, comprising:
a touch screen display;
one or more processors;
memory; and
one or more programs, wherein the one or more programs are stored in the memory and configured to be executed by the one or more processors, the programs including:
instructions for displaying a first portion of an electronic document;
instructions for detecting a movement of an object on or near the touch screen display;
instructions for translating the electronic document displayed on the touch screen display in a first direction to display a second portion of the electronic document, wherein the second portion is different from the first portion, in response to detecting the movement;
instructions for displaying an area beyond an edge of the electronic document and displaying a third portion of the electronic document, wherein the third portion is smaller than the first portion, in response to the edge of the electronic document being reached while translating the electronic document in the first direction while the object is still detected on or near the touch screen display; and
instructions for translating the electronic document in a second direction until the area beyond the edge of the electronic document is no longer displayed to display a fourth portion of the electronic document, wherein the fourth portion is different from the first portion, in response to detecting that the object is no longer on or near the touch screen display.



Exh. JX-1045 ('381 Patent, Claim 19)

Tablecloth (2005) on the DiamondTouch

19. A device, comprising:
a touch screen display;
one or more processors;
memory; and
one or more programs, wherein the one or more programs are stored in the memory and configured to be executed by the one or more processors, the programs including:
instructions for displaying a first portion of an electronic document;
instructions for detecting a movement of an object on or near the touch screen display;
instructions for translating the electronic document displayed on the touch screen display in a first direction to display a second portion of the electronic document, wherein the second portion is different from the first portion, in response to detecting the movement;
instructions for displaying an area beyond an edge of the electronic document and displaying a third portion of the electronic document, wherein the third portion is smaller than the first portion, in response to the edge of the electronic document being reached while translating the electronic document in the first direction while the object is still detected on or near the touch screen display; and
instructions for translating the electronic document in a second direction until the area beyond the edge of the electronic document is no longer displayed to display a fourth portion of the electronic document, wherein the fourth portion is different from the first portion, in response to detecting that the object is no longer on or near the touch screen display.



Exh. JX-1045 ('381 Patent, Claim 19)

Tablecloth (2005) on the DiamondTouch

19. A device, comprising:
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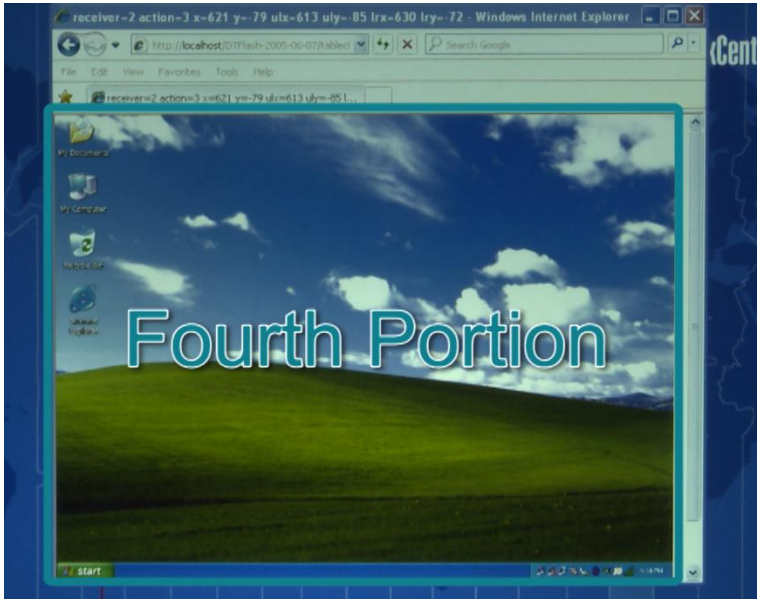
memory; and
one or more programs, wherein the one or more programs are stored in the memory and configured to be executed by the one or more processors, the programs including:
instructions for displaying a first portion of an electronic document;
instructions for detecting a movement of an object on or near the touch screen display;
instructions for translating the electronic document displayed on the touch screen display in a first direction to display a second portion of the electronic document, wherein the second portion is different from the first portion, in response to detecting the movement;
instructions for displaying an area beyond an edge of the electronic document and displaying a third portion of the electronic document, wherein the third portion is smaller than the first portion, in response to the edge of the electronic document being reached while translating the electronic document in the first direction while the object is still detected on or near the touch screen display; and
instructions for translating the electronic document in a second direction until the area beyond the edge of the electronic document is no longer displayed to display a fourth portion of the electronic document, wherein the fourth portion is different from the first portion, in response to detecting that the object is no longer on or near the touch screen display.



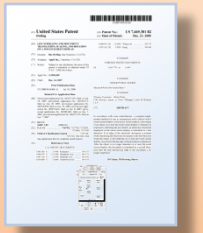
Exh. JX-1045 ('381 Patent, Claim 19)

LaunchTile (2004) on the HP iPAQ

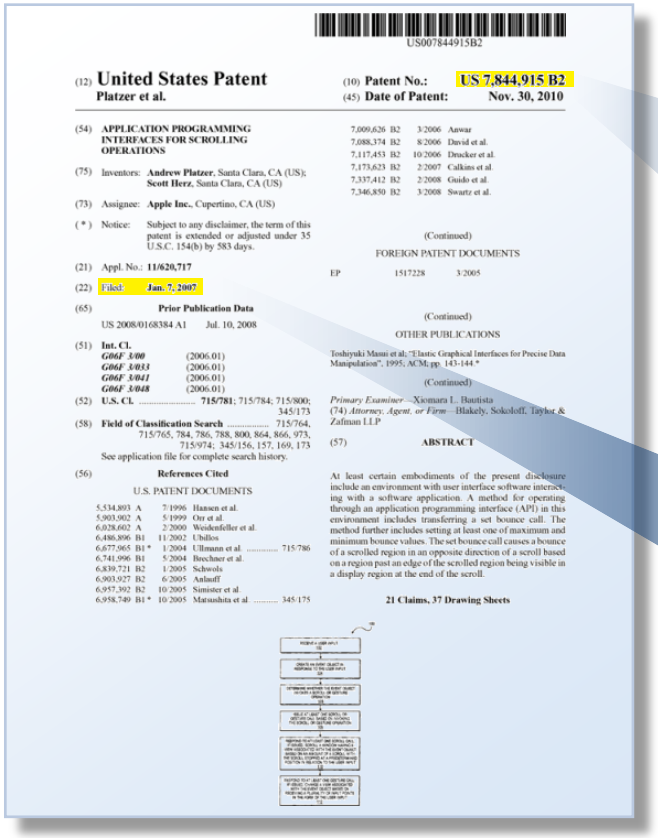
LaunchTile

SDX3964.046a

LaunchTile (2004) on the HP iPAQ

Prior Art			’381 Patent
			January 7, 2007 Application filed
			
November 2004 LaunchTile program completed TR2242:24-2433:3; XNAV Source Code DX528	**April 2005** LaunchTile publicly demonstrated at CHI 2005 conference DX518; SDX 3951.009; TR2248:2-2249:6	**August 2005** LaunchTile/XNav source code provided to Microsoft without restriction TR2244:5-10	**December 14, 2007** ’381 issued to Apple
2004	2005	2006	2007

Apple's '915 Patent



US007844915B2

(12) **United States Patent**
Platzer et al.

(10) **Patent No.: US 7,844,915 B2**
(45) **Date of Patent: Nov. 30, 2010**

(54) **APPLICATION PROGRAMMING INTERFACES FOR SCROLLING OPERATIONS**

(75) Inventors: **Andrew Platzer**, Santa Clara, CA (US); **Scott Herz**, Santa Clara, CA (US)

(73) Assignee: **Apple Inc.**, Cupertino, CA (US)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 583 days.

(21) Appl. No.: **11/620,717**

(22) Filed: **Jan. 7, 2007**

(65) **Prior Publication Data**

US 2008/0168384 A1 Jul. 10, 2008

(51) **Int. Cl.**
G06F 3/00 (2006.01)
G06F 3/033 (2006.01)
G06F 3/041 (2006.01)
G06F 3/048 (2006.01)

(52) **U.S. Cl.** **715/781**; 715/784; 715/800; 345/173

(58) **Field of Classification Search** 715/764, 715/765, 784, 786, 788, 800, 864, 866, 973, 715/974; 345/156, 157, 169, 173
See application file for complete search history.

(56) **References Cited**

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(Continued)

Primary Examiner—Xiomara L. Bautista
(74) *Attorney, Agent, or Firm*—Blakely, Sokoloff, Taylor & Zafman LLP

(57) **ABSTRACT**

At least certain embodiments of the present disclosure include an environment with user interface software interacting with a software application. A method for operating through an application programming interface (API) in this environment includes transferring a set bounce call. The method further includes setting at least one of maximum and minimum bounce values. The set bounce call causes a bounce of a scrolled region in an opposite direction of a scroll based on a region past an edge of the scrolled region being visible in a display region at the end of the scroll.

21 Claims, 37 Drawing Sheets

US 7,844,915 B2

Filed: **Jan. 7, 2007**

Exh. 1044 ('915 Patent)

Testimony of Karan Singh

Karan Singh,
Apple's Expert

25 Q THAT CONCEPT ALONE, SCROLL, THE '915 INVENTORS
1 DIDN'T INVENT SCROLLING. THAT'S FAIR, ISN'T IT?
2 A THAT'S FAIR.

* * *

21 Q THE INVENTORS OF THE '915 PATENT, THEY DIDN'T
22 INVENT A GESTURE, A SCALE, A ZOOM, OR DETECTING
23 THOSE ON THE DEVICES WE'RE TALKING ABOUT. ISN'T
24 THAT FAIR, SIR?
25 A ABSOLUTELY NOT. THE CONCEPT OF SCALING GOES
1 BACK TO THE ANCIENT GREEKS.

–Trial Tr. at 1855:25-1856:2;1856:21-1857:1

Apple's Insufficient Proof of Infringement of the '915 Patent

'915 Infringing Smartphones

Click to Play

Ace

(JX1030)

Captivate

(JX1011)

Continuum

(JX1016)

Droid Charge

(JX1025)

Epic 4G

(JX1012)

Exhibit 4G

(JX1028)

Singh Demonstrative PDX29.21

PDX29.21

The All-Important Test

Karan Singh,
Apple's Expert

20 Q BUT AS YOU SAID, IT'S THE ALL-IMPORTANT TEST
21 IN THE CLAIM AS TO WHETHER IT'S A ONE FINGER SCROLL
22 VERSUS A TWO FINGER GESTURE. THAT'S WHAT THIS
23 INVENTION IS ABOUT. FAIR?
24 A SURE.

–Trial Tr. at 1857:20-24

(8a) 8. A machine readable storage medium storing executable program instructions which when executed cause a data processing system to perform a method comprising:

(8b) receiving a user input, the user input is one or more input points applied to a touch-sensitive display that is integrated with the data processing system;

(8c) creating an event object in response to the user input;

(8d) determining whether the event object invokes a scroll or gesture operation by distinguishing between a single input point applied to the touch-sensitive display that is interpreted as the scroll operation and two or more input points applied to the touch-sensitive display that are interpreted as the gesture operation;

(8e) issuing at least one scroll or gesture call based on invoking the scroll or gesture operation;

(8f) responding to at least one scroll call, if issued, by scrolling a window having a view associated with the event object; and

(8g) responding to at least one gesture call, if issued, by scaling the view associated with the event object based on receiving the two or more input points in the form of the user input.

JX-1044.52 ('915 Patent, Claim 8)

Samsung's High Speed Data Patents

The United States of America

The Commissioner of Patents and Trademarks

Has received an application for a patent for a new and useful invention. The title and description of the invention are enclosed. The requirements of law have been complied with, and it has been determined that a patent on the invention shall be granted under the law.

Therefore, this

US007447516B2

(12) **United States Patent**
Heo et al.

(10) **Patent No.: US 7,447,516 B2**
(45) **Date of Patent: Nov. 4, 2008**

(54) **METHOD AND APPARATUS FOR DATA TRANSMISSION IN A MOBILE TELECOMMUNICATION SYSTEM SUPPORTING ENHANCED UPLINK SERVICE**

(75) Inventors: **Youn-Hyoung Heo**, Gyeonggi-do (KR); **Ju-Ho Lee**, Suwon-si (KR); **Joon-Young Cho**, Suwon-si (KR); **Young-Bum Kim**, Seoul (KR); **Yong-Jun Kwak**, Dongcheon-dong (KR)

(73) Assignee: **Samsung Electronics Co., Ltd.**, Suwon-si (KR)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 740 days.

(21) Appl. No.: **11/148,181**

(22) Filed: **Jun. 9, 2005**

(65) **Prior Publication Data**

US 2006/0003787 A1 Jan. 5, 2006

(30) **Foreign Application Priority Data**

Jun. 9, 2004 (KR) 10-2004-0042300
Aug. 6, 2004 (KR) 10-2004-0062190
Sep. 14, 2004 (KR) 10-2004-0073552
Nov. 17, 2004 (KR) 10-2004-0093947
Apr. 7, 2005 (KR) 10-2005-0029192

(51) **Int. Cl.**
H04Q 7/20 (2006.01)

(52) **U.S. Cl.** **455/522**; 455/69; 375/225; 375/345

(58) **Field of Classification Search** 455/522
See application file for complete search history.

(56) **References Cited**

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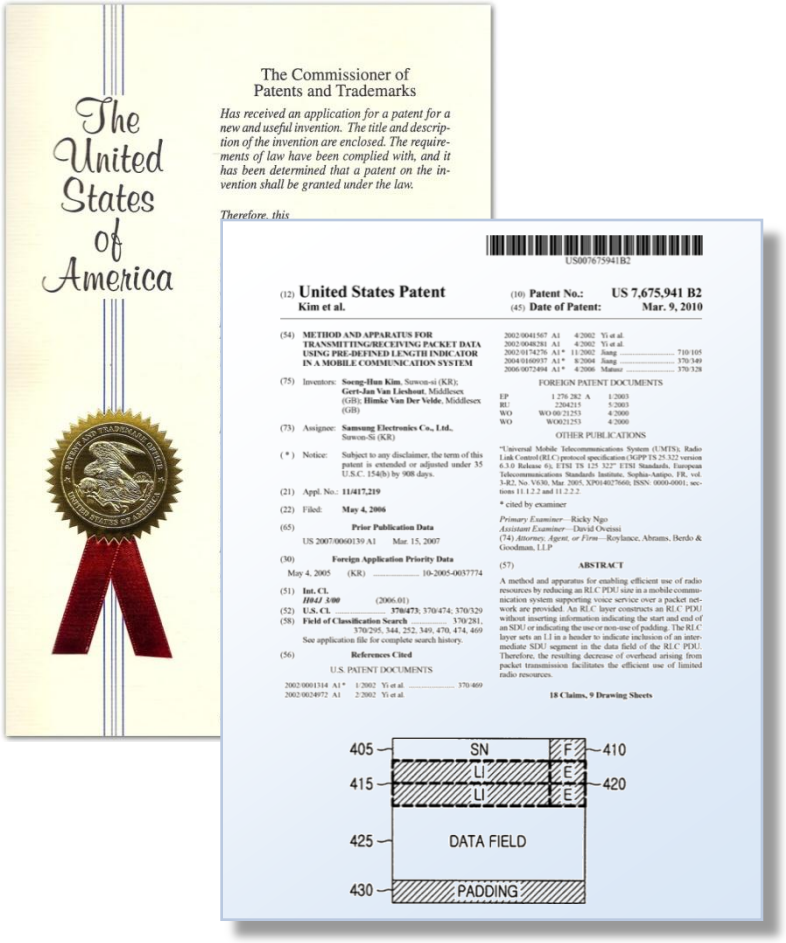
Primary Examiner—Matthew D. Anderson
Assistant Examiner—Hai V Nguyen
(74) *Attorney, Agent, or Firm*—Roylance, Abrams, Berdo & Goodman, L.L.P.

(57) **ABSTRACT**

A method and an apparatus for data transmission in a mobile telecommunication system supporting an enhanced uplink service are provided. A Transport Format Combination (TFC) selector determines TF information for data to be transmitted through a first data channel not supporting Hybrid Automatic Repeat reQuest (HARQ) and a second data channel supporting HARQ, and determines gain factors for the first and second data channel, and first and second control channel carrying control information for the first and second data channel. The gain factors are input to a physical channel transmission controller, and the physical channel transmission controller scales-down the gain factor for the second channel if total transmit power required for transmission of the channels exceeds the predetermined maximum allowed power. A gain scaler adjusts transmit powers of the channels using the scaled gain factor and gain factors for the first data channel, the first control channel and the second control channel.

28 Claims, 14 Drawing Sheets

JX1073 ('516 Patent)


The United States of America

The Commissioner of Patents and Trademarks

Has received an application for a patent for a new and useful invention. The title and description of the invention are enclosed. The requirements of law have been complied with, and it has been determined that a patent on the invention shall be granted under the law.

Therefore, this

US007675941B2

(12) **United States Patent**
Kim et al.

(10) **Patent No.: US 7,675,941 B2**
(45) **Date of Patent: Mar. 9, 2010**

(54) **METHOD AND APPARATUS FOR TRANSMITTING/RECEIVING PACKET DATA USING PRE-DEFINED LENGTH INDICATOR IN A MOBILE COMMUNICATION SYSTEM**

(75) Inventors: **Soeng-Hun Kim**, Suwon-si (KR); **Gert-Jan Van Lieshout**, Middlesex (GB); **Himke Van Der Velde**, Middlesex (GB)

(73) Assignee: **Samsung Electronics Co., Ltd.**, Suwon-Si (KR)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 908 days.

(21) Appl. No.: **11/417,219**

(22) Filed: **May 4, 2006**

(65) **Prior Publication Data**

US 2007/0060139 A1 Mar. 15, 2007

(30) **Foreign Application Priority Data**

May 4, 2005 (KR) 10-2005-0037774

(51) **Int. Cl.**
H04J 3/00 (2006.01)

(52) **U.S. Cl.** **370/473**; 370/474; 370/329

(58) **Field of Classification Search** 370/281, 370/295, 344, 252, 349, 470, 474, 469
See application file for complete search history.

(56) **References Cited**

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* cited by examiner

Primary Examiner—Ricky Ngo
Assistant Examiner—David Oveissi
(74) *Attorney, Agent, or Firm*—Roylance, Abrams, Berdo & Goodman, LLP

(57) **ABSTRACT**

A method and apparatus for enabling efficient use of radio resources by reducing an RLC PDU size in a mobile communication system supporting voice service over a packet network are provided. An RLC layer constructs an RLC PDU without inserting information indicating the start and end of an SDU or indicating the use or non-use of padding. The RLC layer sets an LI in a header to indicate inclusion of an intermediate SDU segment in the data field of the RLC PDU. Therefore, the resulting decrease of overhead arising from packet transmission facilitates the efficient use of limited radio resources.

18 Claims, 9 Drawing Sheets

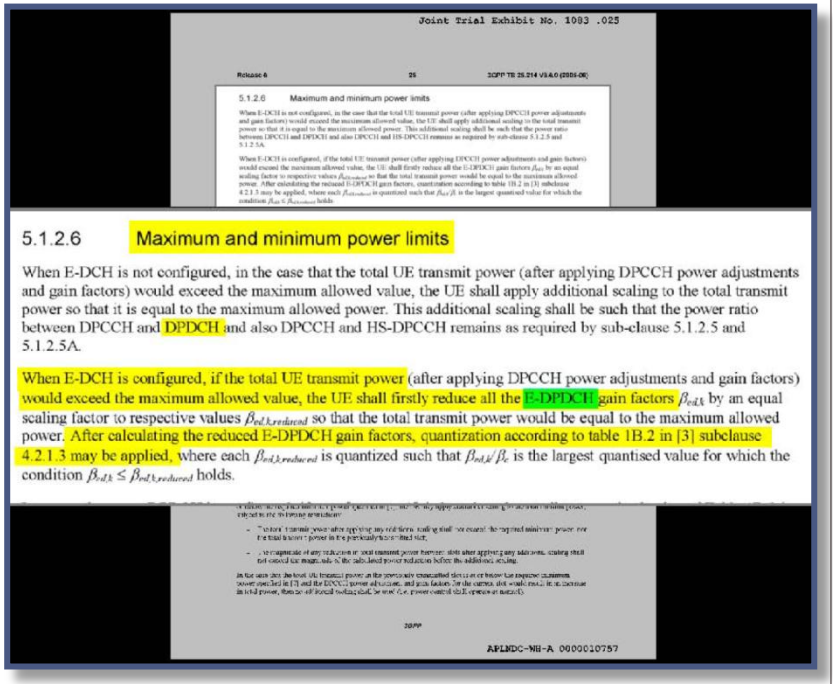
JX1070 ('941 Patent)

3G Standard

PX11.2

DX533.032

Testimony of Dr. Tim Williams


Joint Trial Exhibit No. 1083 .025

5.1.2.6 Maximum and minimum power limits

When E-DCH is not configured, in the case that the total UE transmit power (after applying DPCCH power adjustments and gain factors) would exceed the maximum allowed value, the UE shall apply additional scaling to the total transmit power so that it is equal to the maximum allowed power. This additional scaling shall be such that the power ratio between DPCCH and DPDCH and also DPCCH and HS-DPCCH remains as required by sub-clause 5.1.2.5 and 5.1.2.5A.

When E-DCH is configured, if the total UE transmit power (after applying DPCCH power adjustments and gain factors) would exceed the maximum allowed value, the UE shall firstly reduce all the E-DPDCH gain factors $\beta_{ed,k}$ by an equal scaling factor to respective values $\beta_{ed,k,reduced}$ so that the total transmit power would be equal to the maximum allowed power. After calculating the reduced E-DPDCH gain factors, quantization according to table 1B.2 in [3] subclause 4.2.1.3 may be applied, where each $\beta_{ed,k,reduced}$ is quantized such that $\beta_{ed,k}/\beta_c$ is the largest quantised value for which the condition $\beta_{ed,k} \leq \beta_{ed,k,reduced}$ holds.

APLNDC-WH-A 0000010757

SDX3966.104

18	Q AND THAT MAXIMUM ALLOWED POWER IS LIKE THE
19	PMAX THAT WE LOOKED AT?
20	A THAT'S THE BUDGETED AMOUNT OF POWER FOR THE
21	CHANNELS UNDER CONSIDERATION.
22	Q OKAY. GO AHEAD, SIR.
23	A AND THEN, SO IF THAT TEST IS TRUE, THEN WHAT
24	SHOULD THE MOBILE STATION DO OR THE UE DO? THE UE
25	SHALL FIRST REDUCE ALL THE E-DPDCH GAIN FACTORS.
1	SO THESE ARE THE GAINS OF THE GREEN
2	CHANNEL THAT I SHOWED YOU BEFORE, THAT CHANNEL THAT
3	HAS THE SPECIFIC CHARACTERISTIC OF RETRANSMISSION
4	BUILT INTO THE CHANNEL.

– Dr. Tim Williams, Trial Tr. at 2693:18-2694:4

Testimony of Dr. Hyong Kim

Dr. Hyong Kim
Apple's Expert

Q IN YOUR DIRECT EXAMINATION, YOU DIDN'T ADDRESS ANY OF THE INTEL DOCUMENTS, DID YOU? YES OR NO?

A NO.

Q AND YOU DIDN'T ADDRESS THE INTEL SOURCE CODE, DID YOU?

A NO.

Q YOU DON'T DISPUTE THE ACCURACY OF DR. WILLIAMS' DESCRIPTION OF HOW THOSE DOCUMENTS SHOW THE OPERATION OF THE CHIP, DO YOU, SIR?

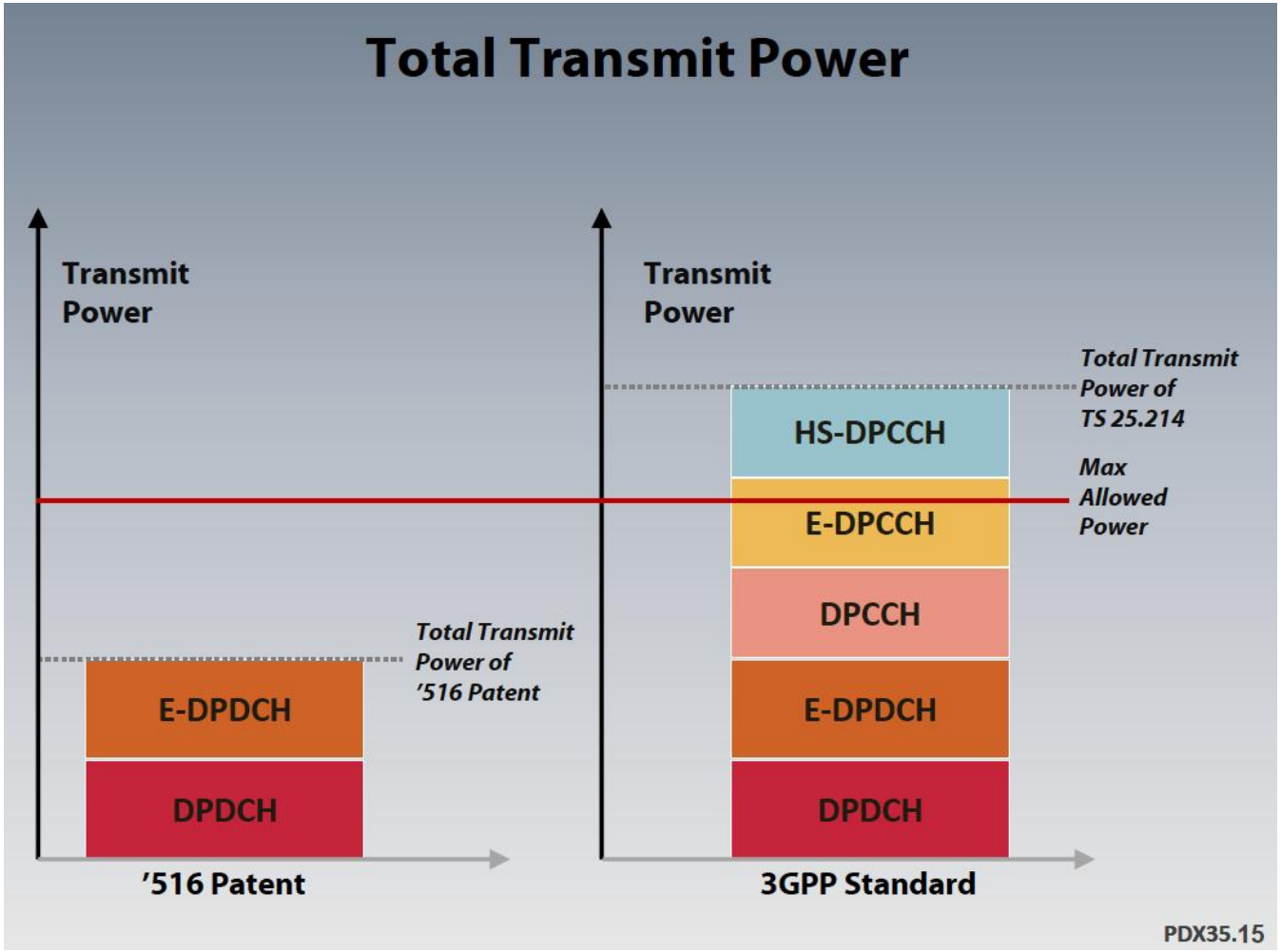
* * *

A WAIT. I DON'T DISPUTE.

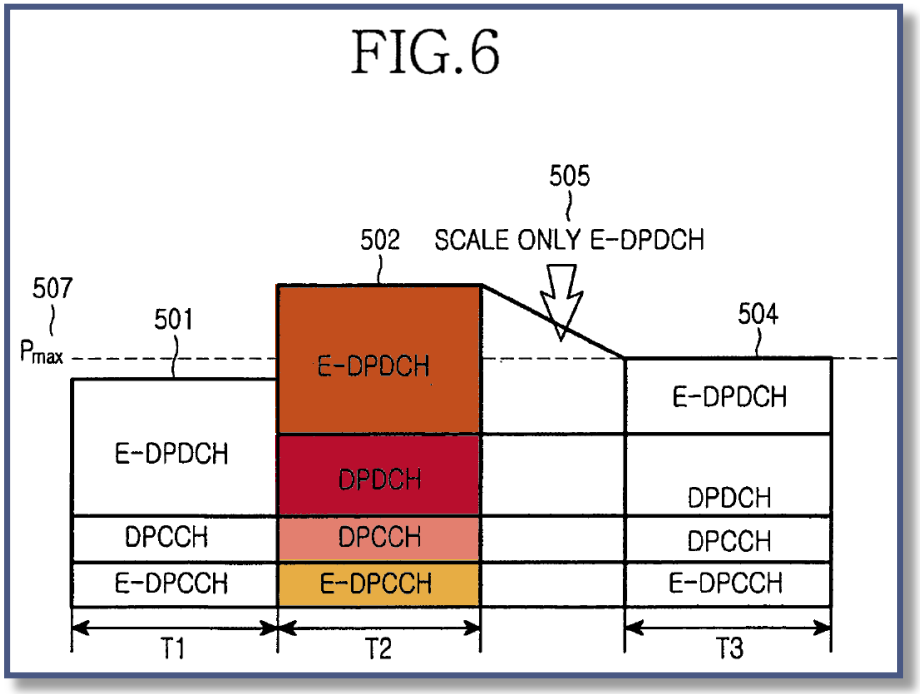
–Trial Tr. at 3433:7-15; 3433:24

Total Transmit Power

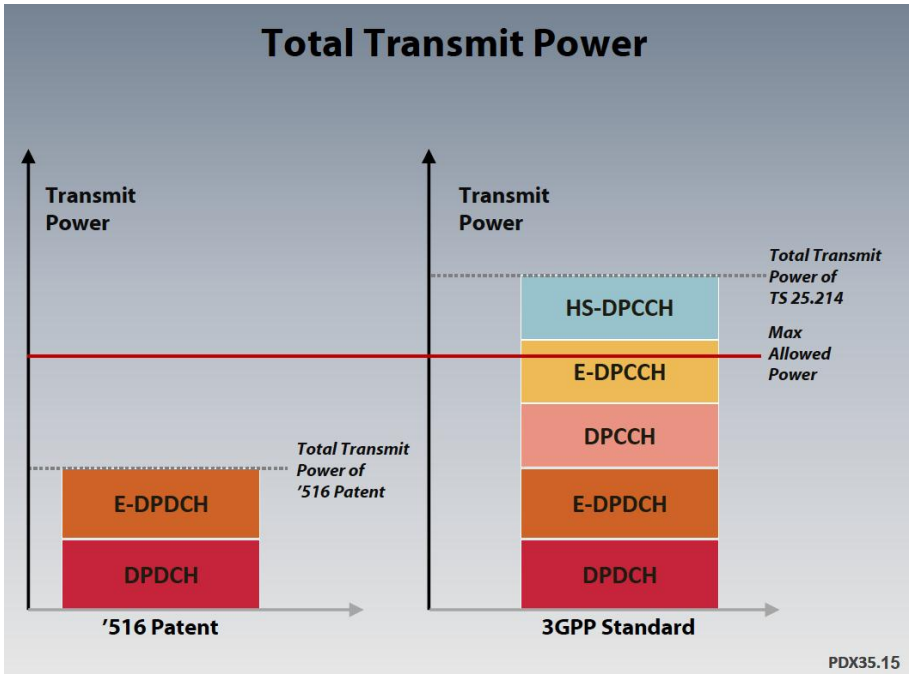
Dr. Hyong Kim
Apple's Expert



Total Transmit Power

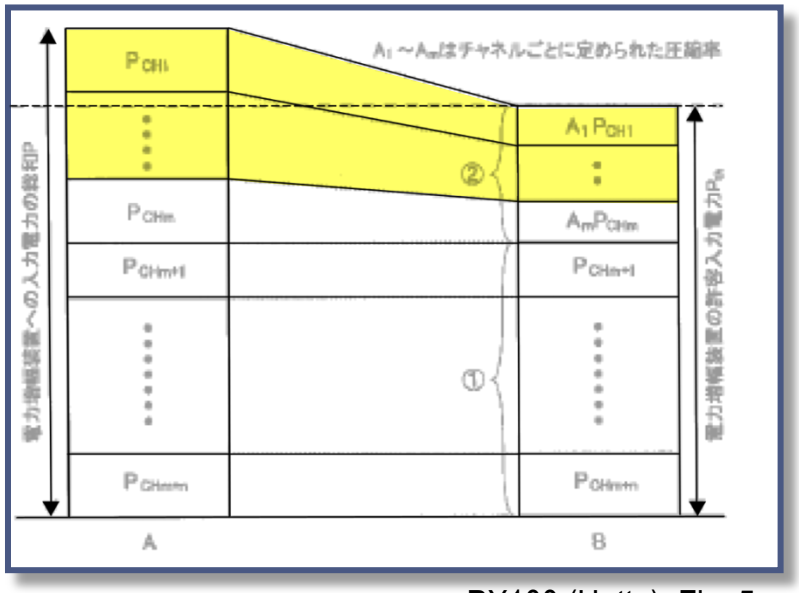


JX1073, '516 Patent, Fig. 6; SDX3966.009

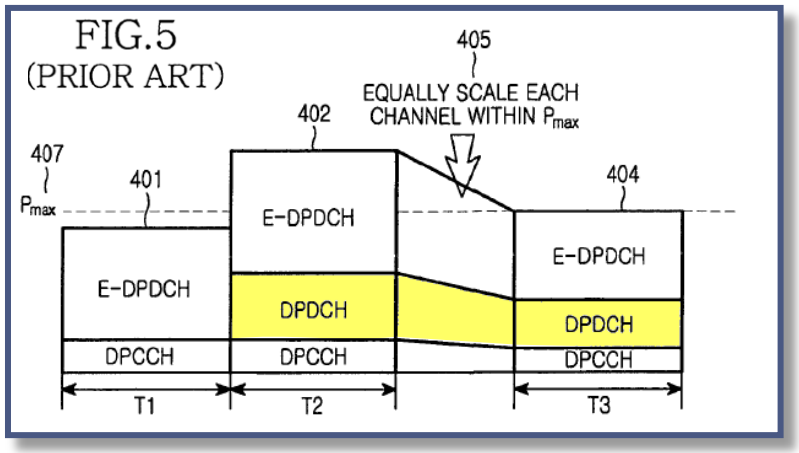


PDX35.15

Apple's Prior Art



PX100 (Hatta), Fig. 5



JX1073 ('516 Patent), Fig. 5

Q NOW, DR. KIM REFERENCED PRIOR ART FIGURES FROM THE '516 PATENTS, FIGURES 5 AND 6, AND SAID, WELL, YOU COULD COMBINE THOSE AND GET THE INVENTION IF YOU COMBINE THEM WITH HATTA. DO YOU REMEMBER THAT?

A YES.

Q DO YOU AGREE WITH THAT OPINION?

A ABSOLUTELY NOT.

Q EXPLAIN TO THE JURY WHY?

A HATTA IS DESCRIBING A PROBLEM. FIGURES 4 AND 5 ARE DESCRIBING A PROBLEM. IF YOU COMBINE TWO PROBLEMS TOGETHER, YOU DON'T GET A SOLUTION.

– Dr. Tim Williams, Trial Tr. at 3658:7-17

Testimony of Dr. Edward Knightly

Dr. Edward Knightly
Apple's Expert

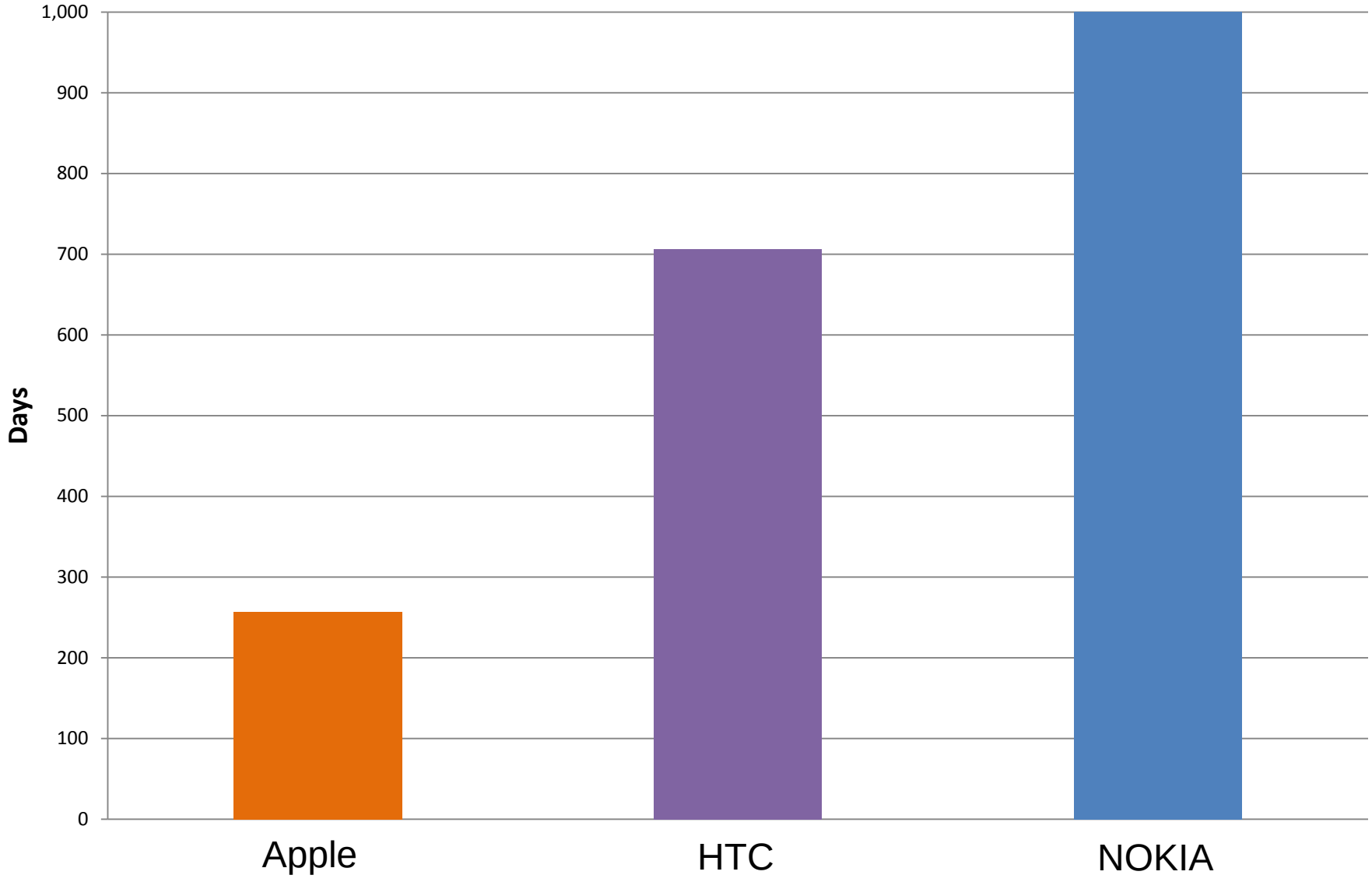
Q IN YOUR EXAMINATION, YOU DIDN'T MENTION IT?
A I REVIEWED SCORED, BUT I DIDN'T TALK ABOUT IT.
Q YOU DIDN'T GO THROUGH IT, DID YOU?
A NOT TODAY.
Q YOU DON'T DISPUTE THE ACCURACY OF DR. WILLIAMS' DESCRIPTIONS OF HOW THE INTEL CHIP WORKS, DO YOU, SIR?
A I AGREE WITH THE STEPS IN THE INTEL CODE, YES.

–Trial Tr. at 3462:17-24

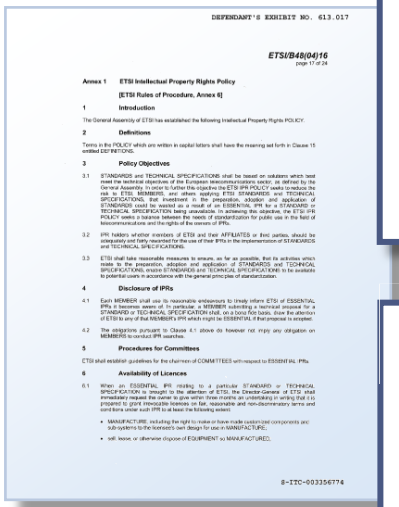
Testimony of Dr. Edward Knightly

PDX36.5-7

Apple, HTC, and Nokia Disclosure Delays in 2011



ETSI IPR Policy & ETSI Guide on IPRs


DEFENDANT'S EXHIBIT NO. 613.017

ETSI/B48(04)16

Annex 1 ETSI Intellectual Property Rights Policy

[ETSI Rules of Procedure, Annex 6]

1 Introduction

2 Definitions

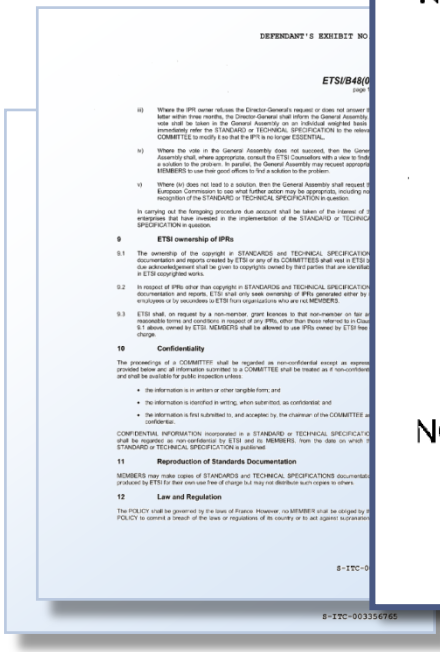
3 Policy Objectives

4 Disclosure of IPRs

5 Procedures for Committees

6 Availability of Licences

8-ITC-003356774


DEFENDANT'S EXHIBIT NO

ETSI/B48(0

9 ETSI ownership of IPRs

10 Confidentiality

11 Reproduction of Standards Documentation

12 Law and Regulation

8-ITC-003356765

4 Disclosure of IPRs

4.1 Each MEMBER shall use its reasonable endeavours to timely inform ETSI of ESSENTIAL IPRs it becomes aware of. In particular, a MEMBER submitting a technical proposal for a STANDARD or TECHNICAL SPECIFICATION shall, on a bona fide basis, draw the attention of ETSI to any of that MEMBER's IPR which might be ESSENTIAL if that proposal is adopted.

Exh. 613.017

2 Importance of timely disclosure of Essential IPRs

...

NOTE 1: Definitions for "Timeliness" or "Timely" cannot be agreed because such definitions would constitute a "change to the policy".

NOTE 2: The following description of Intentional Delay has been noted:

"Intentional Delay" has arisen when it can be demonstrated that an ETSI Member has deliberately withheld IPR disclosures significantly beyond what would be expected from normal considerations of "Timeliness".

This description of 'Intentional Delay' should be interpreted in a way that is consistent with the current ETSI IPR Policy. In complying with the requirements of timeliness under section 4.1 of the IPR Policy, Members are recommended to make IPR disclosures at the earliest possible time following their becoming aware of IPRs which may be essential.

NOTE 3: "Intentional Delay", where proven, should be treated as a breach of the IPR policy (clause 14) and can be sanctioned by the General Assembly.

Exh. 613.008-613.009

Testimony from Michael Walker

Michael Walker
Apple's Expert

Q YOU'RE NOT OFFERING AN OPINION HERE TODAY THAT SAMSUNG DELIBERATELY OR INTENTIONALLY DELAYED, ARE YOU, SIR?

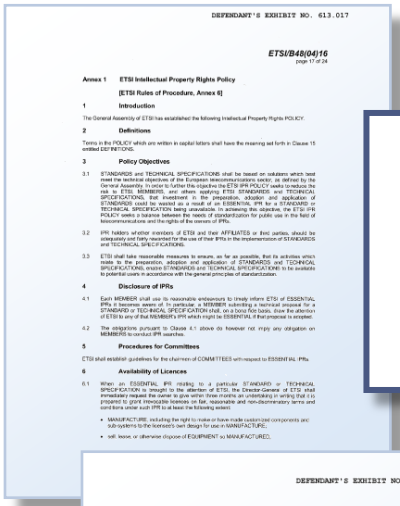
A I HAVE NOT USED THOSE WORDS, NO.

Q AND YOU'RE NOT OFFERING THAT OPINION, ARE YOU, SIR?

A NO, I AM NOT.

–Trial Tr. at 3520:21-3521:2

ETSI IPR Policy



DEFENDANT'S EXHIBIT NO. 613.017

ETSI/B48(04)16
page 17 of 24

Annex 1 ETSI Intellectual Property Rights Policy

[ETSI Rules of Procedure, Annex 6]

1 Introduction

The General Assembly of ETSI has established the following Intellectual Property Rights POLICY.

2 Definitions

Terms in the POLICY which are written in capital letters shall have the meaning set forth in Clause 15 entitled DEFINITIONS.

3 Policy Objectives

3.1 STANDARDS and TECHNICAL SPECIFICATIONS shall be based on solutions which best meet the technical objectives of the European telecommunications sector, as defined by the General Assembly. In order to further this objective the ETSI IPR POLICY seeks to reduce the risk to ETSI, MEMBERS, and others applying ETSI STANDARDS and TECHNICAL SPECIFICATIONS, that investment in the preparation, adoption and application of STANDARDS could be wasted as a result of an ESSENTIAL IPR for a STANDARD or TECHNICAL SPECIFICATION being unavailable. In achieving this objective, the ETSI IPR POLICY seeks a balance between the needs of standardization for public use in the field of telecommunications and the rights of the owners of IPRs.

3.2 IPR holders whether members of ETSI and their AFFILIATES or third parties, should be adequately and fairly rewarded for the use of their IPRs in the implementation of STANDARDS and TECHNICAL SPECIFICATIONS.

3.3 ETSI shall take reasonable measures to ensure, as far as possible, that its activities which make to the preparation, adoption and application of STANDARDS and TECHNICAL SPECIFICATIONS, enable STANDARDS and TECHNICAL SPECIFICATIONS to be available to potential users in accordance with the general principles of standardization.

4 Disclosure of IPRs

4.1 Each MEMBER shall use its reasonable endeavours to timely inform ETSI of ESSENTIAL IPRs it becomes aware of. In particular, a MEMBER submitting a technical proposal for a STANDARD or TECHNICAL SPECIFICATION shall, on a bona fide basis, draw the attention of ETSI to any of that MEMBER's IPR which might be ESSENTIAL if that proposal is adopted.

4.2 The obligations pursuant to Clause 4.1 above do however not imply any obligation on MEMBERS to conduct IPR searches.

5 Procedures for Committees

ETSI shall establish guidelines for the chairmen of COMMITTEES with respect to ESSENTIAL IPRs.

6 Availability of Licences

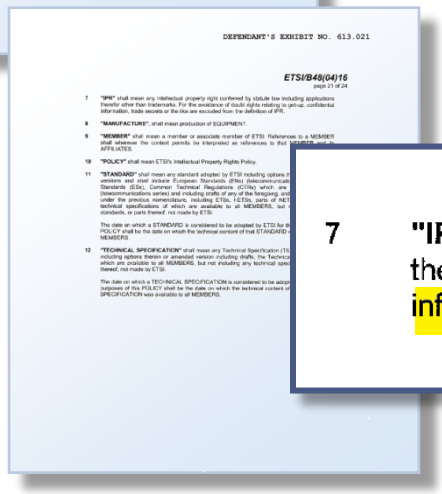
6.1 When an ESSENTIAL IPR relating to a particular STANDARD or TECHNICAL SPECIFICATION is brought to the attention of ETSI, the Director-General of ETSI shall immediately request the owner to give within three months an undertaking in writing that it is prepared to grant irrevocable licences on fair, reasonable and non-discriminatory terms and conditions under such IPR to at least the following extent:

- MANUFACTURE, including the right to make or have made customized components and sub-systems to the licensee's own design for use in MANUFACTURE;
- sell, lease, or otherwise dispose of EQUIPMENT so MANUFACTURED;

4 Disclosure of IPRs

4.1 Each MEMBER shall use its reasonable endeavours to timely inform ETSI of ESSENTIAL IPRs it becomes aware of. In particular, a MEMBER submitting a technical proposal for a STANDARD or TECHNICAL SPECIFICATION shall, on a bona fide basis, draw the attention of ETSI to any of that MEMBER's IPR which might be ESSENTIAL if that proposal is adopted.

Exh. 613.017



DEFENDANT'S EXHIBIT NO. 613.021

ETSI/B48(04)16
page 21 of 24

7 **"IPR"** shall mean any intellectual property right conferred by statute law including applications therefor other than trademarks. For the avoidance of doubt rights relating to get-up, confidential information, trade secrets or the like are excluded from the definition of IPR.

8 **"MANUFACTURE"**, shall mean production of EQUIPMENT.

9 **"MEMBER"** shall mean a member or associate member of ETSI. References to a MEMBER shall wherever the context permits be interpreted as references to that MEMBER and its AFFILIATES.

10 **"POLICY"** shall mean ETSI's Intellectual Property Rights Policy.

11 **"STANDARD"** shall mean any standard adopted by ETSI including options thereon or amended version including drafts, the Technical Specifications (ETSs), Common Technical Regulations (CTRs) which are (telecommunications series) and including drafts of any of the foregoing, and under the previous nomenclature, including ETSs, I-ETSs, parts of NET technical specifications of which are available to all MEMBERS, but standards, or parts thereof, not made by ETSI.

The date on which a STANDARD is considered to be adopted by ETSI for the POLICY shall be the date on which the technical content of that STANDARD MEMBERS.

12 **"TECHNICAL SPECIFICATION"** shall mean any Technical Specification (TS including options thereon or amended version including drafts, the Technical which are available to all MEMBERS, but not including any technical spec thereof, not made by ETSI.

The date on which a TECHNICAL SPECIFICATION is considered to be adop purposes of this POLICY shall be the date on which the technical content of SPECIFICATION was available to all MEMBERS.

S-ITC-003356778

7 "IPR" shall mean any intellectual property right conferred by statute law including applications therefor other than trademarks. For the avoidance of doubt rights relating to get-up, confidential information, trade secrets or the like are excluded from the definition of IPR.

Exh. 613.021

Testimony from Michael Walker

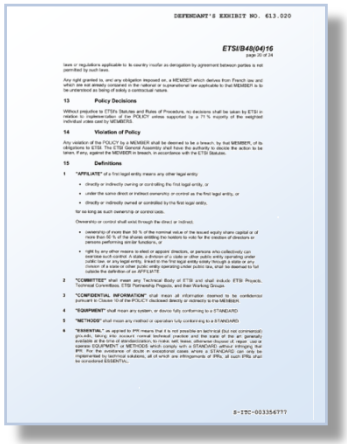
Michael Walker
Apple's Expert

Q AND IN ALL OF THOSE MEETINGS WHERE YOU ATTENDED AS A MEMBER OF THE WORKING GROUP, NEVER ONCE DID ANYBODY RAISE THEIR HAND AND SAY, HEY, I'VE GOT ESSENTIAL IPR. CORRECT?

A THAT IS CORRECT.

–Trial Tr. at 3521:21-25

ETSI IPR Policy & Testimony from Michael Walker



DEFENDANT'S EXHIBIT NO. 613.020

ETSI/B48(04)16

14 Violation of Policy

Any violation of the POLICY by a MEMBER shall be deemed to be a breach, by that MEMBER, of its obligations to ETSI. The ETSI General Assembly shall have the authority to decide the action to be taken, if any, against the MEMBER in breach, in accordance with the ETSI Statutes.

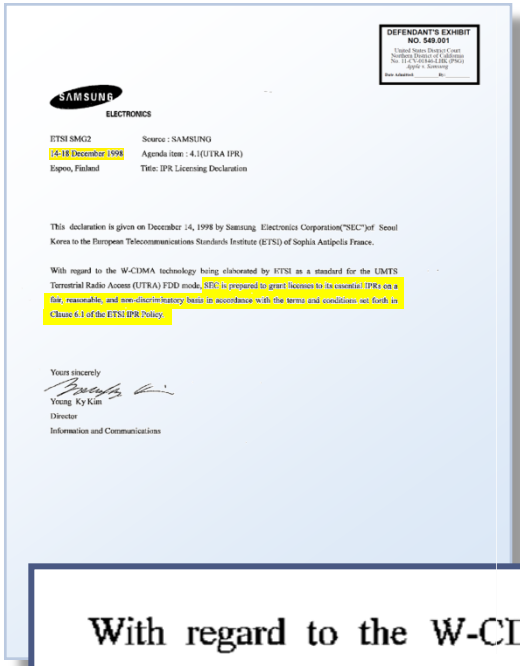
Exh. 613.020

Michael Walker
Apple's Expert

21	Q YOU HAVE NO OPINION AS TO WHETHER OR NOT,
22	UNDER SECTION 14, SAMSUNG VIOLATED THE ETSI POLICY;
23	CORRECT?
24	A CORRECT. AS FAR AS I KNOW, NO PROCESS HAS
25	TAKEN PLACE WITHIN ETSI TO DECIDE THAT.

–Tr. Transcript at 3525:21-25

Samsung's General IPR Declaration



DEFENDANT'S EXHIBIT
NO. 549.001
United States District Court
Northern District of California
No. 11-CV-01846-LHK (PSG)
Apple v. Samsung
Date Admitted _____ By: _____

SAMSUNG ELECTRONICS

ETSI SMG2
14-18 December 1998
Espoo, Finland

Source : SAMSUNG
Agenda item : 4.1(UTRA IPR)
Title: IPR Licensing Declaration

This declaration is given on December 14, 1998 by Samsung Electronics Corporation("SEC")of Seoul Korea to the European Telecommunications Standards Institute (ETSI) of Sophia Antipolis France.

With regard to the W-CDMA technology being elaborated by ETSI as a standard for the UMTS Terrestrial Radio Access (UTRA) FDD mode, SEC is prepared to grant licenses to its essential IPRs on a fair, reasonable, and non-discriminatory basis in accordance with the terms and conditions set forth in Clause 6.1 of the ETSI IPR Policy.

Yours sincerely

Young Ky Kim
Director
Information and Communications

14-18 December 1998

With regard to the W-CDMA technology being elaborated by ETSI as a standard for the UMTS Terrestrial Radio Access (UTRA) FDD mode, SEC is prepared to grant licenses to its essential IPRs on a fair, reasonable, and non-discriminatory basis in accordance with the terms and conditions set forth in Clause 6.1 of the ETSI IPR Policy.

Exh. 549.001

Samsung Licensing Partners

Alcatel·Lucent

ERICSSON

MOTOROLA

NOKIA

SIEMENS

NEC

DX630

Testimony from Michael Walker

Michael Walker
Apple's Expert

Q NOW, UNDER THIS FRAND PROVISION, WHAT DOES THE PATENT OWNER GET?

A WELL, THE PATENT OWNER GETS, IF HE HAS FRAND ON IPR WHICH IS ESSENTIAL TO WORKING WITH THAT STANDARD, THEN ANYBODY WHO WISHES TO IMPLEMENT THE STANDARD IS REQUIRED TO COME AND GET A LICENSE UNDER FRAND TERMS FROM THE OWNER OF THAT IPR.

–Trial Tr. at 3488:13-19

Testimony from Michael Walker

Michael Walker
Apple's Expert

Q NOW, YOU TALKED A LITTLE BIT ABOUT FRAND.

ISN'T IT TRUE, SIR, YOU HAVE NO OPINION TO PRESENT TO THIS JURY WITH RESPECT TO WHETHER SAMSUNG HAS MADE A FRAND OFFER OR NOT?

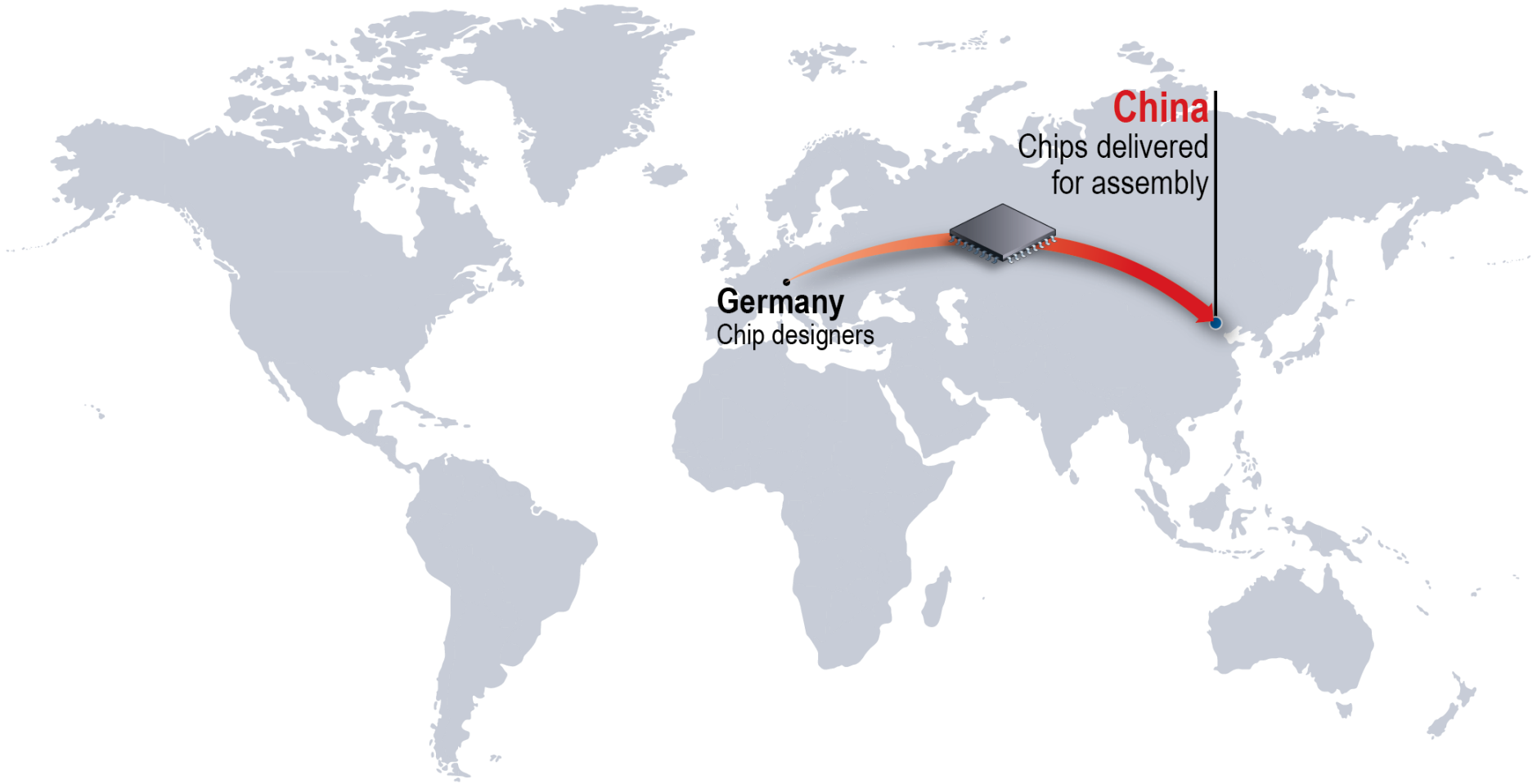
A I'M DEALING WITH DISCLOSURE AT THE MOMENT, YES.

Q SO THE ANSWER IS YES?

A YES.

–Trial Tr. at 3525:1-8

Intel Baseband Processors



Apple Paid Mr. Musika's Firm $1.75 Million

Terry Musika
Invotex Group

INVOICE

From: Invotex Group

To: Apple, Inc.

DESCRIPTION	TAXED	AMOUNT

Subtotal	$
Taxable	$
Tax rate	
Tax due	$
Other	$

OTHER COMMENTS
1. Total payment due in 30 days
2. Please include the invoice number on your check

Amount: $1,750,000

Total Profits Subtracts Total Costs

Total Revenues
– Total Costs

Total Profits

Total Costs Include:

- Cost of Goods Sold
- Operating Expenses
  - Sales Expenses
  - Marketing
  - R&D Expenses
  - General & Administrative

Testimony of Michael Wagner

Michael Wagner
Samsung's Expert

Q LET ME ASK YOU, DID MR. MUSIKA, IN HIS CALCULATIONS, DEDUCT THESE EXPENSES, SALES, MARKETING, R&D?

A NOT ONE PENNY.

Q SO NOT A PENNY OF ADVERTISING?

A NO.

Q NOT A PENNY OF RESEARCH AND DEVELOPMENT?

A NO.

–Trial Tr. at 3025:1-8

Testimony of Michael Wagner

Michael Wagner
Samsung's Expert

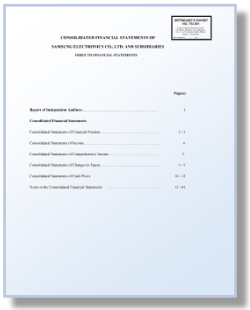
Q LET ME ASK YOU, YOU'VE SEEN APPLE'S 10-K'S, THEIR FINANCIALS?
A I HAVE.
Q AND DO THEY DEDUCT THESE EXPENSES ON THEIR FINANCIALS?
A THEY CERTAINLY DO.

...

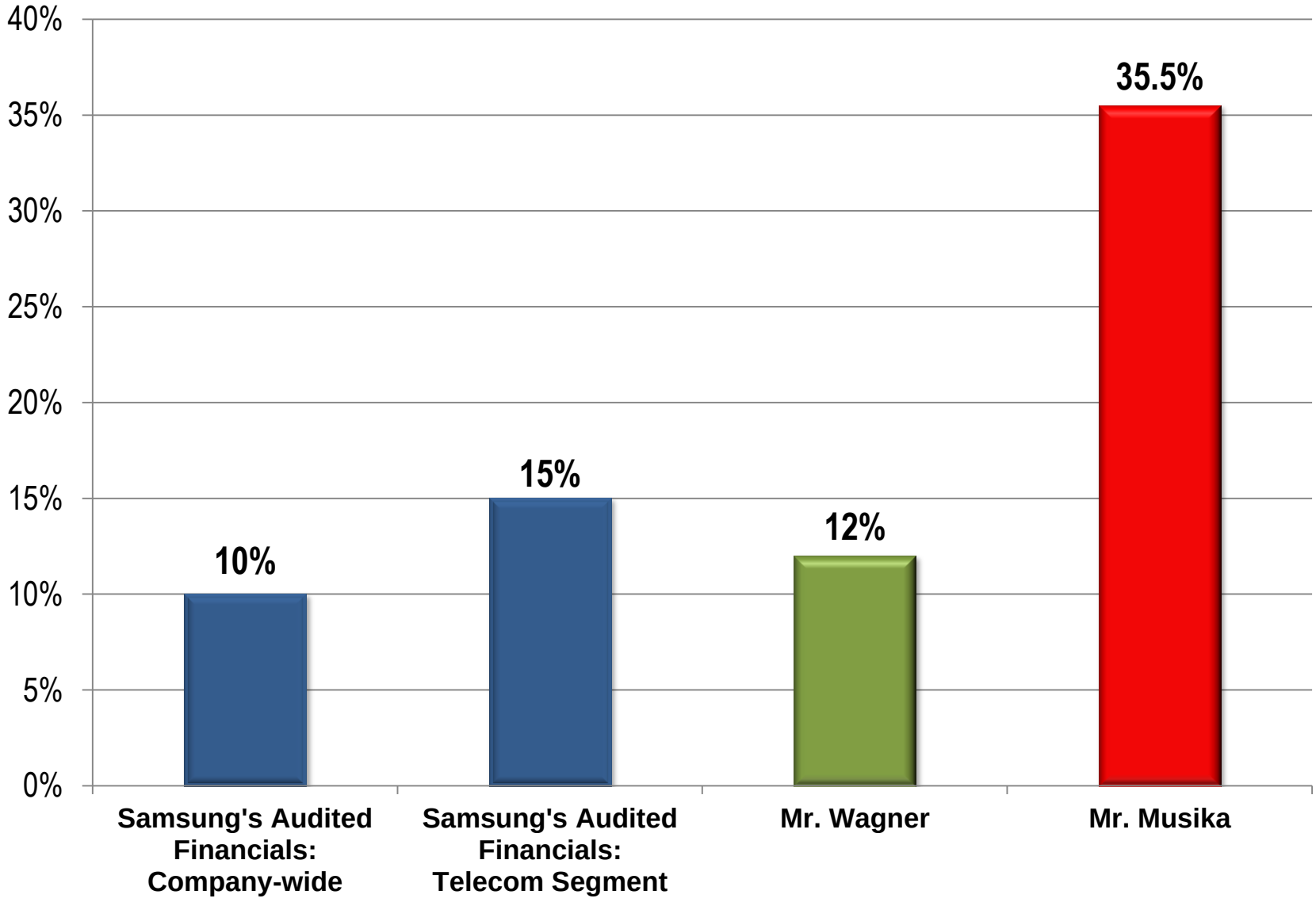
Q AND YOU ALSO LOOKED AT SAMSUNG'S AUDITED CONSOLIDATED FINANCIALS?
A I HAVE. THEY DO EXACTLY THE SAME THING.

–Trial Tr. at 3025:9-14; 3027:13-15

Audited Financial Statements Deduct Costs

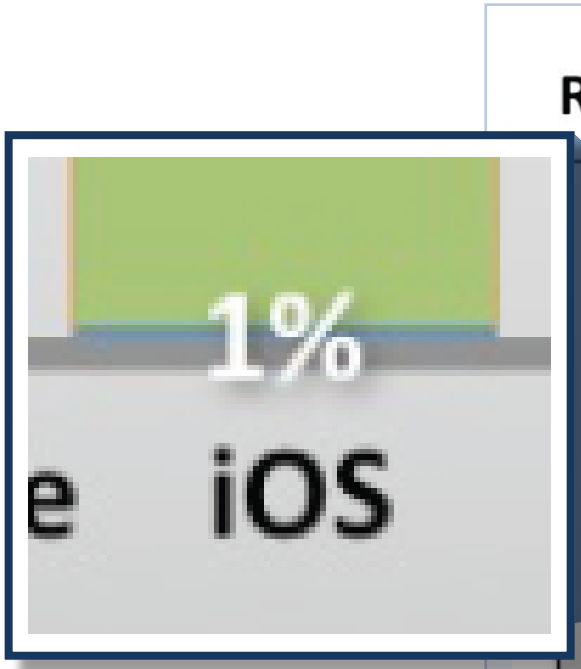
	Ex. 754 **Apple's Audited Statements**	 Ex. 753 **Samsung's Audited Statements**	**Wagner**	**Musika**
Deducts costs of sales	**YES**	**YES**	**YES**	**NO**
Deducts advertising costs	**YES**	**YES**	**YES**	**NO**
Deducts R&D costs	**YES**	**YES**	**YES**	**NO**
Deducts allocated operating costs	**YES**	**YES**	**YES**	**NO**

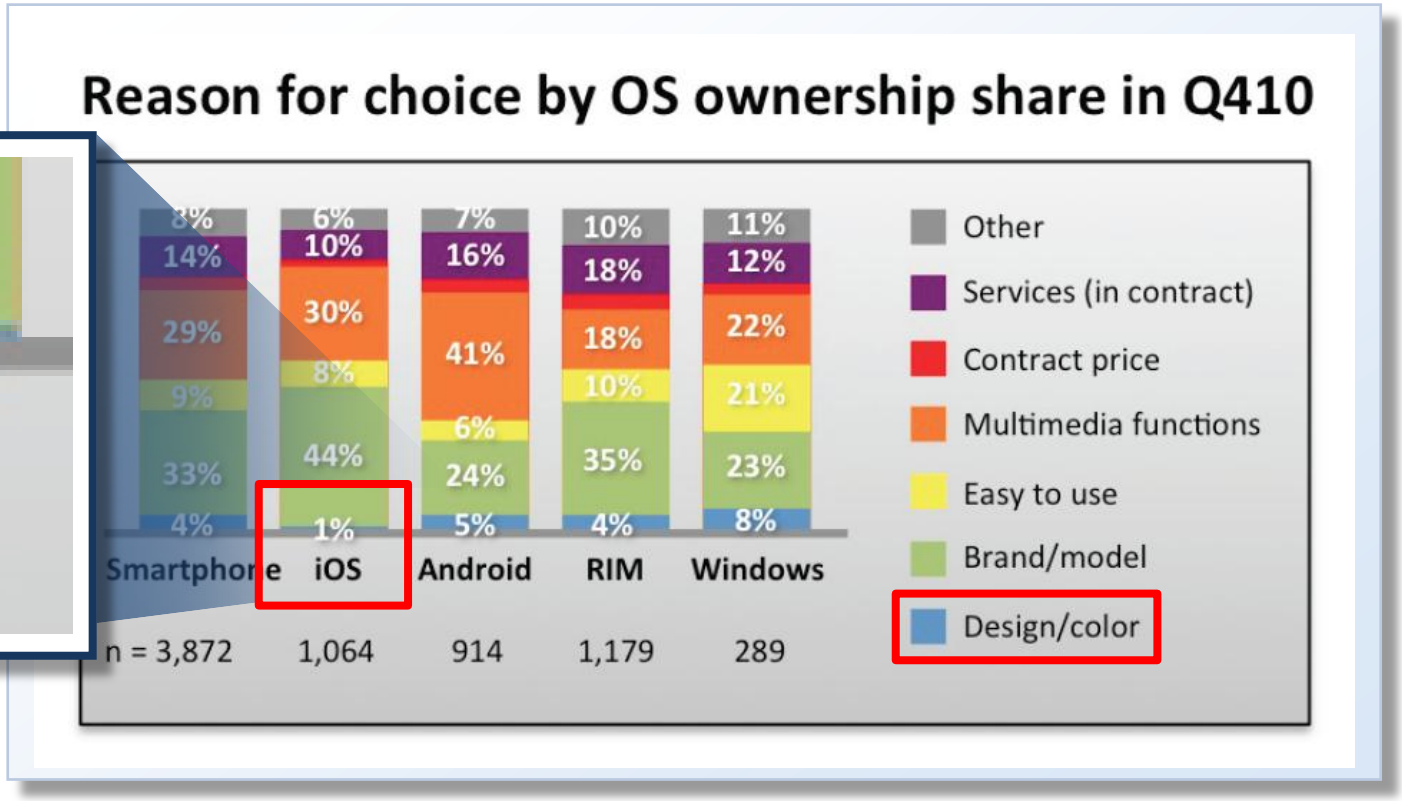
Mr. Musika's Opinion on Total Profits Is too High



Design Is a Small Percentage of Why Consumers Buy

- Apple's own surveys confirm that "design/color" is only a small percentage (1%) of the reason for purchase





Exh. 592.023

Apple Would Not Have Made Additional Sales

- Consumers have many choices of phones not accused by Apple

Samsung Nexus S

Motorola Droid X

HTC EVO 4G

LG Optimus 3D

BlackBerry Storm 2 9550

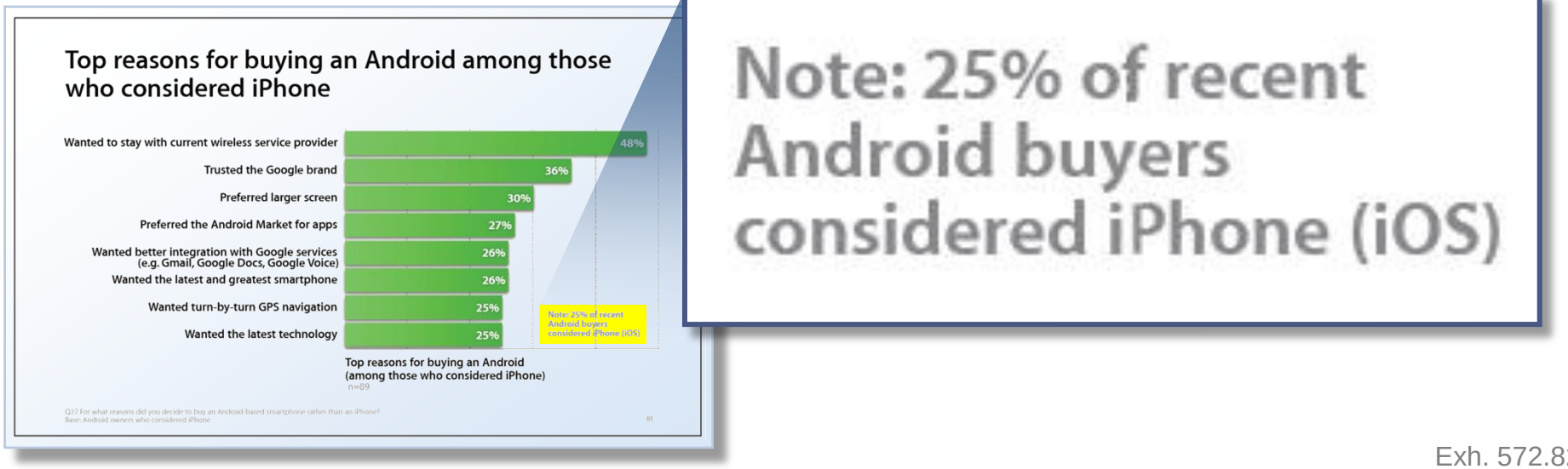
Source: Ex. 712

Testimony of Michael Wagner

Michael Wagner
Samsung's Expert

2	Q IF YOU CAN PUT 572.082 AND BLOW THAT UP, AND
3	WHAT PERCENTAGE OF SAMPLE PURCHASERS, BEING AN
4	ANDROID PHONES DIDN'T CONSIDER APPLE?
5	A 75 PERCENT. THE VAST MAJORITY DIDN'T THINK
6	ABOUT APPLE AS A REALISTIC ALTERNATIVE WHEN THEY
7	MADE THEIR DECISION.

–Trial Tr. at 3041:2-7



Exh. 572.82

Testimony of Michael Wagner

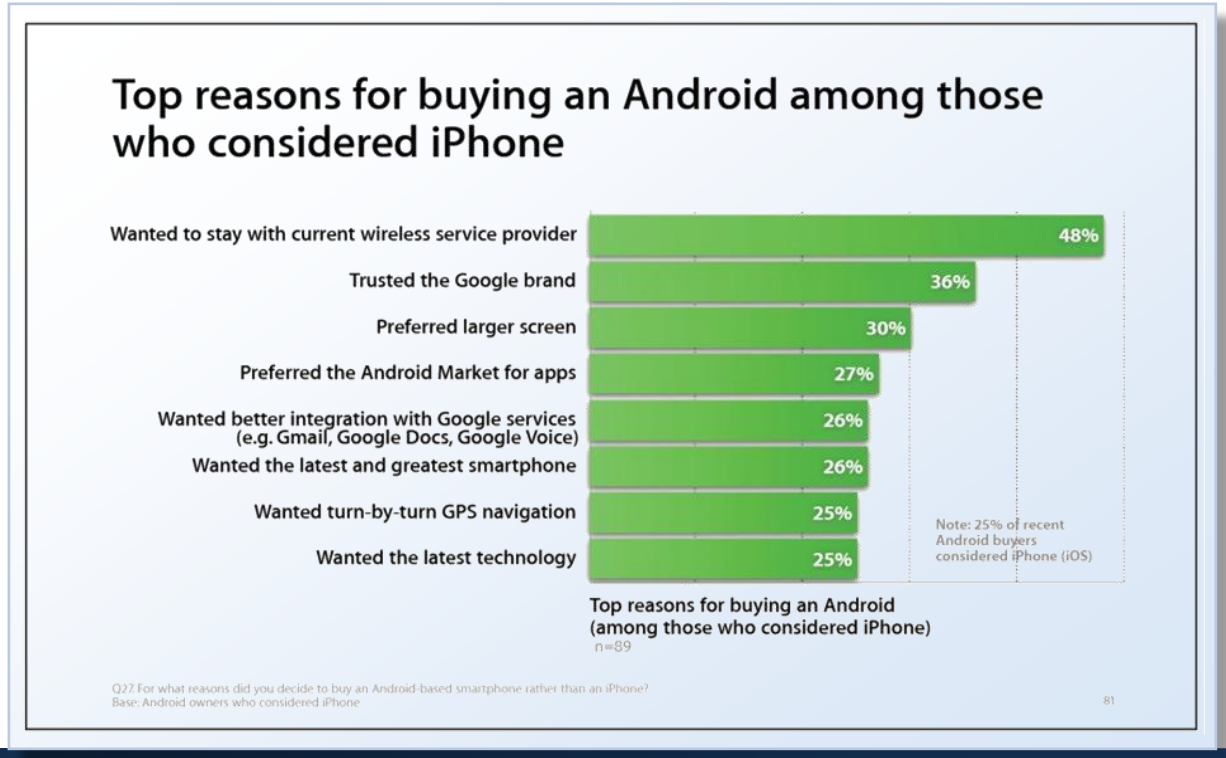
Michael Wagner
Samsung's Expert

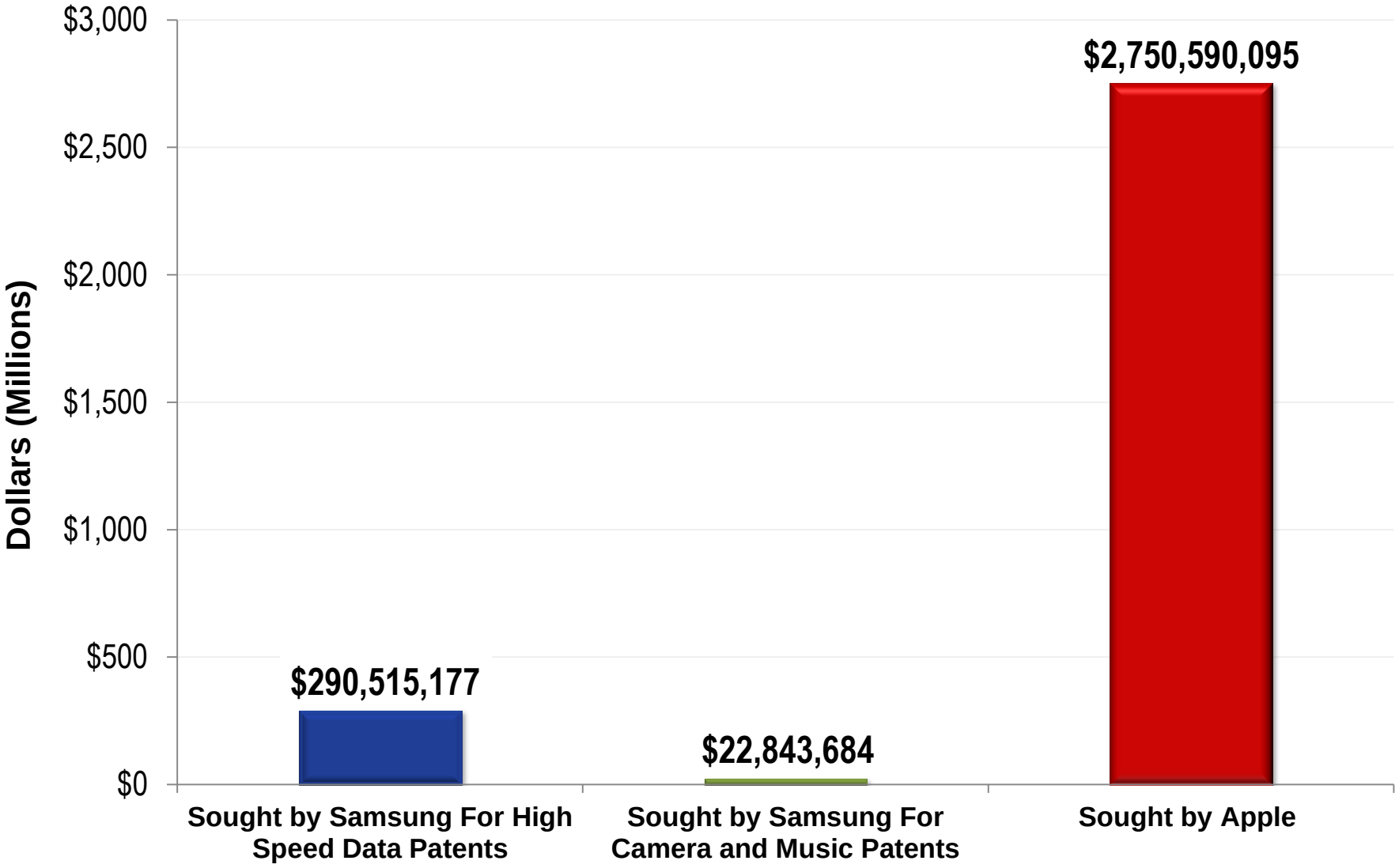
11 Q AND OF THOSE TWO, WHO EVEN CONSIDERED AN
12 IPHONE, YOU KNOW, WHAT KIND OF FEATURES WERE
13 IMPORTANT TO THEM?

...

17 THEY HAVE TO DO WITH FUNCTIONALITY AND
18 CARRIERS AND THINGS LIKE THAT AND BRAND, NOTHING TO
19 DO WITH THE PHYSICAL APPEARANCE OF THE PHONE THAT
20 THEY BOUGHT.

– Trial Tr. at 3041:11-20



Exh. 572.82

Samsung Seeks Reasonable Royalties While Apple Seeks Billions More Than Samsung's Total Profits on Accused Products