

Exhibit A

EXHIBIT 3
FILED UNDER SEAL

UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, DC

Before The Honorable Thomas B. Pender
Chief Administrative Law Judge

In the Matter of:

Certain Electronic Digital Media Devices and
Components Thereof

Investigation No. 337-TA-796

**RESPONDENT SAMSUNG ELECTRONICS CO., LTD.'S EIGHTH SET OF
SUPPLEMENTAL RESPONSES TO COMPLAINANT'S FIRST SET OF
INTERROGATORIES (NOS. 33-38)**

Preliminary Statement

Samsung Electronics Co., Ltd. ("SEC" or "Respondent") has made a reasonable investigation for information responsive to Apple Inc.'s ("Complainant") Interrogatories based upon its current employees' knowledge, information, and belief and based on the limited time since Complainant served those interrogatories. Respondent's investigation of the facts and law pertaining to this action is ongoing. Respondent expects that it will supplement or modify its responses and nothing herein should be interpreted to the contrary or to otherwise prejudice Respondent's ability to do so. Respondent reserves all available rights to use or introduce at any hearing, or at trial, information and/or documents responsive to Complainant's Interrogatories that is discovered after the date of this response. Respondent reserves all objections or other questions as to the competency, relevance, materiality, privilege, or admissibility in any proceeding or trial of this or any other action for any purpose whatsoever of Respondent's responses herein and any document or thing identified or provided in response to Complainant's

Interrogatories. Respondent provides these written responses to Complainant's Interrogatories subject to the general and specific objections stated below.

General Objections

The following general objections apply to each and every interrogatory propounded by Complainant and are incorporated into each of the following responses by reference as if set forth fully therein.

1. Respondent objects to the Interrogatories, and the instructions and definitions that accompany them, to the extent that they are premature.

2. Respondent objects to the Interrogatories, and the instructions and definitions that accompany them, to the extent that they seek to impose obligations and demands on SEC that are greater than or more extensive than those required by 19 U.S.C. § 1337, Code of Federal Regulations Title 19 Rules 201.16 and Part 210, the August 5, 2011 Ground Rules entered in this matter, or any other applicable rule or regulation.

3. Respondent objects to the Interrogatories, and the instructions and definitions that accompany them, to the extent that they seek information subject to attorney-client privilege, attorney work product immunity, or other privilege or immunity against disclosure. Such information will not be provided in response to the Interrogatories, and any inadvertent disclosure thereof shall not be deemed a waiver of any privilege with respect to such information or of any work product doctrine protections that may attach thereto.

4. Respondent objects to the Interrogatories, and the instructions and definitions that accompany them, to the extent they purport to require the production of proprietary and

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confidential information of any third parties to whom Respondent may be under obligations of confidentiality without adequately protecting that information.

5. Respondent objects to the Interrogatories, and the instructions and definitions that accompany them, to the extent they are vague, ambiguous, unintelligible, overly broad, unduly burdensome, oppressive, harassing, or seek information that is not relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence.

6. Respondent objects to the Interrogatories, and the instructions and definitions that accompany them, to the extent they seek information that is available through public sources or are known to Respondent.

7. Respondent objects to the Interrogatories, and the instructions and definitions that accompany them, to the extent they call for legal conclusions.

8. Respondent objects to the Interrogatories to the extent they contain discrete subparts improperly grouped as a single interrogatory. Respondent reserves its right to assert that Complainant's Interrogatories exceed the 175 interrogatory limit that applies in this action.

9. Respondent objects to the definitions of "You," "Your," "SEC," and "Respondent" in the "Definitions" section of the Interrogatories, on the basis that they are overbroad, unduly burdensome, and purport to place discovery obligations upon SEC that exceed those required by 19 U.S.C. § 1337, Code of Federal Regulations Title 19 Rules 201.16 and Part 210, the August 5, 2011 Ground Rules entered in this matter, or any other applicable rule or regulation. Respondent submits these responses on its own behalf and does not speak for other entities.

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10. Respondent objects to the definition of “Related Patent(s)” as overbroad, vague and ambiguous, burdensome, and as seeking information that is not relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence. Respondent will respond to any request containing the term “Related Patent(s)” and specifically reserves the right to object to any allegation or conclusion made by Complainant relating to any discovery responses made in response to any requests containing this term.

11. Respondent objects to the definition of “Hardware Design” as overbroad, vague and ambiguous, burdensome, and as seeking information that is not relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence, and as drawing a legal conclusion.

12. Respondent objects to the definition of “Graphical User Interface Design” as overbroad, vague and ambiguous, burdensome, and as seeking information that is not relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence, and as drawing a legal conclusion.

13. Respondent objects to the definition of “Samsung Device” as overbroad, vague and ambiguous, burdensome, and as seeking information that is not relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence, and as drawing a legal conclusion.

14. Apple provided a definition of “Touchscreen Device” in its First Set of Interrogatories to which Samsung objected as overbroad, vague and ambiguous, burdensome, and as seeking information that is not relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence, and as drawing a legal conclusion.

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Respondent and Apple met and conferred regarding these objections, and Apple provided a different definition. Respondent objects to Apple's new definition of "Touchscreen Device" as overbroad, vague and ambiguous, burdensome, and as seeking information that is not relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence, and as drawing a legal conclusion.

15. Apple provided a definition of "Translucent Display Device" in its First Set of Interrogatories to which Samsung objected as overbroad, vague and ambiguous, burdensome, and as seeking information that is not relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence, and as drawing a legal conclusion. Respondent and Apple met and conferred regarding these objections, and Apple provided a different definition. Respondent objects to Apple's new definition of "Translucent Display Device" as overbroad, vague and ambiguous, burdensome, and as seeking information that is not relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence, and as drawing a legal conclusion.

16. Apple provided a definition of "Cantilevered Push Button Device" in its First Set of Interrogatories to which Samsung objected as overbroad, vague and ambiguous, burdensome, and as seeking information that is not relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence, and as drawing a legal conclusion. Respondent and Apple met and conferred regarding these objections, and Apple provided a different definition. Respondent objects to Apple's new definition of "Cantilevered Push Button Device" as overbroad, vague and ambiguous, burdensome, and as seeking information that is not relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence, and as drawing a legal conclusion.

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17. Apple provided a definition of “Headphone Device” in its First Set of Interrogatories to which Samsung objected as overbroad, vague and ambiguous, burdensome, and as seeking information that is not relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence, and as drawing a legal conclusion. Respondent and Apple met and conferred regarding these objections, and Apple provided a different definition. Respondent objects to Apple's new definition of "Headphone Device" as overbroad, vague and ambiguous, burdensome, and as seeking information that is not relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence, and as drawing a legal conclusion.

18. Apple provided a definition of “Design Device” in its First Set of Interrogatories to which Samsung objected as overbroad, vague and ambiguous, burdensome, and as seeking information that is not relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence, and as drawing a legal conclusion. Respondent and Apple met and conferred regarding these objections, and Apple provided a different definition in its August 29 letter. Respondent objects to Apple's new definition of "Design Device" as overbroad, vague and ambiguous, burdensome, and as seeking information that is not relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence, and as drawing a legal conclusion.

19. Apple provided a definition of “Electronic Media Device” in its First Set of Interrogatories to which Samsung objected as overbroad, vague and ambiguous, burdensome, and as seeking information that is not relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence, and as drawing a legal conclusion. Respondent and Apple met and conferred regarding these objections, and Apple provided a

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different definition. Respondent objects to Apple's new definition of "Electronic Media Device" as overbroad, vague and ambiguous, burdensome, and as seeking information that is not relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence, and as drawing a legal conclusion.

20. Respondent objects to the definition of "identify" when used with respect to a person or entity as overbroad, burdensome, and as seeking information that is not relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence.

21. Respondent objects to the definition of "identify" when used with respect to a document, subject to the option to produce records under 19 C.F.R. § 210.29(c).

22. Respondent objects to the Interrogatories to the extent that they seek information not within the possession, custody or control of Respondent. An objection on this ground does not constitute a representation or admission that such information does, in fact, exist.

23. Except for explicit facts admitted in these responses, no incidental or implied admissions are intended and these responses shall not be construed to be a waiver by SEC of all or any part of any objection to the Interrogatories.

24. Respondent objects to the Interrogatories as premature to the extent they call for responses that are the subject of expert testimony and the parties have not yet engaged in expert discovery or exchanged expert witness reports.

25. Respondent has made a reasonable investigation for information responsive to the Interrogatories. Respondent is still investigating and analyzing the facts and law pertaining to

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this action and has not yet completed its investigation. Respondent's responses are made without prejudice to Respondent's right to later supplement, modify or otherwise change or amend these responses. The information contained in these responses is also subject to correction for omissions or errors.

26. Respondent objects to the manner of responding that the Interrogatories purport to specify and the instructions and definitions that accompany them. Respondent will respond to the Interrogatories in a manner that conforms to 19 U.S.C. § 1337, Code of Federal Regulations Title 19 Rules 201.16 and Part 210, the August 5, 2011 Ground Rules entered in this matter, or any other applicable rule or regulation.

27. Respondent objects to each interrogatory as compound to the extent it contains multiple sub-parts.

28. Any objection by Respondent does not constitute a representation or admission that such information does in fact exist or is known to Respondent.

RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1:

Identify each Electronic Media Device and state whether it is a Touchscreen Device, Translucent Display Device, Cantilevered Push Button Device, Headphone Device, and/or Design Device.

RESPONSE TO INTERROGATORY NO. 1:

SEC incorporates each of its general objections by reference. SEC objects to this request as vague and ambiguous, in particular with respect to the terms "Touchscreen Device,"

or a related field and at least one year work experience designing electrical circuits for audio processing.

SEC is continuing to investigate the subject matter of this interrogatory and reserves the right to supplement its response to the extent it locates any non-privileged, relevant documents or information responsive to this interrogatory.

INTERROGATORY NO. 36:

If you contend that any Asserted Claim is invalid, describe with particularity the legal and factual basis for that contention by, without limitation, identifying the statutory bases for your contention and for any claim allegedly invalid under 35 U.S.C. § 102 or § 103, identifying the Prior Art, combinations of prior art, and other documents that you contend render the Asserted Claim invalid, providing claim charts for each Prior Art or combination of Prior Art specifically setting forth where each limitation of the claim is disclosed, stating the alleged motivation to combine any Prior Art, and identifying all documents concerning, and the three SEC employees most knowledgeable about, your contention.

RESPONSE TO INTERROGATORY NO. 36:

SEC incorporates each of its general objections by reference. SEC objects to this request as vague and ambiguous. SEC further objects to this request as overbroad and unduly burdensome. SEC further objects to this request to the extent it calls for information protected from discovery by the attorney-client privilege and/or the work product doctrine. SEC objects to this interrogatory to the extent it seeks information as accessible to Complainant as to SEC. SEC further objects to this interrogatory to the extent that information relevant to this interrogatory is in the possession of Complainant and not yet produced to SEC. Respondent objects to this request as being premature to the extent it calls for information prior to the schedule set by the Court for the disclosure of such information, including to the extent that it seeks information that

is more properly the subject of expert testimony prior the time set for expert discovery by the Court. SEC further objects to this request as calling for legal conclusions. SEC objects to this request to the extent it seeks information more appropriately sought through other forms of discovery, such as by request for production of documents.

Without waiving the foregoing general and specific objections and subject to those objections, SEC responds as follows:

After all parties to this Investigation have met and conferred for purposes of deciding on a mutually-agreed joint schedule for the mutual exchange of information sought by interrogatories served by any Party, including this interrogatory, that seek information as described in 19 C.F.R. § 210.29(b)(3), SEC will supplement its response to this interrogatory in accordance with such joint schedule.

SEC is continuing to investigate the subject matter of this interrogatory and reserves the right to supplement its response to the extent it locates additional non-privileged, relevant documents or information responsive to this interrogatory and to the extent Complainant produces to SEC materials or information relevant to this request.

FIRST SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 36 (9/9/2011):

Respondent incorporates by references its prior response and objections. Subject to the foregoing general and specific objections, Respondent supplements its response to this interrogatory as follows:

Each of the asserted claims of the '949 patent are invalid under Sections 102 and/or 103 of Title 35 of the United States Code as anticipated by or obvious in light of the prior art. In particular, the asserted claims of this asserted patent are anticipated or obvious taken alone or in

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combination with at least the references listed in Exhibit B to Samsung's Response to the Complaint filed in this Investigation, which Respondent incorporates by reference.

Each of the asserted claims of the '922 patent are invalid under Sections 102 and/or 103 of Title 35 of the United States Code as anticipated by or obvious in light of the prior art. In particular, the asserted claims of this asserted patent are anticipated or obvious taken alone or in combination with at least the references listed in Exhibit C to Samsung's Response to the Complaint filed in this Investigation, which Respondent incorporates by reference.

Each of the asserted claims of the '533 patent are invalid under Sections 102 and/or 103 of Title 35 of the United States Code as anticipated by or obvious in light of the prior art. In particular, the asserted claims of this asserted patent are anticipated or obvious taken alone or in combination with at least the references listed in Exhibit D to Samsung's Response to the Complaint filed in this Investigation, which Respondent incorporates by reference.

Each of the asserted claims of the '697 patent are invalid under Sections 102 and/or 103 of Title 35 of the United States Code as anticipated by or obvious in light of the prior art. In particular, the asserted claims of this asserted patent are anticipated or obvious taken alone or in combination with at least the references listed in Exhibit E to Samsung's Response to the Complaint filed in this Investigation, which Respondent incorporates by reference.

Each of the asserted claims of the '501 patent are invalid under Sections 102 and/or 103 of Title 35 of the United States Code as anticipated by or obvious in light of the prior art. In particular, the asserted claims of this asserted patent are anticipated or obvious taken alone or in combination with at least the references listed in Exhibit F to Samsung's Response to the Complaint filed in this Investigation, which Respondent incorporates by reference.

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The asserted claim of the D'757 patent is invalid under Sections 102 and/or 103 of Title 35 of the United States Code as anticipated by or obvious in light of the prior art. In particular, the asserted claim of this asserted patent is anticipated or obvious taken alone or in combination with at least the references listed in Exhibit G to Samsung's Response to the Complaint filed in this Investigation, which Respondent incorporates by reference.

The asserted claim of the D'678 patent is invalid under Sections 102 and/or 103 of Title 35 of the United States Code as anticipated by or obvious in light of the prior art. In particular, the asserted claim of this asserted patent is anticipated or obvious taken alone or in combination with at least the references listed in Exhibit H to Samsung's Response to the Complaint filed in this Investigation, which Respondent incorporates by reference.

Each of the asserted claims of the '949, '922, '533, '697, '501, D'757, and D'678 patents are also invalid under Section 102(f) of Title 35 of the United States Code.

Each of the asserted claims of the '949, '922, '533, '697, '501, D'757, and D'678 patents are also invalid under paragraph 1 of Section 112 of Title 35 of the United States Code because those claims lack the necessary written description and/or do not enable the alleged inventions of the Asserted Patents and/or fail to set forth the best mode contemplated by the inventors of carrying out the alleged inventions.

Each of the asserted claims of '949, '922, '533, '697, '501, D'757, and D'678 patents are also invalid under paragraph 2 of Section 112 of Title 35 of the United States Code because those claims are indefinite in that they contain ambiguous language and/or functional limitations that prevent a person skilled in the art from determining their full scope or meaning.

Respondent is continuing to investigate its response to this interrogatory and reserves the right to supplement its response to the extent it locates additional non-privileged, relevant

documents or information responsive to this interrogatory and to the extent Complainant produces to Respondent materials or information relevant to this request.

SECOND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 36 (10/21/2011):

SEC incorporates by references its prior responses and objections. Subject to the foregoing general and specific objections, SEC supplements its response to this interrogatory as follows:

Pursuant to 19 C.F.R. § 210.29(c), Complainant may derive or ascertain information responsive to this interrogatory from at least the following documents produced in this matter: S-ITC-000034200 - S-ITC-000042670.

Discovery is ongoing and SEC will supplement this response as necessary in accordance with Commission Rule 210.27.

THIRD SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 36 (2/15/2012):

SEC incorporates by references its prior responses and objections. Discovery is ongoing and SEC will supplement this response as necessary in accordance with Commission Rule 210.27. Subject to the foregoing general and specific objections, SEC supplements its response to this interrogatory as follows:

- I. **U.S. Patent 7,479,949 (“the ‘949 patent”)**
 - A. **Invalidity Under 35 U.S.C. § 102 or 103**

SEC identifies the following prior art that anticipates and/or renders obvious each of the patent’s claims either expressly or inherently as understood by a person having ordinary skill in the art at the time of the alleged invention, either alone or in combination with other references as identified below. These references are prior art under at least 35 U.S.C. §§ 102(a), (b), (e), (g) and/or 103. Charts identifying where specifically in each alleged item of prior art each limitation of each asserted claim is found are attached in Appendix A.

B. Invalidity Under 35 U.S.C. § 112

All claims of the '501 patent are invalid under 35 U.S.C. § 112 ¶ 1 for not disclosing the best mode in the specification.

SEC incorporates by reference the Response and all exhibits thereto, Exhibit E to Respondents' Notice of Prior Art served October 28, 2011 and all corrections, supplements and amendments thereto; the deposition testimony of Timothy Johnson, Andrew Van Court, Richard Allison, James Scheller, Farzad Amini, Angelo Gaz and all exhibits used therein; the file history of the '501 patent and any continuing application from the '501 patent including reexaminations and reissue applications and all documents cited during those proceedings; all documents cited on the face of or in the '501 patent; and all of the documents produced or to be produced by Apple or third parties constituting prior art. SEC also identifies as knowledgeable regarding the facts and circumstances that may form the basis of invalidity allegations against the '501 patent the following persons: Motorola Mobility, Inc., Texas Instruments, Nokia, Achim Pantfoerder.

VI. **U.S. Patent D558,757 (“the D’757 patent”)**

A. Prior Art

SEC incorporates by reference the prior art identified in its Notice of Prior Art.

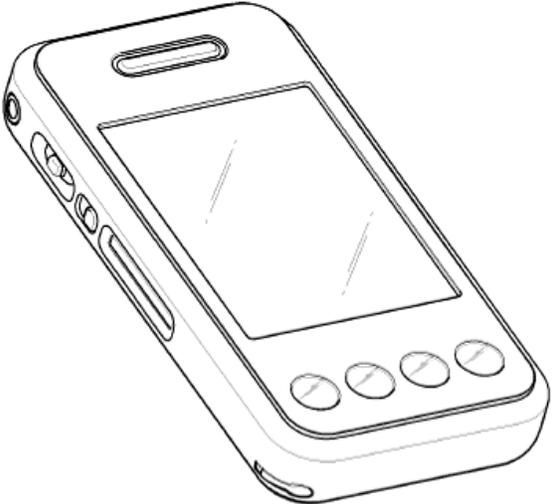
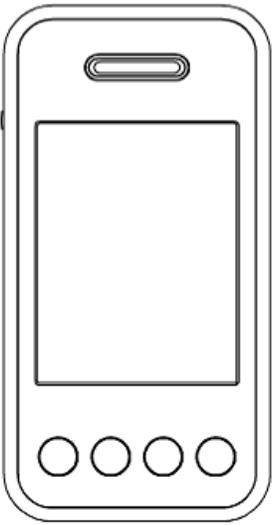
B. Invalidity Under 35 U.S.C. § 102 or 103

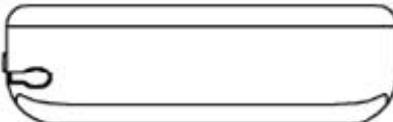
SEC identifies the following prior art that anticipates and/or renders obvious the D'757 patent either expressly or inherently as understood by a person having ordinary skill in the art at the time of the alleged invention, either alone or in combination with other references identified below. These references are prior art under at least 35 U.S.C. §§ 102(a), (b), (e), (g) and/or 103.

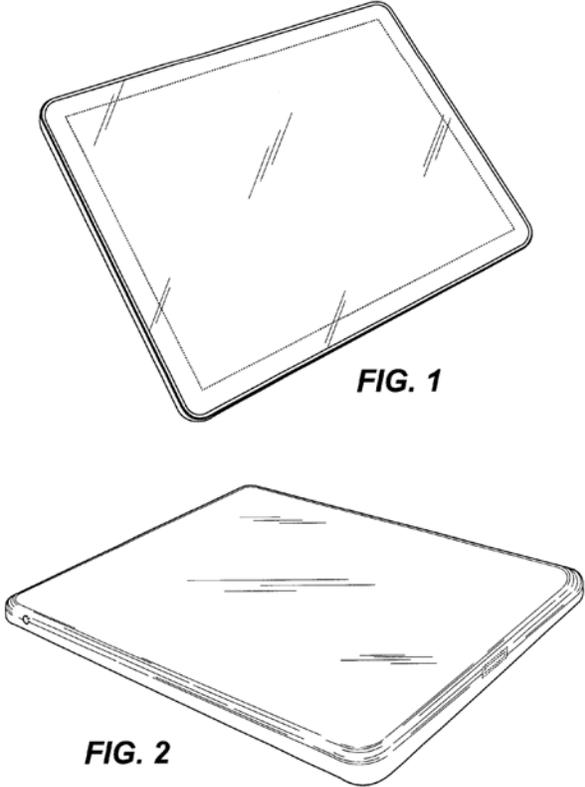
1. Claim Chart

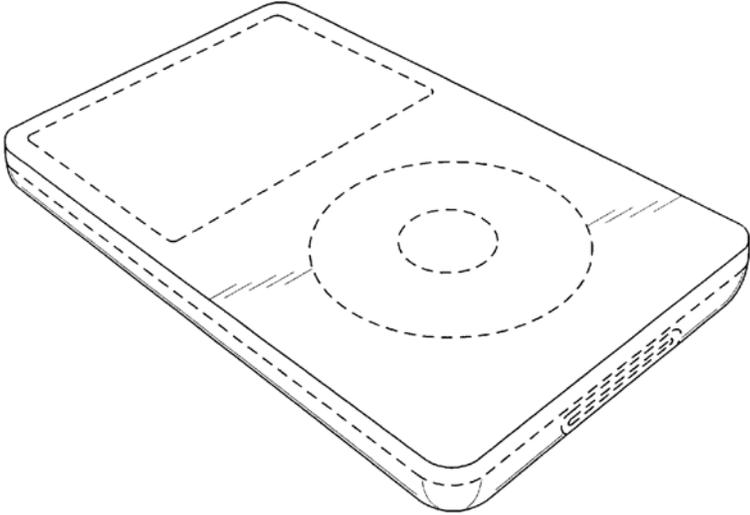
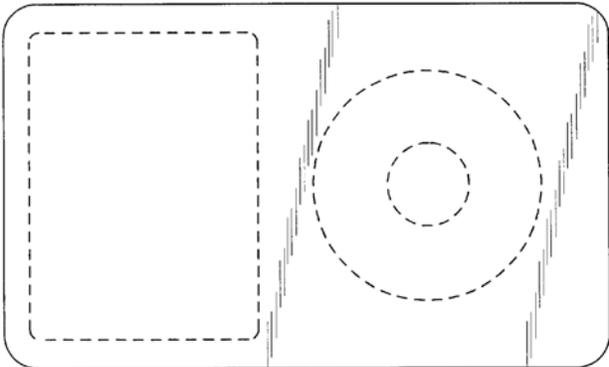
Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
Without waiving any	1. Bluebird Pidion BM-200 — (released November 2005;

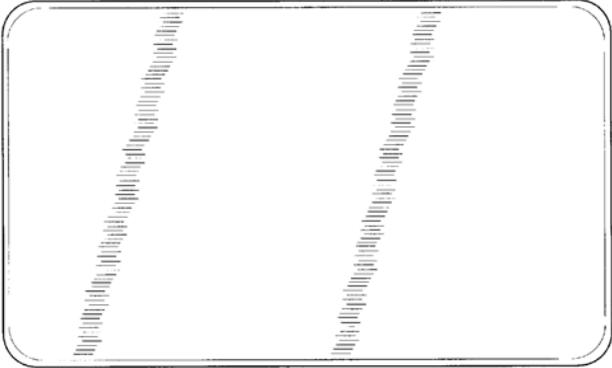
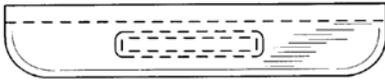
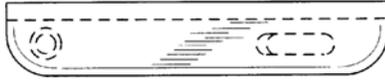
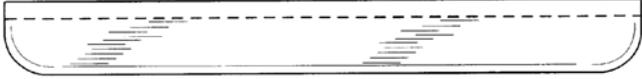
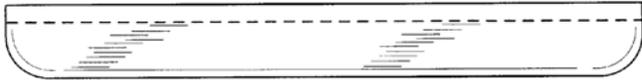
Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<p>right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'757, and without waiving any right to show that the design claimed in D'757 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'757:</p> <ul style="list-style-type: none"> • Rounded Corners • Bezel Surrounding Front Face • Lack of Significant Ornamentation • Rectangular shape • Thin Profile • Flat Front Surface • Flat Back Surface • Sides that curve up to meet front face 	<p>SAMNDCA00326344 - SAMNDCA00326346)</p> 
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'757, and without waiving any right to show that the design claimed in D'757 is indefinite, this prior art shares at least the</p>	<p>2. Korean Patent 0398307 — (Issued Nov. 15, 2005; SAMNDCA00282113 - SAMNDCA00282120)</p>

Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<p>following design characteristics with those that may be claimed in D'757:</p> <ul style="list-style-type: none"> • Rounded Corners • Bezel Surrounding Front Face • Lack of Significant Ornamentation • Rectangular shape • Thin Profile • Flat Front Surface • Flat Back Surface <p>Sides that curve up to meet front face</p>	<p style="text-align: center;">【 사시도 】</p>  <p style="text-align: center;">【 정면도 】</p> 

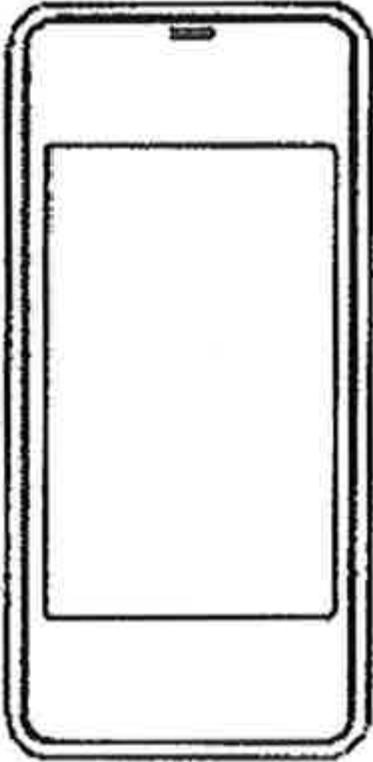
Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
	<p data-bbox="678 289 873 327">【 우측면도 】</p>  <p data-bbox="699 1194 857 1232">【 평면도 】</p>  <p data-bbox="699 1472 857 1509">【 저면도 】</p> 
<p data-bbox="199 1768 472 1871">Without waiving any right to address additional design</p>	<p data-bbox="573 1801 1370 1871">3. United States Patent D504,889 — (filed March 17, 2004; SAMNDCA00200769—SAMNDCA00200773)</p>

Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<p>characteristics of this prior art that anticipate and/or render obvious the design claimed in D'757, and without waiving any right to show that the design claimed in D'757 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'757:</p> <ul style="list-style-type: none"> • Rounded Corners • Bezel Surrounding Front Face • Lack of Significant Ornamentation • Rectangular shape • Thin Profile • Flat Front Surface • Flat Back Surface 	 <p style="text-align: center;">FIG. 1</p> <p style="text-align: center;">FIG. 2</p>
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'757, and without waiving any right to show that the design claimed in D'757 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'757:</p> <ul style="list-style-type: none"> • Rounded Corners 	<p>4. United States Patent 548,747 — (filed August 24, 2005; SAMNDCA00200936—SAMNDCA00200940)</p>

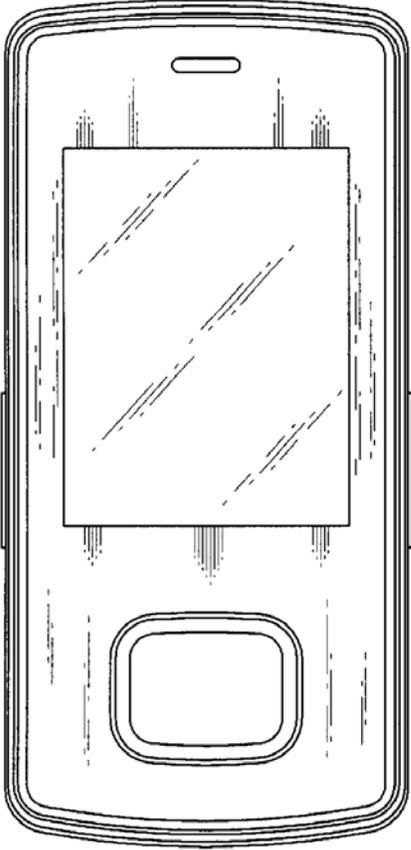
Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<ul style="list-style-type: none">• Lack of Significant Ornamentation• Rectangular shape• Thin Profile• Flat Front Surface• Flat Back Surface	 <p data-bbox="971 877 1076 919">FIG. 1</p>  <p data-bbox="1279 1213 1320 1314">FIG. 2</p>

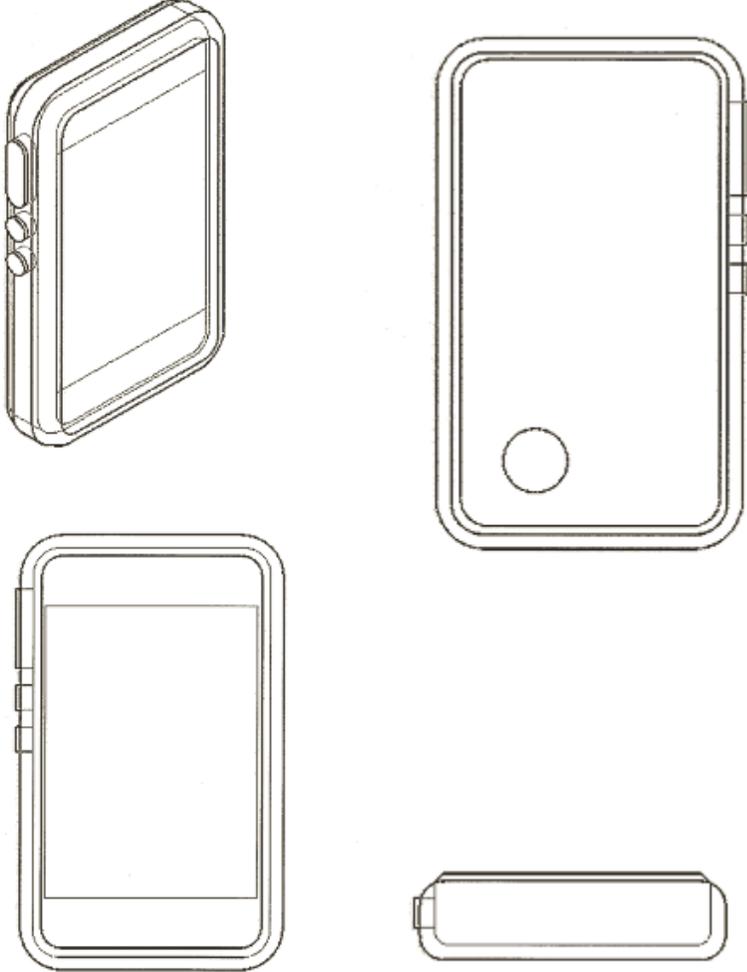
Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
	 <p data-bbox="1295 443 1336 548">FIG. 3</p>  <p data-bbox="902 961 1013 1003">FIG. 4</p>  <p data-bbox="902 1224 1013 1266">FIG. 5</p>  <p data-bbox="902 1497 1013 1539">FIG. 6</p>  <p data-bbox="902 1745 1013 1787">FIG. 7</p>

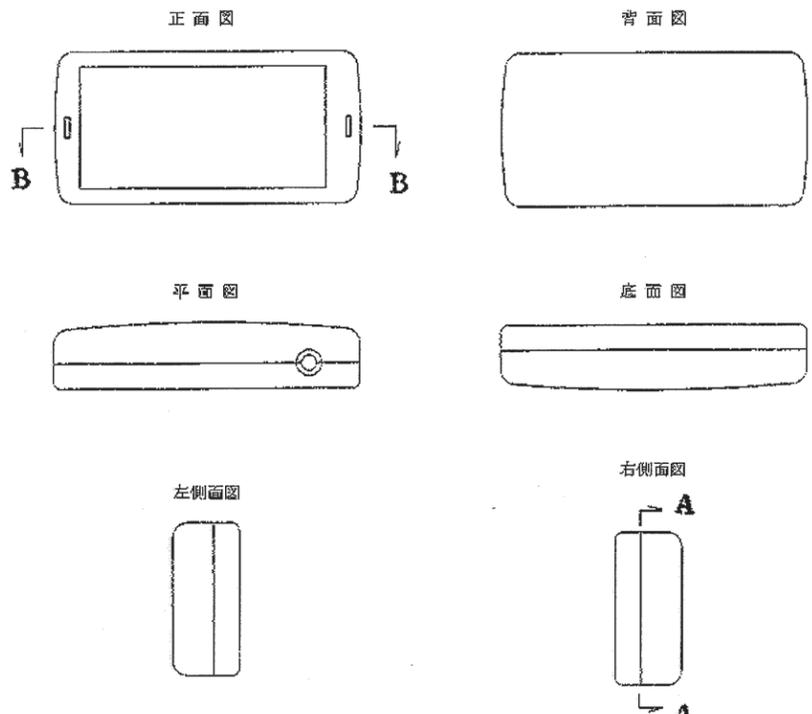
Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'757, and without waiving any right to show that the design claimed in D'757 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'757:</p> <ul style="list-style-type: none"> • Rounded Corners • Bezel Surrounding Front Face • Lack of Significant Ornamentation • Rectangular shape • Thin Profile • Flat Front Surface • Flat Back Surface • Sides that curve up to meet front face 	<p>5. LG Prada — (Images available to public by December 2006; SAMNDCA00326458 - SAMNDCA00326461)</p> 
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'757, and without waiving any right to</p>	<p>6. Sharp Japanese Registration – JP 124638 — (Issued June 6, 2005; SAMNDCA00255247—SAMNDCA00255260)</p>

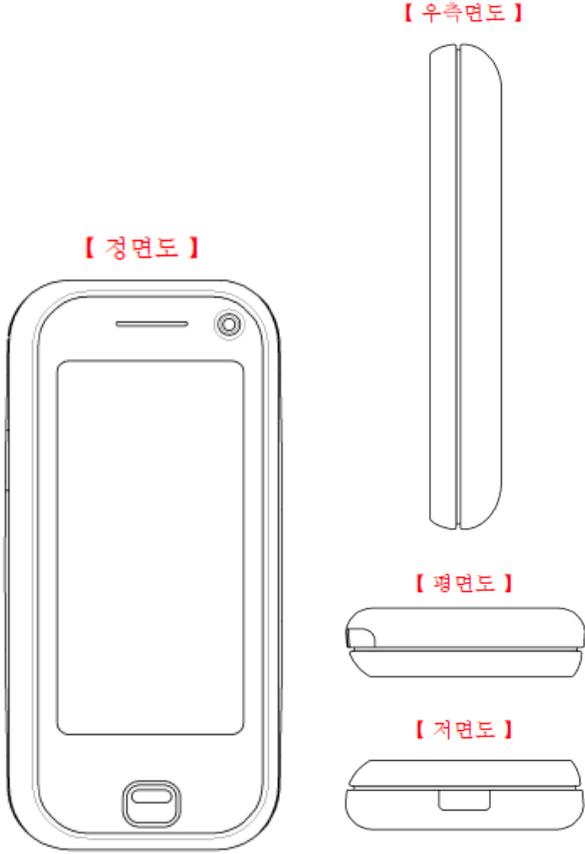
Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<p>show that the design claimed in D'757 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'757:</p> <ul style="list-style-type: none"> • Rounded Corners • Bezel Surrounding Front Face • Lack of Significant Ornamentation • Rectangular shape 	
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'757, and without waiving any right to show that the design claimed in D'757 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'757:</p> <ul style="list-style-type: none"> • Rounded Corners • Bezel Surrounding Front Face 	<p>7. LG Chocolate (LG KG800) — (Released March 2006; SAMNDCA00326329 - SAMNDCA00326331; SAMNDCA00326462)</p>

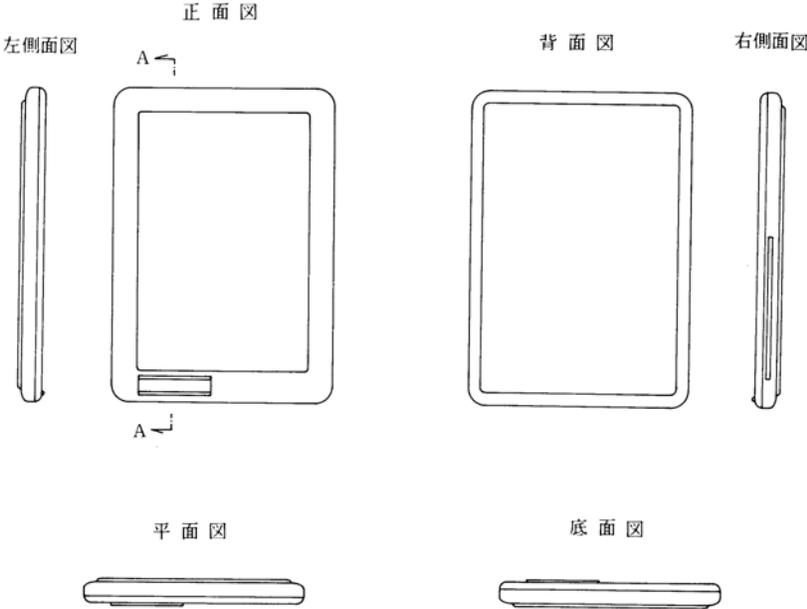
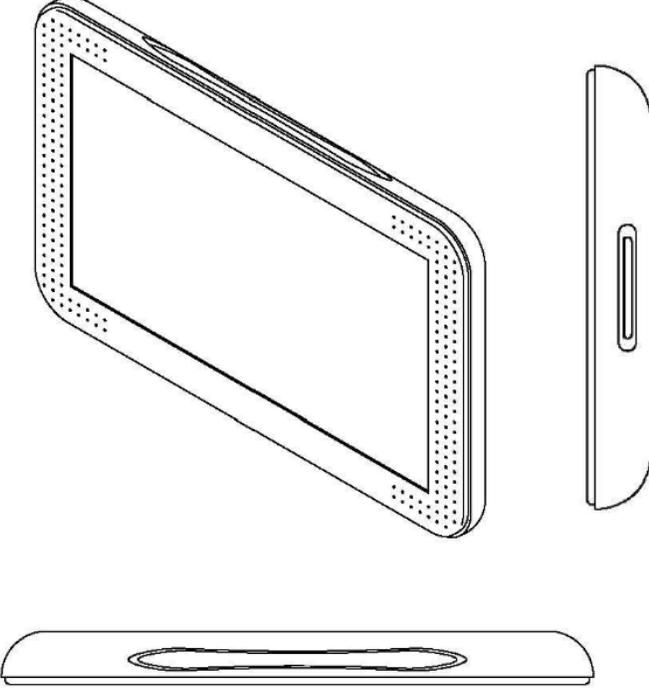
Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<ul style="list-style-type: none"> • Lack of Significant Ornamentation • Rectangular shape • Thin Profile • Flat Front Surface • Flat Back Surface • Sides that curve up to meet front face 	
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'757, and without</p>	<p>8. United States Patent, D536,691 — (Filed Mar. 13, 2006; Issued Feb. 13, 2007; SAMNDCA00200883—SAMNDCA00200888)</p>

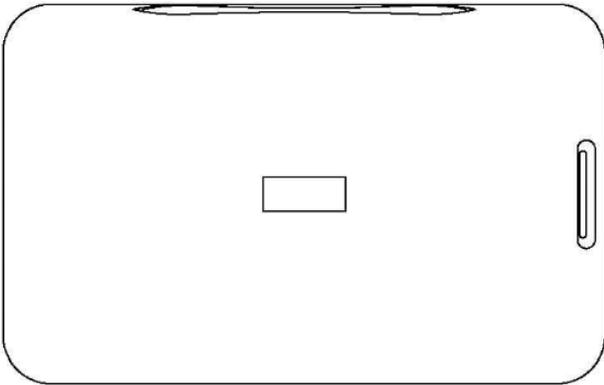
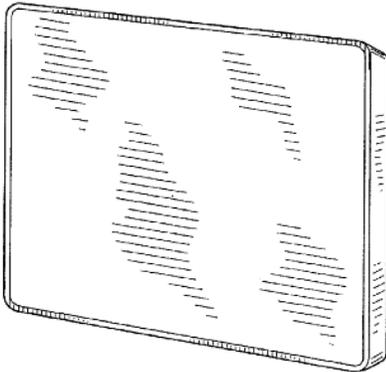
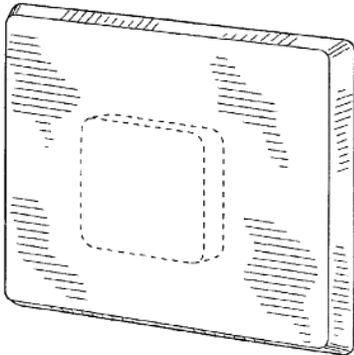
Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<p>waiving any right to show that the design claimed in D'757 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'757:</p> <ul style="list-style-type: none"> • Rounded Corners • Bezel Surrounding Front Face • Lack of Significant Ornamentation • Rectangular shape • Thin Profile • Flat Front Surface • Flat Back Surface • Sides that curve up to meet front face 	
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'757, and without waiving any right to show that the design claimed in D'757 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'757:</p>	<p>9. Japanese Patent JP 1241383 — (Issued June 2005; SAMNDCA00255283—SAMNDCA00255295)</p>

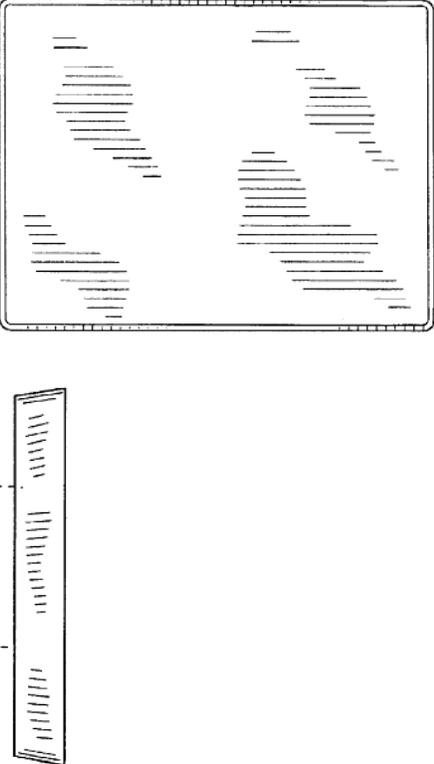
Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<ul style="list-style-type: none"> • Rounded Corners • Bezel Surrounding Front Face • Lack of Significant Ornamentation • Rectangular shape • Thin Profile • Flat Front Surface • Flat Back Surface • Sides that curve up to meet front face 	
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'757, and without waiving any right to show that the design claimed in D'757 is indefinite, this prior art shares at least the following design characteristics with those that may be</p>	<p>10. Japanese Design Patent JP 1009317 — (Issued Feb. 20, 1998; SAMNDCA00255278—SAMNDCA00255282)</p>

Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<p>claimed in D'757:</p> <ul style="list-style-type: none"> • Rounded Corners • Lack of Significant Ornamentation • Rectangular shape • Thin Profile • Flat Front Surface 	 <p style="text-align: center;">-61-</p>
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'757, and without waiving any right to show that the design claimed in D'757 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'757:</p> <ul style="list-style-type: none"> • Rounded Corners • Bezel Surrounding Front Face • Lack of Significant Ornamentation 	<p>11. Samsung Korean Patent 30-0452984; Application KR 30-2006-0050769 — (Applied for December 2006; patent issued Aug. 2007; SAMNDCA00255357—SAMNDCA00255365)</p>

Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<ul style="list-style-type: none"> • Rectangular shape • Thin Profile • Flat Front Surface • Flat Back Surface • Sides that curve up to meet front face 	 <p>【 정면도 】</p> <p>【 우측면도 】</p> <p>【 평면도 】</p> <p>【 저면도 】</p>
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'757, and without waiving any right to show that the design claimed in D'757 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'757:</p> <ul style="list-style-type: none"> • Rounded Corners 	<p>12. Japanese Design Patent JP-S-887388 — (Issued Dec. 21, 1993; SAMNDCA00255215—SAMNDCA00255221)</p>

Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<ul style="list-style-type: none"> • Bezel Surrounding Front Face • Lack of Significant Ornamentation • Rectangular shape • Thin Profile • Flat Front Surface • Flat Back Surface • Sides that curve up to meet front face 	
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'757, and without waiving any right to show that the design claimed in D'757 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'757:</p> <ul style="list-style-type: none"> • Rounded Corners • Bezel Surrounding Front Face • Lack of Significant Ornamentation • Rectangular shape • Thin Profile • Flat Front Surface 	<p>13. Japanese Design Patent JP-S-1142127 — (Issued May 27, 2002; SAMNDCA00255229—SAMNDCA00255246)</p> 

Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<ul style="list-style-type: none"> • Flat Back Surface • Sides that curve up to meet front face 	
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'757, and without waiving any right to show that the design claimed in D'757 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'757:</p> <ul style="list-style-type: none"> • Rounded Corners • Lack of Significant Ornamentation • Rectangular shape • Thin Profile • Flat Front Surface • Flat Back Surface 	<p>14. United States Design Patent D497,364 — (Filed Nov. 27, 2002, Issued Oct. 19, 2004; SAMNDCA00326308 - SAMNDCA00326314)</p> <p style="text-align: center;">FIG. 1</p>  <p style="text-align: center;">FIG. 2</p> 

Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
	
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'757, and without waiving any right to show that the design claimed in D'757 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'757:</p> <ul style="list-style-type: none"> • Rounded Corners • Lack of Ornamentation • Rectangular shape 	<p>15. iRiver U10 — (Released October 2005; SAMNDCA00326325 - SAMNDCA00326328)</p> 

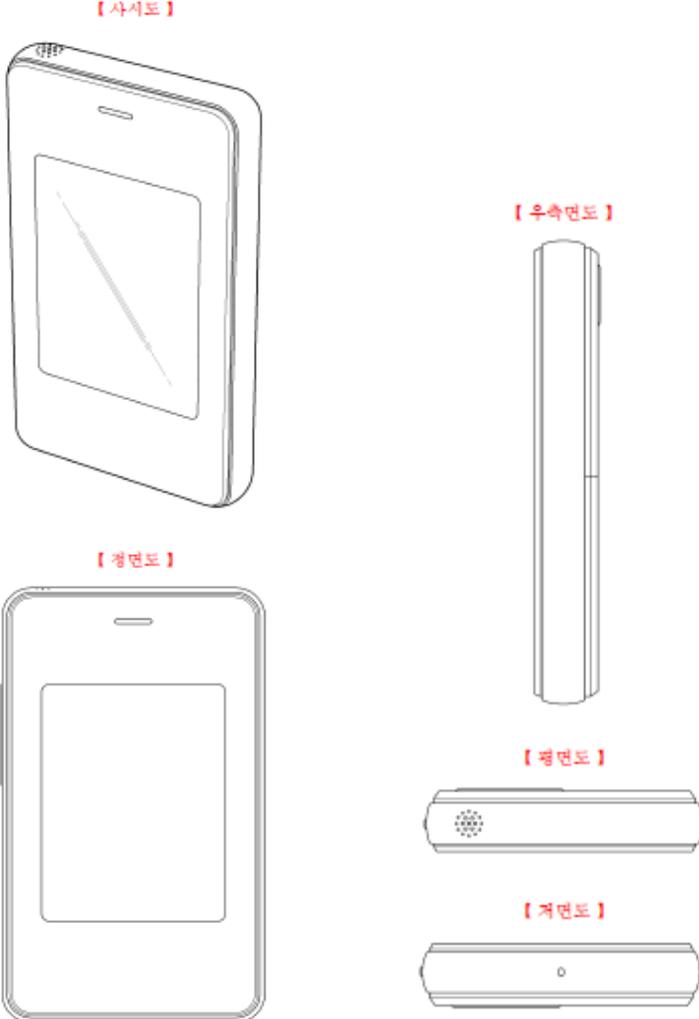
Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<ul style="list-style-type: none"> • Thin Profile • Flat Front Surface • Flat Back Surface • Sides that curve up to meet front face 	
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'757, and without waiving any right to show that the design claimed in D'757 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'757:</p> <ul style="list-style-type: none"> • Rounded Corners • Bezel Surrounding Front Face • Lack of Significant Ornamentation 	<p>16. Nokia N92 — (Released 2005; SAMNDCA00326338 - SAMNDCA00326339)</p> 

Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<ul style="list-style-type: none"> • Rectangular shape • Thin Profile • Flat Front Surface • Flat Back Surface 	
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'757, and without waiving any right to show that the design claimed in D'757 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'757:</p> <ul style="list-style-type: none"> • Rounded Corners 	<p>17. Olympus m:robe MR-100 — (Released 2005; SAMNDCA00326463 - SAMNDCA00326466)</p>

Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<ul style="list-style-type: none"> • Bezel Surrounding Front Face • Lack of Significant Ornamentation • Rectangular shape • Thin Profile • Flat Front Surface • Flat Back Surface • Sides that curve up to meet front face 	
<p>Without waiving any right to address additional design</p>	<p>18. Japanese Design Patent 1204221 — (Issued May 10, 2004; SAMNDCA00256066—SAMNDCA00256079)</p>

Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<p>characteristics of this prior art that anticipate and/or render obvious the design claimed in D'757, and without waiving any right to show that the design claimed in D'757 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'757:</p> <ul style="list-style-type: none"> • Rounded Corners • Lack of Ornamentation • Rectangular shape • Flat Front Surface 	 <p>The image shows two mobile phones. The top phone is a sleek, rounded smartphone with a dark screen and a light-colored back. The bottom phone is a traditional keypad phone with a numeric keypad, a circular navigation pad, and a small screen on the right side.</p>
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'757, and without waiving any right to show that the design claimed in D'757 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'757:</p> <ul style="list-style-type: none"> • Rounded Corners • Lack of Significant Ornamentation 	<p>19. Nokia Design Contest Phone by Ricardo Villas-Boas — (Publicly displayed online in 2004; SAMNDCA00326336 - SAMNDCA00326337; SAMNDCA00326380 - SAMNDCA00326385)</p>

Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<ul style="list-style-type: none"> • Substantially Rectangular shape • Thin Profile • Flat Front Surface • Flat Back Surface • Sides that curve up to meet front face 	
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in</p>	<p>20. Korean Design Patent KR 30-0418547 — (Issued July 2006; SAMNDCA00255321—SAMNDCA00255329)</p>

Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<p>D'757, and without waiving any right to show that the design claimed in D'757 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'757:</p> <ul style="list-style-type: none"> • Rounded Corners • Appearance of Bezel Around Front Perimeter • Lack of Significant Ornamentation • Rectangular shape • Thin Profile • Flat Front Surface • Flat Back Surface • Sides that curve up to meet front face 	 <p>The drawings illustrate the design characteristics of the prior art device. The top-left drawing is a perspective view labeled '【사시도】' (Isometric View). The bottom-left drawing is a front view labeled '【정면도】' (Front View). The top-right drawing is a side view labeled '【우측면도】' (Right Side View). The middle-right drawing is a back view labeled '【좌측면도】' (Left Side View). The bottom-right drawing is another back view labeled '【복면도】' (Rear View). The device features rounded corners, a thin profile, and a flat front and back surface.</p> <p style="text-align: center;">- 2 -</p>

Respondent also incorporates by reference all prior art that was previously produced and/or disclosed by Respondent, including in Exhibit F to Respondent’s Corrected Notice of Prior Art, filed on November 3, 2011. These incorporated pieces of prior art further show that the design claimed by the D’757 patent is obvious and anticipated. Respondent also incorporates by reference all testimony of Apple's inventors and of other relevant prior art witnesses.

CONTAINS CONFIDENTIAL BUSINESS INFORMATION, SUBJECT TO PROTECTIVE ORDER

Moreover, because Apple delayed in providing Samsung with identities of named inventors and others who were involved in the designs and alleged embodiments at issue, Samsung currently does not have all relevant testimony on this issue.

Respondent further discloses the following prior art that renders the claim in D'757 obvious and/or anticipated:

2. Chart for U.S. and Foreign Patents

Country/Region	Patent Number/Publication Title	Inventor	Issue/ Publication Date
United States	5,345,543	Capps, Stephen	Sept. 6, 1994
United States	5,398,310	Tchao, Michael C.	Mar. 14, 1995
United States	D492,684	Ozolins, Helmars	Jul. 6, 2004
United States	D497,364	Ozolins, Helmars	Oct. 19, 2004
United States	D500,037	Ozolins, Helmars	Dec. 21, 2004
United States	D534,516	Lheem, Ji Youn	Jan. 2, 2007
United States	D534,517	Cho, Yoo Seok	Jan. 2, 2007
United States	D543,183	Cho, Yoo Seok	May 22, 2007
WIPO	2000-074240	Robinson, Alex B.	July 12, 2000
WIPO	2004-023272 A2	Ozolins, Helmars	Mar. 18, 2004
European	RCD 000048061-0001	Ozolins, Helmars	Aug. 19, 2003
European	RCD 000257621-0004		Nov. 23, 2004
European	RCD 375191-0001		July 19, 2005
European	RCD 493721-0002		Mar. 13, 2006
European	RCD 614565-0001		Oct. 31, 2006

Country/Region	Patent Number/Publication Title	Inventor	Issue/ Publication Date
Finland	19790641	Hedström Mats	July 18, 1980
France	985598 - 001		Oct. 12, 2001
France	990052 - 001		May 28, 1999
Japan	D1104685		
Japan	D1124750		
Japan	D1188041		
Japan	D 1247215		
Japan	D 1263649		
Korea	30-0424148		Aug. 30, 2006
Sweden	55044	Giorgio Solero	Oct. 27, 1993
United Kingdom	1042780		
United Kingdom	2030050		July 28, 1993
United Kingdom	3010002		

3. Chart for Prior Art Devices

Prior Art Devices
Apple Graphics Tablet (1979), and all documents and things depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.
Bluebird Pidion BM-200 (2005), and all documents and things depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.
Digitalway MPIO FL100 MP3 player (2003), and all documents and things depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.

Prior Art Devices
iHolic HTV-200 (Jan. 2007), and all documents and things depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.
iRiver U10 (2005), and all documents and things depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.
LG L1530TM Tablet (2004), and all documents and things depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.
Microsoft Mira (2002), and all documents and things depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.
Nokia N92 (2005), and all documents and things depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.
Olympus m:robe MR-100 (2005), and all documents and things depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.
Samsung K3 (2006), and all documents and things depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.
Sony Clie PEG-TH55 (2004), and all documents and things depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.
Tatung Tablet PC, and all documents and things depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.
Toshiba T100-X Dynapad (1993), and all documents and things depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.
Via Tablet PC (2002), and all documents and things depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.

Prior Art Devices

WACOM PL-500 15" LCD Tablet Mint (2001), and all documents and things depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.

4. Chart of Additional Non-Patent Publications

Non-Patent Publications

Tablet: The Personal Computer of the Year 2000 (1987), and all documents and things describing or depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.

The InfoLink (1987), and all documents and things describing or depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.

The Oracle (1987), and all documents and things describing or depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.

Declaration of Cooper C. Woodring In Support of Apple's Motion For A Preliminary Injunction (July 1, 2011), *Apple Inc. v. Samsung Electronics Co., Ltd.*, Case No. 11-cv-01846-LHK.

Deposition of Cooper C. Woodring (August 5, 2011), *Apple Inc. v. Samsung Electronics Co., Ltd.*, Case No. 11-cv-01846-LHK.

5. Bates Ranges of Prior Art Produced by Respondent

SAMNDCA00019932-20034; SAMNDCA00020120-20303; SAMNDCA00020394-20498; SAMNDCA00020782-20878; SAMNDCA00020900-20906; SAMNDCA00020978-20989; SAMNDCA00021255-21313; SAMNDCA00021315-21336; SAMNDCA00021341-21471; SAMNDCA00021479-21499; SAMNDCA00021505-21588; SAMNDCA00021593-21604; SAMNDCA00021608-21632; SAMNDCA00021634-21805; SAMNDCA00021812-21857; SAMNDCA00022451-22522; SAMNDCA00022732-22763; SAMNDCA00022802-22812; SAMNDCA00022901-22971; SAMNDCA00022984-23064; SAMNDCA00023137-

23182; SAMNDCA00023234-23524; SAMNDCA00023542—23584; SAMNDCA00023591-24061; SAMNDCA00024582-24662; SAMNDCA00024749-24752; SAMNDCA00027670-27722; SAMNDCA00198059-198067; SAMNDCA00198070-198096; SAMNDCA00198101-198274; SAMNDCA00198289-198307; SAMNDCA00198313-198456; SAMNDCA00198754-198846; SAMNDCA00198884-199046; SAMNDCA00199164-199222; SAMNDCA00199298-199306; SAMNDCA00199402-199524; SAMNDCA00200425-200472; SAMNDCA00200617-200639; SAMNDCA00200650-200658; SAMNDCA00200661-200665; SAMNDCA00200670-200676; SAMNDCA00200686-200714; SAMNDCA00200724-200733; SAMNDCA00200737-200748; SAMNDCA00200751-200788; SAMNDCA00200793-200806; SAMNDCA00200809-200838; SAMNDCA00200843-200873; SAMNDCA00201264-201278; SAMNDCA00255026 – SAMNDCA00256183; SAMNDCA00282113 - SAMNDCA00282120; SAMNDCA00326302 – SAMNDCA00326557.

SEC believes that the identified prior art, standing alone, or in combination, would appear to an ordinary observer — giving such attention as a purchaser usually gives — to be substantially the same as the design shown in D'757, rendering that patent invalid as anticipated and/or obvious.

C. Invalidity Due to Functionality

The asserted claim of the D'757 patent is also invalid because it is functional and not ornamental. *See Lee v. Dayton-Hudson Corp.*, 838 F.2d 1186, 1188 (Fed. Cir. 1988). Indeed, the D'757 patent contains no ornamentation whatsoever, and therefore has nothing to protect. Apple's principal designer, Jonathan Ive, has even said about the iPhone that "[e]verything defers to the display. A lot of what we seem to be doing in a product like that is actually getting design out of the way." Laura Sydell, "Undesigned," NPR, Dec. 30, 2010 (<http://www.npr.org/blogs/alltechconsidered/2010/12/30/132477388/undesigned-the-symbiotic-relationship-of-steve-jobs->

D. Invalidity Due to Indefiniteness

The asserted claim of the D'757 patent is also invalid under paragraph 2 of Section 112 of Title 35 of the United States Code because the claim is indefinite in that the drawings depicting the design do not enable a person skilled in the art to make the design. For example, Doug Satzger, one of the named inventors of the patent stated that there were inconsistencies in the figures for D'757. (*See* Feb. 9, 2012 Deposition of Douglas Satzger at 86:3-88:5.)

E. Invalidity Due to Double Patenting

The asserted claim of the D'757 patent is also invalid under the doctrine of double patenting because it is substantially the same design that Apple sought to patent, and did patent, in a number of other applications. For example, D'757, D613,736, D627,343, and D602,016 all appear to be substantially the same design.

SEC incorporates by reference the Response and all exhibits thereto, exhibits to Respondents' Notice of Prior Art served October 28, 2011 and all corrections, supplements and amendments thereto; the deposition testimony of Alyssa Sandrowitz, Daniele de Iuliis, Rico Zorkendorfer, Matthew Rohrbach, Bartley Andre, Duncan Kerr, Daniel Coster, Eugene Whang, Richard Howarth, Christopher Stringer, Douglas Satzger, Jonathan Ive, Cooper Woodring, Itay Sherman, Erin Wong, Tracy Durkin, Quinn Hoellwarth, Michael Ferrazano, Justin White, and Richard Lutton and all exhibits used therein; the file history of the 'D'757 patent and any continuing application from the 'D'757 patent including reexaminations and reissue applications and all documents cited during those proceedings; all documents cited on the face of or in the 'D'757 patent; and all of the documents produced or to be produced by Apple or third parties constituting prior art.

VII. **U.S. Patent D618,678 (“the D’678 patent”)**

A. **Prior Art**

SEC incorporates by reference the prior art identified in its Notice of Prior Art.

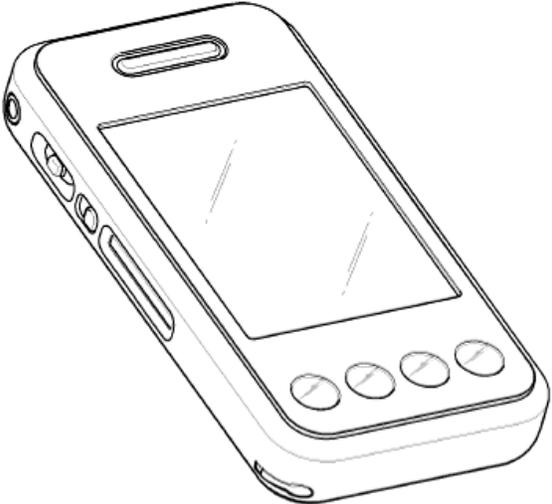
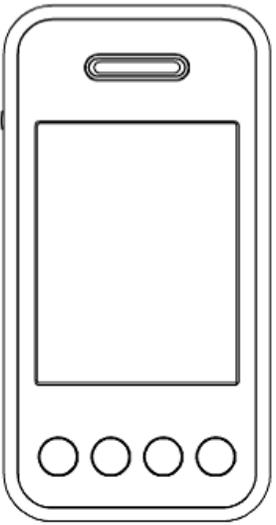
B. **Invalidity Under 35 U.S.C. § 102 or 103**

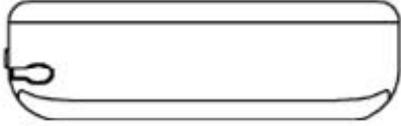
SEC identifies the following additional prior art that anticipates and/or renders obvious the D’678 patent either expressly or inherently as understood by a person having ordinary skill in the art at the time of the alleged invention, either alone or in combination with other references identified below. These references are prior art under at least 35 U.S.C. §§ 102(a), (b), (e), (g) and/or 103.

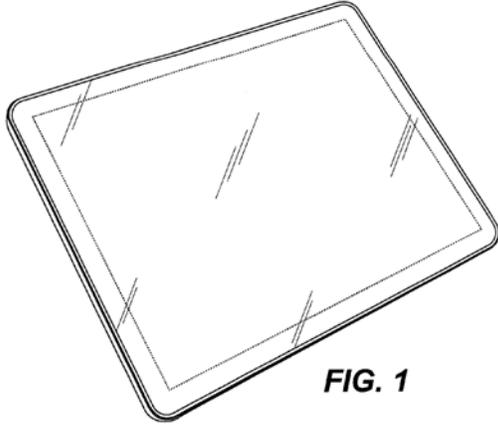
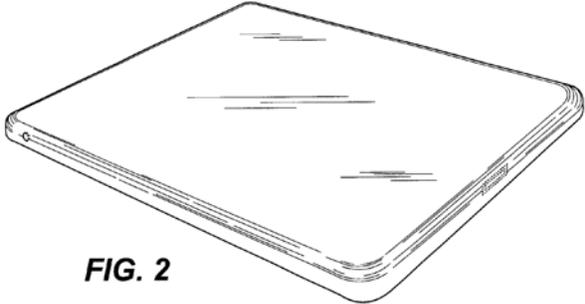
1. **Claim Chart**

Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D’678, and without waiving any right to show that the design claimed in D’678 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D’678:</p> <ul style="list-style-type: none"> • Rounded Corners • Lack of Significant Ornamentation • Rectangular Shape • Flat Continuous Surface 	<p>1. Bluebird Pidion BM-200 — (released November 2005; SAMNDCA00326344 - SAMNDCA00326346)</p> 

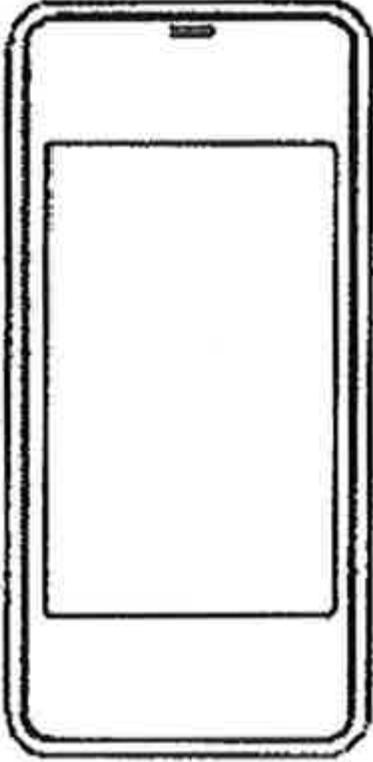
Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<ul style="list-style-type: none"> • Reflective or Transparent Surface • Horizontal Speaker Slot • Speaker Slot Located Near Top of Device • Display Screen Covering Substantial Portion of Front Face • Display Screen in Center of Device • Narrow Borders on Sides of Screen • Broader Borders Above and Below Screen 	
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'678, and without waiving any right to show that the design claimed in D'678 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'678:</p> <ul style="list-style-type: none"> • Rounded Corners • Lack of Significant Ornamentation • Rectangular Shape • Flat Continuous 	<p>2. Korean Patent 0398307 — (Issued Nov. 15, 2005; SAMNDCA00282113 - SAMNDCA00282120)</p>

Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<ul style="list-style-type: none"> • Surface • Horizontal Speaker Slot Located Near Top of Device • Speaker Slot Located Near Top of Device • Display Screen Covering Substantial Portion of Front Face • Display Screen in Center of Device • Narrow Borders on Sides of Screen • Broader Borders Above and Below Screen 	<div style="text-align: center; margin-bottom: 20px;"> <p>【 사시도 】</p>  </div> <div style="text-align: center;"> <p>【 정면도 】</p>  </div>

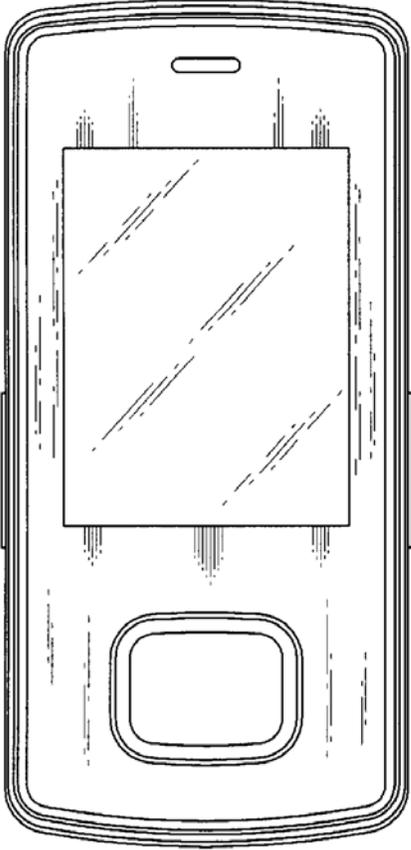
Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
	<p style="text-align: center;">【 우측면도 】</p>  <p style="text-align: center;">【 평면도 】</p>  <p style="text-align: center;">【 저면도 】</p> 
<p>Without waiving any right to address additional design</p>	<p>3. United States Patent D504,889 — (filed March 17, 2004; SAMNDCA00200769—SAMNDCA00200773)</p>

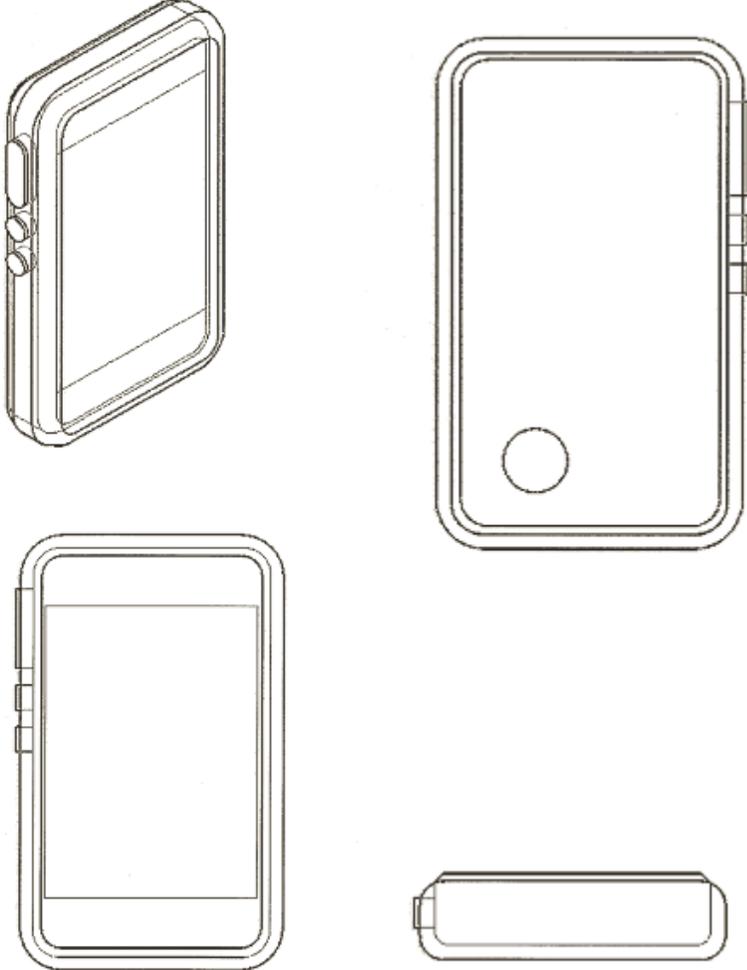
Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<p>characteristics of this prior art that anticipate and/or render obvious the design claimed in D'678, and without waiving any right to show that the design claimed in D'678 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'678:</p> <ul style="list-style-type: none"> • Rounded Corners • Lack of Significant Ornamentation • Rectangular Shape • Flat Continuous Surface • Reflective or Transparent Surface • Display Screen Covering Substantial Portion of Front Face • Display Screen in Center of Device 	<div style="text-align: center;">  <p>FIG. 1</p>  <p>FIG. 2</p> </div>
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'678, and without waiving any right to show that the design claimed in D'678 is indefinite, this prior art shares at least the following design characteristics with</p>	<p>4. LG Prada — (Images available to public by December 2006; SAMNDCA00326458 - SAMNDCA00326461)</p>

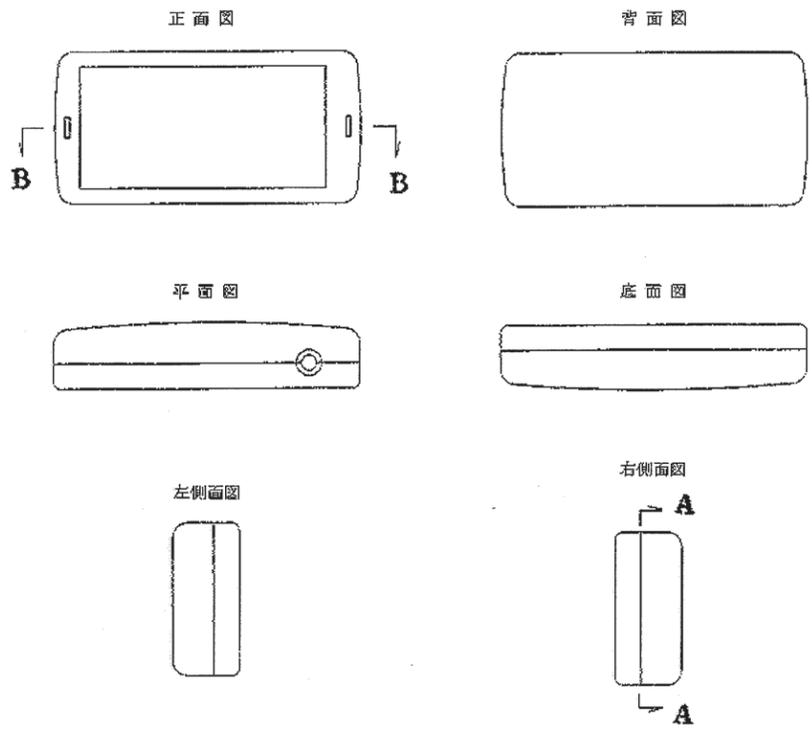
Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<p>those that may be claimed in D'678:</p> <ul style="list-style-type: none"> • Rounded Corners • Lack of Significant Ornamentation • Rectangular Shape • Flat Continuous Surface • Reflective or Transparent Surface • Horizontal Speaker Slot • Speaker Slot Located Near Top of Device • Display Screen Covering Substantial Portion of Front Face • Display Screen in Center of Device • Narrow Borders on Sides of Screen • Broader Borders Above and Below Screen 	
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'678, and without waiving any right to show that the design claimed in D'678 is indefinite, this prior art</p>	<p>5. Sharp Japanese Registration – JP 1241638 — (Issued June 6, 2005; SAMNDCA00255247—SAMNDCA00255260)</p>

Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<p>shares at least the following design characteristics with those that may be claimed in D'678:</p> <ul style="list-style-type: none"> • Rounded Corners • Lack of Significant Ornamentation • Rectangular Shape • Horizontal Speaker Slot • Speaker Slot Located Near Top of Device • Display Screen Covering Substantial Portion of Front Face • Display Screen in Center of Device • Narrow Borders on Sides of Screen • Broader Borders Above and Below Screen 	
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'678, and without waiving any right to show that the design claimed in D'678 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'678:</p>	<p>6. LG Chocolate (LG KG800) — (Released March 2006; SAMNDCA00326329 - SAMNDCA00326331; SAMNDCA00326462)</p>

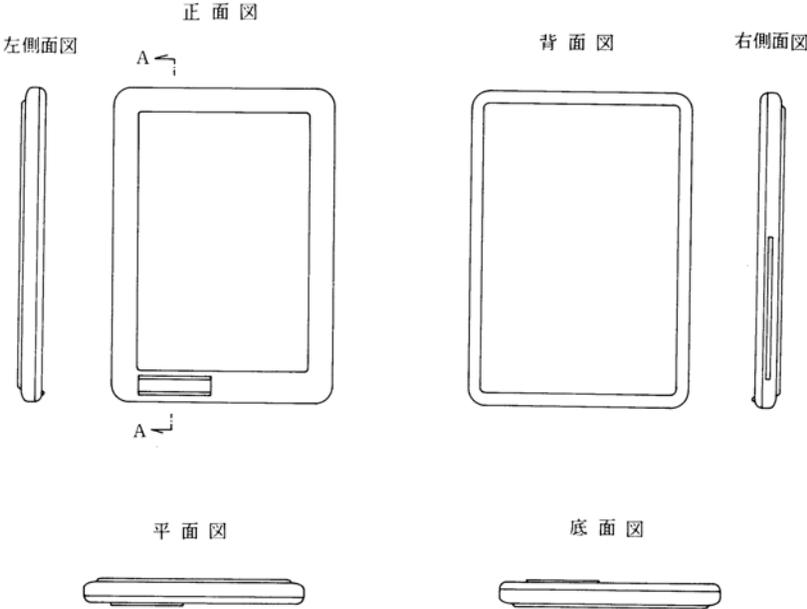
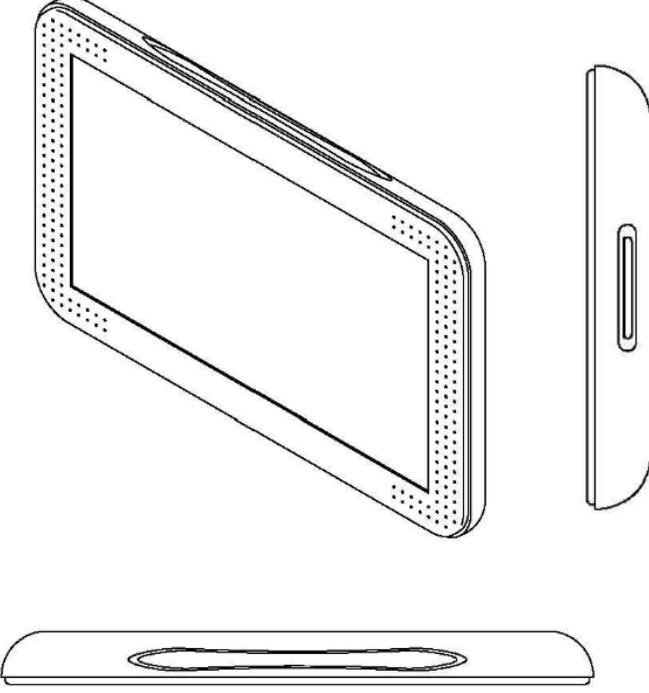
Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<ul style="list-style-type: none"> • Rounded Corners • Lack of Significant Ornamentation • Rectangular Shape • Flat Continuous Surface • Reflective or Transparent Surface • Horizontal Speaker Slot • Speaker Slot Located Near Top of Device • Display Screen Covering Substantial Portion of Front Face • Display Screen in Center of Device • Narrow Borders on Sides of Screen • Broader Borders Above and Below Screen 	
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'678, and without</p>	<p>7. United States Patent, D536,691 — (Filed Mar. 13, 2006; Issued Feb. 13, 2007; SAMNDCA00200883— SAMNDCA00200888)</p>

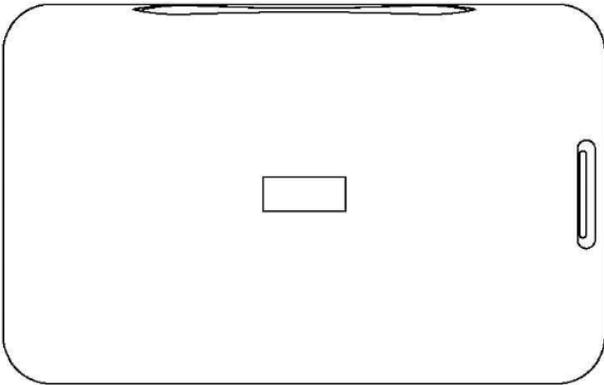
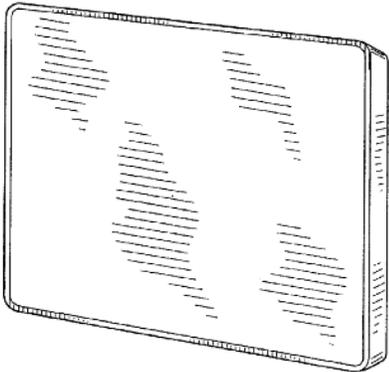
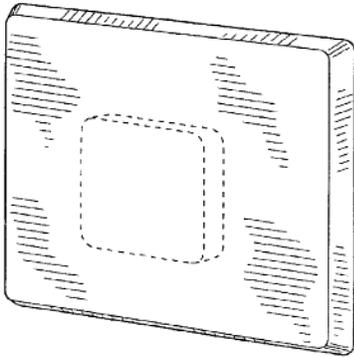
Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<p>waiving any right to show that the design claimed in D'678 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'678:</p> <ul style="list-style-type: none"> • Rounded Corners • Lack of Significant Ornamentation • Rectangular Shape • Flat Continuous Surface • Reflective or Transparent Surface • Horizontal Speaker Slot • Speaker Slot Located Near Top of Device • Display Screen Covering Substantial Portion of Front Face • Display Screen in Center of Device • Narrow Borders on Sides of Screen • Broader Borders Above and Below Screen 	
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'678, and without waiving any right to show that the design</p>	<p>8. Japanese Patent JP 1241383 — (Issued June 2005; SAMNDCA00255283—SAMNDCA00255295)</p>

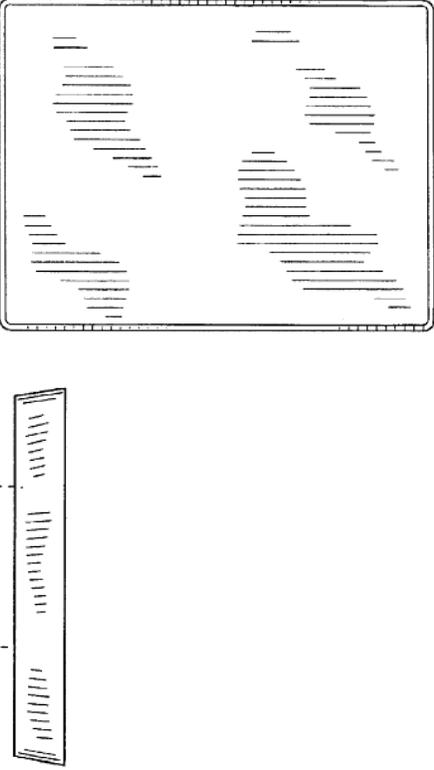
Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<p>claimed in D'678 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'678:</p> <ul style="list-style-type: none"> • Rounded Corners • Lack of Significant Ornamentation • Rectangular Shape • Flat Continuous Surface • Display Screen Covering Substantial Portion of Front Face • Display Screen in Center of Device • Narrow Borders on Sides of Screen • Broader Borders Above and Below Screen 	
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'678, and without waiving any right to show that the design claimed in D'678 is indefinite, this prior art shares at least the following design characteristics with those that may be</p>	<p>9. Japanese Design Patent JP 1009317 — (Issued Feb. 20, 1998; SAMNDCA00255278—SAMNDCA00255282)</p>

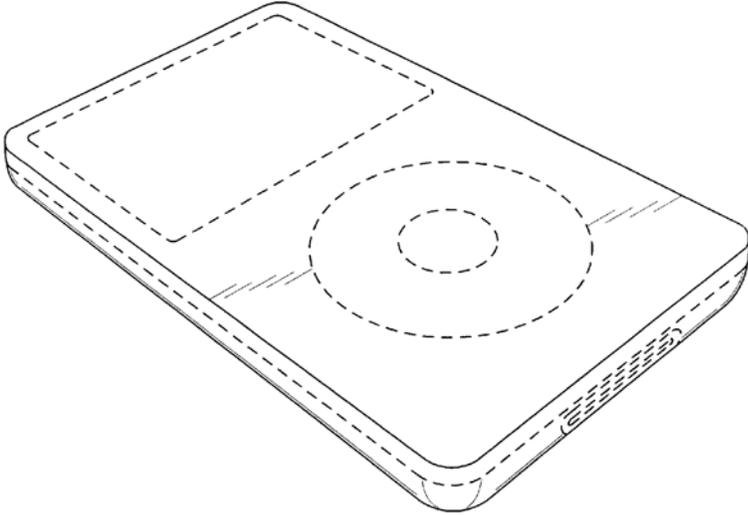
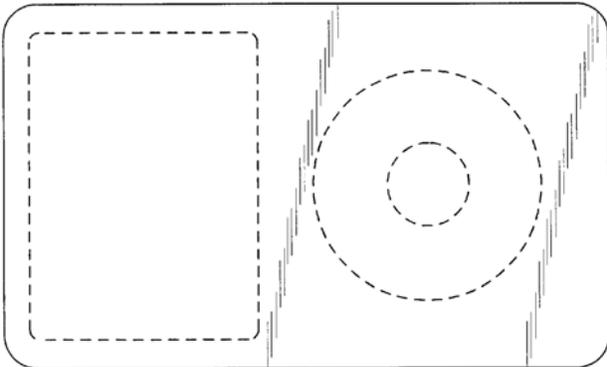
Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<p>claimed in D'678:</p> <ul style="list-style-type: none"> • Rounded Corners • Lack of Significant Ornamentation • Rectangular Shape • Flat Continuous Surface • Horizontal Speaker Slot • Speaker Slot Located Near Top of Device • Display Screen Covering Substantial Portion of Front Face • Display Screen in Center of Device • Narrow Borders on Sides of Screen • Broader Borders Above and Below Screen 	 <p style="text-align: center;">-61-</p>
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'678, and without waiving any right to show that the design claimed in D'678 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'678:</p> <ul style="list-style-type: none"> • Rounded Corners • Lack of Significant Ornamentation 	<p>10. Samsung Korean Patent 30-0452984; Application KR 30-2006-0050769 — (Applied for December 2006; patent issued Aug. 2007; SAMNDCA00255357—SAMNDCA00255365)</p>

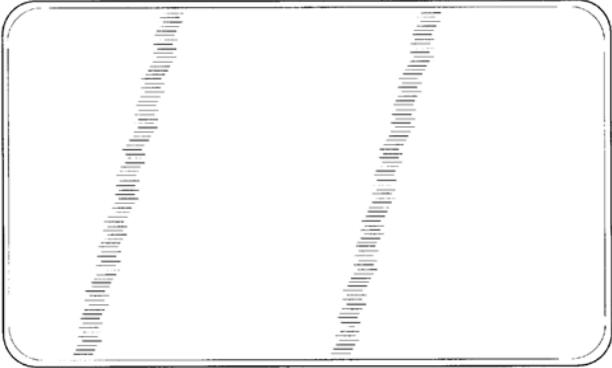
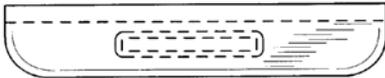
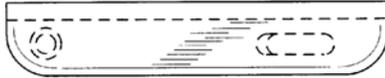
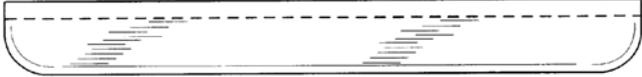
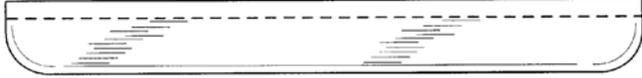
Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<ul style="list-style-type: none"> • Rectangular Shape • Flat Continuous Surface • Horizontal Speaker Slot • Speaker Slot Located Near Top of Device • Display Screen Covering Substantial Portion of Front Face • Display Screen in Center of Device • Narrow Borders on Sides of Screen • Broader Borders Above and Below Screen 	<p>Technical drawings of a mobile phone showing front, side, and perspective views. Labels in Korean: 【정면도】 (Front View), 【우측면도】 (Right Side View), 【평면도】 (Top View), and 【저면도】 (Bottom View).</p>
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'678, and without waiving any right to show that the design claimed in D'678 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'678:</p> <ul style="list-style-type: none"> • Rounded Corners 	<p>11. Japanese Design Patent JP-S-887388 — (Issued Dec. 21, 1993; SAMNDCA00255215—SAMNDCA00255221)</p>

Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<ul style="list-style-type: none"> • Lack of Significant Ornamentation • Rectangular Shape • Display Screen Covering Substantial Portion of Front Face • Display Screen in Center of Device 	 <p>Technical drawings of a mobile device. The drawings include: 左側面図 (Left side view), 正面図 (Front view), 背面図 (Back view), 右側面図 (Right side view), 平面図 (Top view), and 底面図 (Bottom view). The front view shows a rectangular device with a large central display screen and a small rectangular element at the bottom center. Section lines 'A-A' are indicated on the front and back views.</p>
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'678, and without waiving any right to show that the design claimed in D'678 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'678:</p> <ul style="list-style-type: none"> • Rounded Corners • Lack of Significant Ornamentation • Rectangular Shape • Display Screen Covering Substantial Portion of Front Face 	<p>12. Japanese Design Patent JP-S-1142127 — (Issued May 27, 2002; SAMNDCA00255229—SAMNDCA00255246)</p>  <p>Technical drawings of a mobile device with a dotted border. The drawings include: a perspective view showing a rectangular device with rounded corners and a dotted border around the display screen; a side view showing a rounded rectangular profile with a vertical slot; and a top view showing a rounded rectangular shape with a central oval-shaped element.</p>

Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<ul style="list-style-type: none"> • Display Screen in Center of Device 	
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'678, and without waiving any right to show that the design claimed in D'678 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'678:</p> <ul style="list-style-type: none"> • Rounded Corners • Lack of Significant Ornamentation • Rectangular Shape • Flat Continuous Surface • Reflective or Transparent Surface • Display Screen Covering Substantial Portion of Front Face • Display Screen in Center of Device 	<p>13. United States Design Patent D497,364 — (Filed Nov. 27, 2002, Issued Oct. 19, 2004; SAMNDCA00326308 - SAMNDCA00326314)</p> <p>FIG. 1</p>  <p>FIG. 2</p> 

Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
	
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'678, and without waiving any right to show that the design claimed in D'678 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'678:</p> <ul style="list-style-type: none"> • Rounded Corners • Lack of Significant Ornamentation • Rectangular Shape 	<p>14. United States Patent D548,747 — (filed August 24, 2005; SAMNDCA00200936—SAMNDCA00200940)</p>

Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<ul style="list-style-type: none">• Flat Continuous Surface• Reflective or Transparent Surface	 <p data-bbox="971 877 1073 919">FIG. 1</p>  <p data-bbox="1279 1213 1318 1314">FIG. 2</p>

Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
	 <p data-bbox="1295 443 1336 548">FIG. 3</p>  <p data-bbox="902 961 1013 1003">FIG. 4</p>  <p data-bbox="902 1224 1013 1266">FIG. 5</p>  <p data-bbox="902 1497 1013 1539">FIG. 6</p>  <p data-bbox="902 1749 1013 1791">FIG. 7</p>

Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'678, and without waiving any right to show that the design claimed in D'678 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'678:</p> <ul style="list-style-type: none"> • Rounded Corners • Lack of Significant Ornamentation • Rectangular Shape • Flat Continuous Surface • Reflective or Transparent Surface • Display Screen Covering Substantial Portion of Front Face • Display Screen in Center of Device • Narrow Borders on Two Opposing Sides of Screen • Broader Borders on the Remaining Two Sides of the Screen 	<p>15. iRiver U10 — (Released October 2005; SAMNDCA00326325 - SAMNDCA00326328)</p> 
<p>Without waiving any right to address additional design</p>	<p>16. Nokia N92 — (Released 2005; SAMNDCA00326338 - SAMNDCA00326339)</p>

Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<p>characteristics of this prior art that anticipate and/or render obvious the design claimed in D'678, and without waiving any right to show that the design claimed in D'678 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'678:</p> <ul style="list-style-type: none"> • Rounded Corners • Lack of Significant Ornamentation • Rectangular Shape • Flat Continuous Surface • Reflective or Transparent Surface • Horizontal Speaker Slot • Speaker Slot Located Near Top of Device • Display Screen Covering Substantial Portion of Front Face • Display Screen in Center of Device • Narrow Borders on Sides of Screen • Broader Borders Above and Below Screen 	 <p>www.GSMarena.com</p>
<p>Without waiving any</p>	<p>17. Olympus m:robe MR-100 — (Released 2005;</p>

Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<p>right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'678, and without waiving any right to show that the design claimed in D'678 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'678:</p> <ul style="list-style-type: none"> • Rounded Corners • Lack of Significant Ornamentation • Rectangular Shape • Flat Continuous Surface • Reflective or Transparent Surface • Display Screen 	<p style="text-align: center;">SAMNDCA00326463 - SAMNDCA00326466)</p>  <p>The top photograph shows a hand holding a silver mobile device with a red screen and the 'm:robe' logo. The bottom photograph shows a hand holding the same device with a blue screen displaying a menu and the 'm:robe' logo.</p>

Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<p>Without waiving any right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'678, and without waiving any right to show that the design claimed in D'678 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'678:</p> <ul style="list-style-type: none"> • Rounded Corners • Lack of Ornamentation • Rectangular Shape • Flat Continuous Surface • Horizontal Ear Speaker Slot • Ear Speaker Slot Located Near Top of Device • Display Screen Covering Substantial Portion of Front Face • Display Screen in Center of Device • Narrow Borders on Sides of Screen • Broader Borders Above and Below Screen 	<p>18. Japanese Design Patent 1204221 — (Issued May 10, 2004; - SAMNDCA00256066—SAMNDCA00256079)</p>  <p>The image shows two views of a mobile phone. The top view is a perspective view of a white phone with a black screen and a top-down view of a grey phone with a keypad and a screen.</p>
<p>Without waiving any</p>	<p>19. Nokia Design Contest Phone by Ricardo Villas-Boas —</p>

Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<p>right to address additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'678, and without waiving any right to show that the design claimed in D'678 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'678:</p> <ul style="list-style-type: none"> • Rounded Corners • Lack of Ornamentation • Flat Continuous Surface • Ear Speaker Opening Near Top of Device • Display Screen Covering Substantial Portion of Front Face • Display Screen in Center of Device • Narrow Borders on Sides of Screen • Broader Borders Above and Below Screen 	<p>(Publicly displayed online in 2004; SAMNDCA00326336 - SAMNDCA00326337; SAMNDCA00326380 - SAMNDCA00326385)</p> 
<p>Without waiving any right to address</p>	<p>20. Korean Design Patent KR 30-0418547 — (Issued July 2006; SAMNDCA00255321—SAMNDCA00255329)</p>

Prior Art Design Elements	Disclosure Rendering the Claim Unpatentable
<p>additional design characteristics of this prior art that anticipate and/or render obvious the design claimed in D'678, and without waiving any right to show that the design claimed in D'678 is indefinite, this prior art shares at least the following design characteristics with those that may be claimed in D'678:</p> <ul style="list-style-type: none"> • Rounded Corners • Lack of Ornamentation • Rectangular Shape • Flat Continuous Surface • Reflective or Transparent Surface • Horizontal Speaker Slot • Speaker Slot Located Near Top of Device • Display Screen Covering Substantial Portion of Front Face • Display Screen in Center of Device • Narrow Borders on Sides of Screen • Broader Borders Above and Below Screen 	<p>The disclosure includes five technical drawings of a mobile device:</p> <ul style="list-style-type: none"> 【사시도】: A perspective view of the device showing its rounded corners and rectangular shape. 【앞면도】: A front view showing a large display screen covering most of the front face, with a horizontal speaker slot near the top. 【우측면도】: A right-side view showing the device's profile and rounded edges. 【상면도】: A top view showing the device's rectangular shape and rounded corners. 【하면도】: A bottom view showing the device's profile and rounded edges. <p style="text-align: center;">- 2 -</p>

Respondent also incorporates by reference all prior art that was previously produced and/or disclosed by Respondent, including in Exhibit F to Respondent’s Corrected Notice of Prior Art, filed on November 3, 2011. These incorporated pieces of prior art further show that the design claimed by the D’678 patent is obvious and anticipated. Respondent also incorporates by reference all testimony of Apple’s inventors and of other relevant prior art witnesses. Moreover, because Apple delayed in providing Samsung with identities of named inventors and others who were involved in the designs and alleged embodiments at issue, Samsung currently does not have all relevant testimony on this issue. Respondent further discloses the following prior art that renders the claim in D’678 obvious and/or anticipated:

2. Chart of Additional U.S. and Foreign Patent Prior Art

Country/Region	Patent Number/Publication Title	Inventor	Issue/ Publication Date
United States	5,345,543	Capps, Stephen	Sept. 6, 1994
United States	5,398,310	Tchao, Michael C.	Mar. 14, 1995
United States	D492,684	Ozolins, Helmars	Jul. 6, 2004
United States	D497,364	Ozolins, Helmars	Oct. 19, 2004
United States	D500,037	Ozolins, Helmars	Dec. 21, 2004
United States	D534,516	Lheem, Ji Youn	Jan. 2, 2007
United States	D534,517	Cho, Yoo Seok	Jan. 2, 2007
United States	D543,183	Cho, Yoo Seok	May 22, 2007
WIPO	2000-074240	Robinson, Alex B.	July 12, 2000
WIPO	2004-023272 A2	Ozolins, Helmars	Mar. 18, 2004
European	RCD 000048061-0001	Ozolins, Helmars	Aug. 19, 2003
European	RCD 000257621-0004		Nov. 23, 2004

Country/Region	Patent Number/Publication Title	Inventor	Issue/ Publication Date
European	RCD 375191-0001		July 19, 2005
European	RCD 493721-0002		Mar. 13, 2006
European	RCD 614565-0001		Oct. 31, 2006
Finland	19790641	Hedström Mats	July 18, 1980
France	985598 - 001		Oct. 12, 2001
France	990052 - 001		May 28, 1999
Japan	D1104685		
Japan	D1124750		
Japan	D1188041		
Japan	D 1247215		
Japan	D 1263649		
Korea	30-0424148		Aug. 30, 2006
Sweden	55044	Giorgio Solero	Oct. 27, 1993
United Kingdom	1042780		
United Kingdom	2030050		July 28, 1993
United Kingdom	3010002		

3. Chart of Additional Prior Art Devices

Prior Art Devices
Apple Graphics Tablet (1979), and all documents and things depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.

Prior Art Devices
Bluebird Pidion BM-200 (2005), and all documents and things depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.
Digitalway MPIO FL100 MP3 player (2003), and all documents and things depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.
iHolic HTV-200 (Jan. 2007), and all documents and things depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.
iRiver U10 (2005), and all documents and things depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.
LG L1530TM Tablet (2004), and all documents and things depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.
Microsoft Mira (2002), and all documents and things depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.
Nokia N92 (2005), and all documents and things depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.
Olympus m:robe MR-100 (2005), and all documents and things depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.
Samsung K3 (2006), and all documents and things depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.
Sony Clie PEG-TH55 (2004), and all documents and things depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.
Tatung Tablet PC, and all documents and things depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.

Prior Art Devices
Toshiba T100-X Dynapad (1993), and all documents and things depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.
Via Tablet PC (2002), and all documents and things depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.
WACOM PL-500 15" LCD Tablet Mint (2001), and all documents and things depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.

4. Chart of Additional Non-Patent Publications

Non-Patent Publications
Tablet: The Personal Computer of the Year 2000 (1987), and all documents and things describing or depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.
The InfoLink (1987), and all documents and things describing or depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.
The Oracle (1987), and all documents and things describing or depicting the device, including user manuals, technical specifications, advertisements, reviews, development documents, and technical references.
Declaration of Cooper C. Woodring In Support of Apple's Motion For A Preliminary Injunction (July 1, 2011), <i>Apple Inc. v. Samsung Electronics Co., Ltd.</i> , Case No. 11-cv-01846-LHK.
Deposition of Cooper C. Woodring (August 5, 2011), <i>Apple Inc. v. Samsung Electronics Co., Ltd.</i> , Case No. 11-cv-01846-LHK.

5. Bates Ranges of Prior Art Produced by Respondent

SAMNDCA00019932-20034; SAMNDCA00020120-20303; SAMNDCA00020394-20498; SAMNDCA00020782-20878; SAMNDCA00020900-20906; SAMNDCA00020978-20989; SAMNDCA00021255-21313; SAMNDCA00021315-21336; SAMNDCA00021341-

21471; SAMNDCA00021479-21499; SAMNDCA00021505-21588; SAMNDCA00021593-21604; SAMNDCA00021608-21632; SAMNDCA00021634-21805; SAMNDCA00021812-21857; SAMNDCA00022451-22522; SAMNDCA00022732-22763; SAMNDCA00022802-22812; SAMNDCA00022901-22971; SAMNDCA00022984-23064; SAMNDCA00023137-23182; SAMNDCA00023234-23524; SAMNDCA00023542—23584; SAMNDCA00023591-24061; SAMNDCA00024582-24662; SAMNDCA00024749-24752; SAMNDCA00027670-27722; SAMNDCA00198059-198067; SAMNDCA00198070-198096; SAMNDCA00198101-198274; SAMNDCA00198289-198307; SAMNDCA00198313-198456; SAMNDCA00198754-198846; SAMNDCA00198884-199046; SAMNDCA00199164-199222; SAMNDCA00199298-199306; SAMNDCA00199402-199524; SAMNDCA00200425-200472; SAMNDCA00200617-200639; SAMNDCA00200650-200658; SAMNDCA00200661-200665; SAMNDCA00200670-200676; SAMNDCA00200686-200714; SAMNDCA00200724-200733; SAMNDCA00200737-200748; SAMNDCA00200751-200788; SAMNDCA00200793-200806; SAMNDCA00200809-200838; SAMNDCA00200843-200873; SAMNDCA00201264-201278; SAMNDCA00255026 – SAMNDCA00256183; SAMNDCA00282113 - SAMNDCA00282120; SAMNDCA00326302 – SAMNDCA00326557.

SEC believes that the identified prior art, standing alone, or in combination, would appear to an ordinary observer — giving such attention as a purchaser usually gives — to be substantially the same as the design shown in D'678, rendering that patent invalid as anticipated and/or obvious.

C. Invalidity Due to Functionality

The asserted claim of the D'678 patent is also invalid because it is functional and not ornamental. *See Lee v. Dayton-Hudson Corp.*, 838 F.2d 1186, 1188 (Fed. Cir. 1988). Indeed, the D'678 patent contains no ornamentation whatsoever, and therefore has nothing to protect.