

Exhibit D

EXHIBIT 12
FILED UNDER SEAL

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION

4 --oOo--

5 APPLE INC., A CALIFORNIA)
6 CORPORATION,)
7 PLAINTIFF,) No. 11-CV-01846-LHK
8 vs.)
9 SAMSUNG ELECTRONICS CO.,)
10 LTD., A KOREAN BUSINESS)
11 ENTITY; SAMSUNG ELECTRONICS)
12 AMERICA, INC., A NEW YORK)
13 CORPORATION; SAMSUNG)
14 TELECOMMUNICATIONS AMERICA,)
15 LLC, A DELAWARE LIMITED)
16 LIABILITY COMPANY,)
17 DEFENDANTS.)
18 _____)

19 VIDEOTAPED DEPOSITION OF RICO ZORKENDORFER
20 CONFIDENTIAL SUBJECT TO PROTECTIVE ORDER

21 Redwood Shores, California

22 Friday, October 21, 2011

23
24 Reported By:
25 KATHLEEN WILKINS, CSR #10068, RPR, CRR, CCRR, CLR
JOB NO. 42998

1 RICO ZORKENDORFER,
2 having been duly sworn,
3 was examined and testified as follows:

4 --oOo--

5 EXAMINATION BY MR. ZELLER

6 BY MR. ZELLER:

7 Q. Good morning.

8 A. Good morning.

9 Q. If you could please state and spell your
10 full name for the record.

11 A. My name is Rico Zorkendorfer. Rico,
12 R-I-C-O, Zorkendorfer, Z-O-R-K-E-N-D-O-R-F-E-R.

13 Q. And what is your current business address?

14 A. Is One Infinite Loop, Cupertino.

15 Q. California?

16 A. California.

17 Q. And what is your current residential
18 address?

19 A. Is 3928 17th Street, San Francisco,
20 California.

21 Q. And you're currently employed by Apple?

22 A. Yes.

23 Q. How long?

24 A. It's eight years.

25 Q. Started in approximately, then, the 2002

1 this transcript as highly confidential subject to
2 the protective order in force in this case.

3 Also, the witness will reserve the
4 opportunity to review the transcript to make
5 corrections at the conclusion of the deposition.

6 MR. ZELLER: Let's please mark as
7 Exhibit 841 a multipage document bearing Bates
8 Numbers APLPROS0000018778 through -18798.

9 (Whereupon, Deposition Exhibit 841 was
10 marked for identification.)

11 BY MR. ZELLER:

12 Q. And you're free to take a look here at
13 841, but I had some specific questions first for
14 you.

15 If you could look at the last page of
16 Exhibit 841. Do you know who that person is?

17 And for the record, also, if you look
18 at -18789, which is also somewhat close to the end,
19 you'll see another image of this individual, if that
20 helps.

21 MR. BARTLETT: Talking about this page
22 (indicating).

23 MR. ZELLER: Oh.

24 THE WITNESS: Okay.

25 MR. BARTLETT: -789.

1 THE WITNESS: I believe that's our patent
2 lawyer.

3 BY MR. ZELLER:

4 Q. That's Quin?

5 A. I think it's -- I think it's Quin.

6 MR. BARTLETT: One N.

7 THE WITNESS: But I can't be certain
8 because the picture quality is fairly bad.

9 MR. BARTLETT: I just want to make sure
10 this is clarified for the record. I think --
11 because the court reporter interpreted Quin as being
12 Quinn Emanuel, but Quin is the first name of an
13 individual, Q-U-I-N.

14 MR. ZELLER: It would be startling if it
15 was us.

16 MR. BARTLETT: It would, indeed.

17 BY MR. ZELLER:

18 Q. I'm going to show you what was previously
19 marked as Exhibit 8, which is United States Design
20 Patent 504,889.

21 Let me know when you've had a chance to
22 look at the '889 design patent.

23 Do you recognize the '889 design patent as
24 a patent that you're a named inventor on?

25 A. Yes.

1 Q. I take it at some point you became aware,
2 just generally speaking, that there was a dispute
3 between Samsung and Apple?

4 A. Yes.

5 Q. At any time prior to the time when you
6 first became aware that there was a dispute between
7 the companies, had you actually seen the '889 design
8 patent?

9 A. I must have, yes.

10 Q. And you are named as an inventor here, as
11 we talked about?

12 A. Yes.

13 Q. What is it you invented that's depicted
14 here?

15 MR. BARTLETT: Objection. Vague. Calls
16 for a legal conclusion. Calls for expert testimony.

17 THE WITNESS: I can't call out any -- any
18 specifics.

19 BY MR. ZELLER:

20 Q. Well, is there anything generally that you
21 can identify here that you were the inventor of?

22 MR. BARTLETT: Objection. Calls for a
23 legal conclusion.

24 THE WITNESS: I can't call out any -- any
25 specifics.

1 BY MR. ZELLER:

2 Q. But were there any -- any general aspects
3 of this that you were the inventor of?

4 MR. BARTLETT: Calls for a legal
5 conclusion.

6 THE WITNESS: I can't call out any
7 specifics.

8 BY MR. ZELLER:

9 Q. Well, you keep on saying "specifics," and
10 I -- that's what -- that's a red flag to a lawyer.

11 And so I'm trying to find out, is there
12 anything -- even if you can't point out specifics,
13 is there anything that you can generally identify
14 that you were the inventor of with respect to the
15 design in the '889 design patent?

16 MR. BARTLETT: Objection. Calls for a
17 legal conclusion.

18 THE WITNESS: I can't call out any --
19 any -- any specifics on -- on that.

20 BY MR. ZELLER:

21 Q. Is there anything that you can identify --
22 and I'm talking about anything at all, specifically
23 or generally, that you can identify that you were
24 the inventor of with respect to the '889 design
25 patent?

1 MR. BARTLETT: Objection. Calls for a
2 legal conclusion. Asked and answered.

3 THE WITNESS: Again, can't call out any --
4 any specifics.

5 BY MR. ZELLER:

6 Q. By your understanding, what was new or
7 original about the design that's shown here in the
8 '889 design patent?

9 MR. BARTLETT: Objection. Calls for a
10 legal conclusion. Calls for expert testimony.

11 THE WITNESS: I can't comment on -- on
12 anything that's, yeah, specifically called out here.

13 BY MR. ZELLER:

14 Q. Well, is there anything that you can
15 identify that was new or original about the design
16 that's shown here in the '889 design patent at the
17 time it was first thought of or put into some sort
18 of written form or fixed form?

19 MR. BARTLETT: Objection. Calls for a
20 legal conclusion. Calls for expert testimony.

21 THE WITNESS: Can you actually repeat that
22 question?

23 BY MR. ZELLER:

24 Q. Sure.

25 Is there anything that you can identify

1 that was new or original about the design that's
2 shown here in the '889 design patent as of the time
3 it was first thought of or put down into some sort
4 of tangible form by you and -- and the others who
5 are named as inventors here?

6 MR. BARTLETT: Same objection.

7 THE WITNESS: Again, I -- I -- I can't
8 talk specifically to this document.

9 BY MR. ZELLER:

10 Q. When was it that you and the other
11 inventors first came up with the idea for the design
12 that's shown here in the '889 design patent?

13 MR. BARTLETT: Objection. Calls for a
14 legal conclusion.

15 THE WITNESS: I -- I don't recall.

16 BY MR. ZELLER:

17 Q. I'll represent to you -- well, I'm sorry.
18 Let me ask another question.

19 What was the time period when you and the
20 other named inventors first put this design down
21 into some kind of tangible form, such as in a mockup
22 or a drawing or a CAD drawing?

23 MR. BARTLETT: Objection. Calls for a
24 legal conclusion.

25 THE WITNESS: I can't recall a specific

1 time line.

2 BY MR. ZELLER:

3 Q. I'll represent to you that in
4 interrogatory responses in this case, Apple has said
5 that the date when the design that's shown here in
6 the '889 design patent was first conceived of,
7 thought of, or reduced to practice is the legal
8 term, kind of put into some kind of fixed form, was
9 September 3rd, 2003.

10 And so with that date in mind, can you
11 tell me one way or another that -- whether that is
12 consistent with your recollection?

13 A. I don't have any specific recollection of
14 that -- of that date.

15 Q. Do you recall if that's generally the time
16 period?

17 MR. BARTLETT: Objection. Calls for
18 speculation.

19 THE WITNESS: No, I don't recall any
20 specific time period.

21 BY MR. ZELLER:

22 Q. You just don't remember one way or
23 another?

24 A. I -- I don't remember. It's been eight
25 years.

1 Q. Focusing on the September 2003 time
2 period, was it new or original for a design -- for
3 an electronic device to have rounded corners?

4 MR. BARTLETT: Objection. Calls for
5 expert testimony. Vague.

6 THE WITNESS: I guess it depends what
7 context. When you say "electronic device," it's a
8 very general term.

9 BY MR. ZELLER:

10 Q. Well, you'll see that this design patent,
11 the '889 design patent, is entitled "Electronic
12 Device."

13 Do you see that?

14 A. Yes.

15 Q. So I'm talking about in the context of the
16 same category that the '889 design patent is in.

17 And so my question is, is in the category
18 of "electronic device" that this '889 design patent
19 identifies, was it new or original at that time that
20 an electronic device would have rounded corners?

21 MR. BARTLETT: Objection. Calls for a
22 legal conclusion. Calls for expert testimony.

23 THE WITNESS: I -- I can't make a -- I
24 can't make a judgment on that.

25 BY MR. ZELLER:

1 Q. Focusing on the September 2003 time
2 period, was it new or original for an electronic
3 device to have an overall rectangular shape?

4 MR. BARTLETT: Calls for a legal
5 conclusion. Calls for expert testimony.

6 THE WITNESS: I can't -- I can't make a --
7 I can't make a judgment on that.

8 BY MR. ZELLER:

9 Q. During the September or as of the
10 September 2003 time period, was it new or original
11 for the design of electronic devices to have four
12 evenly rounded corners?

13 MR. BARTLETT: Same objection.

14 THE WITNESS: Again, I can't make -- I
15 can't make a judgment on that.

16 BY MR. ZELLER:

17 Q. As of the September 2003 time period, was
18 it new or original for an electronic device to have
19 a flat clear surface covering the front of the
20 device?

21 MR. BARTLETT: Same objections.

22 THE WITNESS: Again, I can't make a
23 judgment on that.

24 BY MR. ZELLER:

25 Q. As of September 2003, was it new or

1 original for the design of electronic devices to
2 have a front surface that was without ornamentation?

3 MR. BARTLETT: Same objections.

4 THE WITNESS: Again, I can't make -- I
5 can't make a judgment on that.

6 BY MR. ZELLER:

7 Q. As of September of 2003, was it new or
8 original for the design of an electronic device to
9 have a thin rim surrounding the front surface?

10 MR. BARTLETT: Same objections.

11 THE WITNESS: I can't make a judgment on
12 that.

13 BY MR. ZELLER:

14 Q. As of September of 2003, was it new or
15 original for the design of electronic devices to
16 have a substantially flat back panel that rounds up
17 near the edges, to form a thin rim around the front
18 surface?

19 MR. BARTLETT: Same objections.

20 THE WITNESS: I can't make a judgment on
21 that.

22 BY MR. ZELLER:

23 Q. As of September of 2003, was it new or
24 original for the design of an electronic device to
25 have a thin form factor?

1 MR. BARTLETT: Same objections.

2 THE WITNESS: Again, I can't make -- I
3 can't make a judgment on that.

4 BY MR. ZELLER:

5 Q. Focusing your attention on Figure 1 of the
6 '889 design patent, you'll see on the -- that's an
7 interior rectangular set of -- of lines that appear
8 to be somewhat broken.

9 Do you see that?

10 A. Which one are you referring to?

11 Q. This is the rectangular --

12 A. Yeah.

13 Q. -- set of lines that run on the interior
14 of the front surface on Figure 1 that appears to be
15 somewhat broken, although it's hard to tell.

16 A. Mh-hmm.

17 Q. Do you see that?

18 A. Yeah.

19 Q. Do you know what that is?

20 MR. BARTLETT: Objection. Calls for a
21 legal conclusion.

22 THE WITNESS: I don't feel I have the
23 expertise to -- to comment on -- or to speak to the
24 drawing in front of me.

25 BY MR. ZELLER:

1 Q. Well, I'm not asking if you -- if you have
2 an expertise.

3 My question is, do you know or have an
4 understanding as to what this interior rectangular
5 line represents?

6 MR. BARTLETT: Same objections.

7 THE WITNESS: I don't.

8 BY MR. ZELLER:

9 Q. Do you know if that interior rectangular
10 line that we're discussing shown here in Figure 1 is
11 part of the design that's depicted here in the
12 '889 design patent?

13 MR. BARTLETT: Objection. Calls for a
14 legal conclusion. Calls for speculation.

15 THE WITNESS: I -- I don't know.

16 BY MR. ZELLER:

17 Q. Are those broken lines?

18 MR. BARTLETT: Same objection.

19 THE WITNESS: I'm not sure which lines
20 you're referring to.

21 BY MR. ZELLER:

22 Q. Again, we're talking about the same lines
23 that we've -- that I've been asking questions about,
24 which are the lines -- rectangular lines that run on
25 the inner portion of the -- of Figure 1.

1 MR. BARTLETT: Same objection.

2 THE WITNESS: I don't know.

3 BY MR. ZELLER:

4 Q. If you can please take a look at Figure 2
5 of the '889 design patent. You'll see that there
6 are those diagonal lines in the interior of that
7 back surface.

8 A. Yes.

9 Q. And there are three sets of those diagonal
10 lines?

11 A. Mh-hmm.

12 Q. You see that?

13 A. Yes.

14 Q. Please take a look at Figure 4. You'll
15 see that there are no diagonal lines depicted in --
16 in Figure 4?

17 A. Yes.

18 Q. Do you know why Figure 2 has those
19 diagonal lines but Figure 4 doesn't?

20 MR. BARTLETT: Objection.

21 THE WITNESS: No.

22 MR. BARTLETT: Calls for -- I do want to
23 caution the witness to give me a chance to interpose
24 my objections before responding. Thanks.

25 Calls for a legal conclusion. Calls for

1 expert testimony.

2 BY MR. ZELLER:

3 Q. Do you have an understanding as to why
4 Figure 2 has those diagonal lines that represent a
5 flat surface, but Figure 2 -- excuse me -- Figure 4
6 does not?

7 MR. BARTLETT: Same objections.

8 THE WITNESS: No.

9 BY MR. ZELLER:

10 Q. Does the '889 design patent show a design
11 that has a back surface that is -- that is flat --

12 MR. BARTLETT: Same objection --

13 BY MR. ZELLER:

14 Q. -- meaning --

15 MR. BARTLETT: I'm sorry. I didn't mean
16 to speak over your question, Counsel, I apologize.

17 Same objections.

18 MR. ZELLER: Actually, I'll rephrase it.

19 Q. Does -- does -- by your understanding,
20 from everything you can see here in these drawings
21 in the '889 design patent, does this design show a
22 substantially flat back panel?

23 MR. BARTLETT: Objection. Calls for a
24 legal conclusion. Calls for expert testimony.

25 THE WITNESS: I -- I can't make a judgment

1 based on these drawings.

2 BY MR. ZELLER:

3 Q. Directing your attention to Figure 6.

4 You'll see on the right portion of
5 Figure 6 -- and this is a profile of a device -- a
6 generally circular shape there.

7 Do you see that?

8 A. Mh-hmm. Yes.

9 Q. What's that depict?

10 MR. BARTLETT: Objection. Calls for a
11 legal conclusion. Calls for expert testimony.

12 THE WITNESS: I can't -- I can't depict
13 that. I can't -- yeah. I don't know.

14 BY MR. ZELLER:

15 Q. Directing your attention to Figure 9,
16 you'll see that Figure 9 depicts the side of the
17 device as well as part -- the part of the front
18 surface.

19 Do you see that?

20 A. Yes.

21 Q. But you'll see that that -- that circular
22 shape that's part of Figure 6 is not shown on the
23 side of Figure 9.

24 Do you see that?

25 A. Yes, I see that. Yeah.

1 Q. Do you have an explanation as to why that
2 is?

3 A. I don't know. Sorry.

4 MR. BARTLETT: It's okay.

5 Objection. Vague. Also calls for
6 speculation and calls for expert testimony. Calls
7 for a legal conclusion.

8 THE WITNESS: I don't know.

9 BY MR. ZELLER:

10 Q. Is this circular shape we've been
11 discussing that's depicted in Figure 6 part of the
12 claim design of the '889 design patent?

13 MR. BARTLETT: Calls for a legal
14 conclusion. Calls for expert testimony. Calls for
15 speculation.

16 THE WITNESS: I don't know.

17 BY MR. ZELLER:

18 Q. Directing your attention to Figure 9,
19 you'll see that it shows the top portion of the
20 device, as it's being held by the individual who's
21 shown here, as somewhat of a wedge shape.

22 Do you see that?

23 MR. BARTLETT: Objection. Calls for a
24 legal conclusion. Calls for expert testimony.

25 THE WITNESS: I'm sorry. Wedge -- wedge

1 shape?

2 BY MR. ZELLER:

3 Q. Yes. Wedge, W-E-D-G-E. And I'm referring
4 here to the top portion of the device as -- from the
5 perspective of the individual holding it here in
6 Figure 9.

7 MR. BARTLETT: Same objection. Also
8 assumes facts.

9 THE WITNESS: I don't know.

10 BY MR. ZELLER:

11 Q. Do you know whether or not the design
12 that's depicted here in the '889 design patent is
13 showing a wedge-shaped profile or a straight-shaped
14 profile?

15 MR. BARTLETT: Objection. Calls for a
16 legal conclusion.

17 THE WITNESS: I don't.

18 MR. BARTLETT: Calls for expert testimony.

19 One at a time. So I have to finish my
20 objection before you respond so that she can get
21 them down, one after the other.

22 THE WITNESS: Okay.

23 MR. ZELLER: And, I'm sorry, you got the
24 answer?

25 THE REPORTER: (Nods head.)

1 BY MR. ZELLER:

2 Q. Directing your attention to Figure 2,
3 you'll also see that the -- one side shape of the
4 device that's shown here looks thicker in that
5 corner that's closest to us, and then it looks like
6 it goes into a wedge shape as you move to the -- the
7 right.

8 Do you see that?

9 MR. BARTLETT: Objection. Calls for a
10 legal conclusion. Calls for expert testimony.

11 THE WITNESS: I don't see -- I can't -- I
12 can't say the shape -- I can't see the shape based
13 on these drawings.

14 BY MR. ZELLER:

15 Q. And when you say you can't see the shape
16 based on these drawings, you can't tell what shape
17 is being depicted here for the profile of the
18 device --

19 MR. BARTLETT: Objection.

20 BY MR. ZELLER:

21 Q. -- is that true?

22 MR. BARTLETT: Objection. Calls for a
23 legal conclusion. Calls for expert testimony.

24 THE WITNESS: I -- I can't make a judgment
25 based on -- on this drawing.

1 BY MR. ZELLER:

2 Q. Can you make a judgment as to the shape of
3 the profile that's being depicted here in the '889
4 design patent based on all the drawings that are
5 available to you and the other information in the
6 '889 design patent?

7 MR. BARTLETT: Objection. Calls for a
8 legal conclusion. Calls for expert testimony.

9 THE WITNESS: I can't make a judgment
10 based on this -- on these drawings.

11 BY MR. ZELLER:

12 Q. Directing your attention to Figure 1.

13 Earlier we were talking about the interior
14 rectangular lines.

15 A. Yes.

16 Q. Do you recall that?

17 Is the interior of that -- that area
18 within the interior rectangular lines intended to
19 depict the active area of the display?

20 MR. BARTLETT: Objection. Calls for a
21 legal conclusion. Calls for expert testimony.

22 THE WITNESS: I don't know.

23 BY MR. ZELLER:

24 Q. Is there kind of -- any kind of active
25 area of a display screen that's depicted in the '889

1 design patent?

2 MR. BARTLETT: Same objections.

3 THE WITNESS: I can't make that judgment.

4 BY MR. ZELLER:

5 Q. Does the '889 design patent depict any
6 bands or any kind of margin or area on the front
7 surface that's outside of an active display screen
8 area?

9 MR. BARTLETT: Same objections. Also
10 vague.

11 THE WITNESS: I can't -- I can't make that
12 judgment.

13 BY MR. ZELLER:

14 Q. You can't tell based on the drawings
15 that -- and the other information that's here in the
16 '889 design patent?

17 MR. BARTLETT: Same objections.

18 THE WITNESS: I -- I can't make that
19 judgment based on these -- these patent drawings.

20 BY MR. ZELLER:

21 Q. Directing your attention to Figure 1,
22 you'll see that there is a -- a line that runs
23 through part of the -- or around part of the
24 perimeter of the device that is thicker and darker
25 than the other lines.

1 You see that portion?

2 A. Yes.

3 MR. BARTLETT: Same objections.

4 BY MR. ZELLER:

5 Q. What does that represent?

6 MR. BARTLETT: Same objections.

7 THE WITNESS: I can't make a judgment
8 based -- based on these drawings.

9 BY MR. ZELLER:

10 Q. Do you have any knowledge or information
11 as to what that darker line running part of the
12 perimeter of Figure 1 represents?

13 MR. BARTLETT: Same objections.

14 THE WITNESS: I -- I can't make a judgment
15 based on these drawings.

16 BY MR. ZELLER:

17 Q. Well, again, I'm now divorcing it from the
18 drawings.

19 Do you have information as to that as --
20 from any source?

21 MR. BARTLETT: Objection. Vague.

22 THE WITNESS: So can you re- -- can you
23 ask that question again?

24 BY MR. ZELLER:

25 Q. Sure.

1 What I'm trying to find out is do you have
2 any knowledge or information from any source as to
3 what that darker line represents that runs part of
4 the perimeter of Figure 1?

5 MR. BARTLETT: Same objections. Calls for
6 expert testimony. Calls for a legal conclusion.

7 THE WITNESS: I can't speak to that darker
8 line that you're referring to.

9 BY MR. ZELLER:

10 Q. Does that darker line that we're
11 discussing, that's shown here in Figure 1, depict an
12 area that has vents?

13 MR. BARTLETT: Objection. Calls for a
14 legal conclusion. Calls for expert testimony. And
15 also calls for speculation.

16 THE WITNESS: I can't make that -- I can't
17 make that judgment.

18 BY MR. ZELLER:

19 Q. Directing your attention to Figure 9,
20 you'll also see that there's an area where it has a
21 darker, thicker line that runs around the perimeter
22 of the front of the device.

23 You see that --

24 A. Yes.

25 Q. -- that portion there?

1 A. Mh-hmm.

2 Q. Is -- do you know what that depicts?

3 MR. BARTLETT: Same objections.

4 THE WITNESS: No.

5 BY MR. ZELLER:

6 Q. Does that depict vents?

7 MR. BARTLETT: Objection. Calls for a
8 legal conclusion. Calls for expert testimony.
9 Calls for speculation.

10 THE WITNESS: I can't make a judgment
11 based on that drawing.

12 BY MR. ZELLER:

13 Q. [REDACTED]

[REDACTED]

1

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

25

Q. The model shop personnel were the ones who