

Exhibit G

EXHIBIT 15
FILED UNDER SEAL

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

4 APPLE INC., a California
corporation,

5
6 Plaintiff,

7 vs. Case No. 11-CV-01846-LHK

8 SAMSUNG ELECTRONICS CO., LTD.,
a Korean business entity;

9 SAMSUNG ELECTRONICS AMERICA,
INC., a New York corporation;

10 SAMSUNG TELECOMMUNICATIONS
AMERICA, LLC, a Delaware
11 limited liability company,

12 Defendants.

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15
16 CONFIDENTIAL
17 ATTORNEYS' EYES ONLY

18
19 VIDEOTAPED DEPOSITION OF DUNCAN KERR
Redwood Shores, California
20 Wednesday, October 26, 2011

21
22 Reported by:
LORRIE L. MARCHANT, CSR No. 10523
23 RPR, CRR, CCRR, CLR
24 JOB NO. 42863
25

1 THE VIDEOGRAPHER: Thank you. Will the
2 court reporter please swear in the witness.

3 THE REPORTER: Do you solemnly swear or
4 affirm under the penalties of perjury that the
5 testimony you are about to offer will be the truth,
6 the whole truth and nothing but the truth?

7 THE WITNESS: I do.

8 EXAMINATION BY MS. CARUSO

9 BY MS. CARUSO:

10 Q. Good morning. I'd like to start just by
11 going over your educational background.

12 Did you obtain a degree in mechanical
13 engineering at Imperial College in London in 1985?

14 A. Yes.

15 Q. Did you obtain a degree in industrial
16 design engineering at Royal College of Art in 1987?

17 A. Yes.

18 Q. After your obtaining your degree in
19 industrial design engineering, where was the first
20 place you worked after that?

21 A. I worked in a design consultancy in London.

22 Q. What was the name of the firm it was
23 associated with?

24 A. ISIS UK Limited.

25 Q. How long were you there?

1 A. Not by myself.

2 Q. Were you asked to -- whether you had any
3 documents relating to the development of the iPad?

4 A. I don't recall that specific question.

5 Q. Were you asked whether you had any
6 documents relating to the development of the iPhone?

7 A. I don't recall that specific question.

8 Q. It doesn't need to be that specific
9 question. It could be any general question about
10 the iPad.

11 MR. MONACH: Here again, I'll instruct the
12 witness not to answer about any communications --
13 the substance of any communications you may have had
14 with counsel about the iPad. If you remember
15 questions about document collection, you can
16 respond.

17 THE WITNESS: So what's the question?

18 BY MS. CARUSO:

19 Q. What types of documents were you asked to
20 identify?

21 MR. MONACH: Objection. Assumes facts not
22 in evidence.

23 THE WITNESS: I don't remember.

24 BY MS. CARUSO:

25 Q. Are you taking any medication this morning?

1 A. I took some herbal throat and cough
2 medication.

3 Q. Are you under the influence of any other
4 medication, anything that might affect your memory?

5 A. No.

6 Q. Looking at the drawings in the D'889
7 patent, do you recall at some point at Apple
8 creating a design of a handheld tablet?

9 MR. MONACH: Object to the form of the
10 question.

11 THE WITNESS: So which document are you
12 referring to?

13 BY MS. CARUSO:

14 Q. Yes. That one (indicating).

15 A. This one (indicating).

16 MR. MONACH: Object to the form of the
17 question as vague. Object to the extent the
18 question intends to include a legal conclusion about
19 the drawings. I'm not sure that it does.

20 THE WITNESS: The question again, please.

21 BY MS. CARUSO:

22 Q. Do you recall at Apple, at some point in
23 time, creating a handheld tablet design?

24 A. Yes, I do.

25 Q. Do you understand the drawings of the D'889

1 patent that's in front of you to reflect any design
2 that you created while you were at Apple?

3 MR. MONACH: I'll instruct you not to
4 reveal any communications with counsel, but
5 otherwise you can answer the question.

6 THE WITNESS: I'm a designer. I'm not a
7 patent attorney. I don't understand patent drawings
8 in the way a patent attorney would.

9 They do, to my design eyes, reflect designs
10 that we -- we worked on.

11 BY MS. CARUSO:

12 Q. Looking at Figure 2, do you have any
13 understanding of what the parallel lines inside this
14 rectangular shape represent?

15 MR. MONACH: Object to the form of the
16 question to the extent it calls for a legal
17 conclusion from a nonlawyer witness. Lacking in
18 foundation in light of the prior testimony.

19 I'll instruct you not to reveal any
20 attorney-client communications.

21 THE WITNESS: So I see a lot of lines. I'm
22 not sure if you're specifically referring to
23 particular ones.

24 BY MS. CARUSO:

25 Q. Referring to these three sets of lines

1 (indicating) which have three parallel lines.

2 MR. MONACH: Same objection.

3 THE WITNESS: So, again, I'm a designer.
4 I'm not a patent attorney. My assumption is that
5 those lines were put there to represent some legal
6 aspect of this document which I'm not aware of.

7 As a designer, my interpretation of that
8 would be that it's a reflective surface.

9 BY MS. CARUSO:

10 Q. Okay. Do you have any understanding of
11 whether, in Figure 2, the lines that we're referring
12 to as a -- you identified as perhaps being
13 reflective surface are on the front or the back of
14 the device?

15 MR. MONACH: Objection. Lack of
16 foundation. Calls for a legal conclusion.

17 THE WITNESS: From my design interpretation
18 of these drawings, Figure 2 represents the rear
19 surface.

20 BY MS. CARUSO:

21 Q. Do you understand Figure 1 to represent the
22 front surface?

23 MR. MONACH: Same objection.

24 THE WITNESS: Yes.

25

1 BY MS. CARUSO:

2 Q. Do you have any understanding of what the
3 sort of interior line that goes within the outline
4 of the front surface represents?

5 MR. MONACH: Same objection. Vague.

6 THE WITNESS: So this dot -- this dotted
7 line (indicating)?

8 BY MS. CARUSO:

9 Q. Yes.

10 MR. MONACH: Same objection. Lack of
11 foundation. And calls for a legal conclusion.

12 THE WITNESS: Again, as a designer, I would
13 be interpreting this patent drawing, which I would
14 understand that drawing to mean something for a
15 patent attorney. I would be making an
16 interpretation of it as a designer.

17 BY MS. CARUSO:

18 Q. Do you have any understanding of what it
19 represents?

20 MR. MONACH: Objection. Lack of
21 foundation. Calls for a legal conclusion.

22 Continuing instruction not to reveal any
23 attorney-client communications, if you had them.

24 THE WITNESS: It could be a number of
25 things.

1 BY MS. CARUSO:

2 Q. Which are?

3 MR. MONACH: Same objection.

4 THE WITNESS: Making the assumption that
5 this -- has a display visible from the front
6 surface, it could be the edge of the active area of
7 the display.

8 If this were a -- a display which had touch
9 sensing on it, it could be a demarcation of what's
10 active and what's inactive from a touch perspective.
11 It could be -- it could be some -- a design detail
12 on the front surface.

13 It could be -- presuming, again, that this
14 is a reflective material which is transparent, there
15 could be some detail on the back side of that
16 surface. It could be some component inside the
17 assembly, behind the transparent surface.

18 BY MS. CARUSO:

19 Q. In Figure 2, on the right-hand side of the
20 drawing, what looks to be the side edge of the
21 device tapers towards the rear of the drawing.

22 Do you see that?

23 A. You mean --

24 MR. MONACH: Objection.

25

1 BY MS. CARUSO:

2 Q. Yes.

3 MR. MONACH: Assumes facts not in evidence.
4 Objection to the extent it calls for a legal
5 conclusion.

6 THE WITNESS: I see that tapering, yes.

7 BY MS. CARUSO:

8 Q. Do you have an understanding of what that
9 tapering represents?

10 MR. MONACH: Objection. Vague. Object to
11 the extent it calls for a legal conclusion.

12 THE WITNESS: Again, I'm a designer, not a
13 patent attorney. I don't understand the -- the
14 constraints or the -- what the goals of a patent
15 attorney drawing -- patent drawing are.

16 My design interpretation of that could be a
17 number of things.

18 BY MS. CARUSO:

19 Q. Which are?

20 MR. MONACH: Same objection.

21 THE WITNESS: It could be an attempt at a
22 perspective representation of this object. It could
23 be that the shape of the -- the object, actually the
24 thickness of it, changes from one corner to the
25 other corner. It could be a combination of those.

1 BY MS. CARUSO:

2 Q. Do you recall creating a product at Apple
3 in which the thickness of a handheld tablet device
4 changed from one corner to the next?

5 A. I don't recall.

6 Q. Focusing on the upper right corner of
7 Figure 2, that tapering portion that we were
8 referring to earlier doesn't appear to go all the
9 way to the top edge of the product.

10 Do you see that?

11 MR. MONACH: Objection. Assumes facts not
12 in evidence. Object to the extent it asks for a
13 legal conclusion from the witness.

14 THE WITNESS: Again, it's difficult for me
15 to interpret this patent drawing. I'm not an expert
16 on what lines on the patent drawing are supposed to
17 represent.

18 BY MS. CARUSO:

19 Q. I'm not -- as a designer, how would you
20 interpret this drawing if someone presented it to
21 you?

22 MR. MONACH: Objection. Vague. Incomplete
23 hypothetical. Object to the extent it calls for a
24 legal conclusion since it's a patent drawing.

25 THE WITNESS: I find it ambiguous from a

1 BY MS. CARUSO:

2 Q. You're not aware of whether the design of
3 the D'270 was an iPod touch that made it to
4 production?

5 MR. MONACH: Objection. Lack of
6 foundation. Objection to the extent it calls for a
7 legal conclusion.

8 THE WITNESS: Again, as a designer, I'm
9 looking at patent drawings. These are not drawings
10 that we would use in the development of a design.
11 So I -- I can't interpret them as design drawings to
12 be able to reference them to objects that we've
13 produced.

14 BY MS. CARUSO:

15 Q. I'm going to hand you what's been marked
16 previously as Lutton Exhibit 7. For the record,
17 this is a copy of U.S. Design Patent 618,677.

18 Mr. Kerr, have you seen the '677 patent
19 before?

20 A. I don't recall.

21 Q. You're identified on the front page of the
22 '677 as one of the inventors of this design.

23 Do you see that?

24 A. I do.

25 Q. Looking at the drawings of the '677, do you

1 Do you see that?

2 MR. MONACH: Object to the form of the
3 question.

4 THE WITNESS: I see a portion of the
5 drawing which has, if I'm following you, a -- a
6 region which has a crosshatch, yes, like a grid-type
7 fill.

8 BY MS. CARUSO:

9 Q. Do you have any understanding of what that
10 shows?

11 MR. MONACH: Object to the form of the
12 question as vague. Object to the extent it calls
13 for a legal conclusion.

14 THE WITNESS: As a designer, it's -- I
15 don't know how to interpret this patent drawing.
16 It's not a design drawing.

17 I see in the patent document a reference
18 to --

19 (Reporter clarification.)

20 THE WITNESS: Sorry.

21 I see, in reference to Figure 1, claimed
22 surface of the electronic devices illustrated with
23 the color designation for the color black.

24 BY MS. CARUSO:

25 Q. The slanted lines that are parallel to each

1 other, across what appears to be the surface of
2 Figure 1, do you see those?

3 A. (Indicating?)

4 Q. Yes.

5 A. Yes, I do.

6 Q. Do you have any understanding what those
7 show?

8 MR. MONACH: Objection. Lack of
9 foundation. Calls for a legal conclusion.

10 THE WITNESS: Again, as a designer, I'm not
11 familiar with the conventions of patent drawings.
12 My assumption is that they represent something very
13 specific as -- for the patent application.

14 My interpretation of those as a designer is
15 that they represent a reflective surface.

16 BY MS. CARUSO:

17 Q. Is there anything about the design of the
18 iPhone that you believe was new?

19 MR. MONACH: Object to the form of the
20 question. Vague and ambiguous. Compound. Lacking
21 in foundation. Incomplete hypothetical. Object to
22 the extent it calls for a legal conclusion.

23 You can answer.

24 THE WITNESS: Yes.

25 ///

1 BY MS. CARUSO:

2 Q. What is that?

3 MR. MONACH: Same objection.

4 THE WITNESS: It's my understanding that it
5 was the iPhone, first iPhone, was the first
6 multi-touch telephone device. So it was new in that
7 respect.

8 BY MS. CARUSO:

9 Q. Is there anything about the design, the
10 industrial design, of the iPhone that you understood
11 to be new?

12 MR. MONACH: Same objection. Vague and
13 ambiguous. No antecedent for what he's to compare
14 with. Object to the extent it calls for a legal
15 conclusion.

16 But you can give your understanding.

17 THE WITNESS: Everything that we design at
18 Apple is new to us, so -- so, yes.

19 BY MS. CARUSO:

20 Q. There aren't any particular features of the
21 design that you can identify as being new?

22 MR. MONACH: Object to the form of the
23 question as vague and ambiguous.

24 THE WITNESS: "New" in what sense?

25 ///

1 had worked on a phone, but you had seen other mobile
2 phones at the time you were creating the iPhone 1
3 design; correct?

4 A. Sure.

5 Q. Did you use a cell phone at that time?

6 A. Yes.

7 Q. Which one was it?

8 A. If I remember, I had a number of phones
9 over the years. If I remember correctly it was a
10 Motorola flip phone.

11 Q. Was it a RAZR?

12 A. A RAZR.

13 Q. Do you recall other phones that you've had
14 over the years?

15 A. I had -- I don't remember the names of
16 them. I had a different Motorola flip phone at one
17 point. I had a Nokia -- I believe they're kind of
18 called candy bar style, solid block phone. I had a
19 Sony phone. My first one was a Sony, from '98.
20 Something like that.

21 Q. All right. I apologize. I can't remember
22 if I've asked you this already.

23 But for the design of the iPhone, is it
24 correct that you can't distinguish your -- any
25 unique contribution you made in the design of the

1 iPhone from that of the other Apple designers?

2 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

11 Q. I'm handing you what's been previously
12 marked as Lutton Exhibit 6, which is a copy of the
13 U.S. Design Patent 593,087.

14 Do you see that?

15 A. Yes.

16 Q. Do you have an understanding of what the
17 design of the D'087 patent is?

18 MR. MONACH: Objection. Vague and
19 ambiguous. Object to the extent it calls for a
20 legal conclusion about the scope of the patent.

21 THE WITNESS: I'm a designer. I'm looking
22 at a patent drawing. I'm not an expert in patent
23 drawings.

24 But my interpretation of what I see as a
25 designer is of the iPhone. Based on one detail

1 which I see, I believe it's the iPhone 1.

2 BY MS. CARUSO:

3 Q. Which detail are you looking at to identify
4 it as the iPhone 1?

5 A. If we start on Figure 2, there's this
6 dashed line which runs across what I'm interpreting
7 as the body of the product.

8 If that is trying to represent the antenna,
9 the separation between the body -- metal body and
10 the plastic antenna cover, then that would lead me
11 to believe this is attempting to represent the
12 iPhone 1.

13 Q. All right. I'm going to hand you a copy of
14 what was previously marked as Exhibit 842 to
15 Zorkendorfer. It doesn't have an exhibit stamp on
16 it, but it has been previously marked.

17 The document, Exhibit 842, is
18 Bates-numbered APLNDCX2049, and then there's a
19 second page attached, which is APLNDCX2056.

20 That was on your exhibit as well?

21 A. Yes.

22 Q. Do you recognize what's shown in
23 Exhibit 842?

24 A. I don't remember specifically what this is.

25 Q. Do you have an understanding of what this

1 is?

2 MR. MONACH: Objection. Vague and
3 ambiguous. Asked and answered.

4 THE WITNESS: I'm presuming it's a
5 photograph of a industrial design model from Apple.

6 BY MS. CARUSO:

7 Q. Is there any part of the photograph, 2049
8 or 2056, that you believe has what you would
9 describe as a vent detail?

10 MR. MONACH: Objection. Lack of
11 foundation. Calls for speculation.

12 THE WITNESS: I can only describe what I
13 see. I don't know the function of different
14 elements of what I'm looking at.

15 BY MS. CARUSO:

16 Q. How would you describe this (indicating)
17 detail that runs along the edge of the -- what
18 appears to be electronic -- excuse me, the edge of
19 the surface display?

20 MR. MONACH: Object under the best evidence
21 rule that the photograph is the best evidence of
22 what the photograph is. Objection. The question is
23 vague and asking for some further verbal
24 description.

25 THE WITNESS: You just described these as