Exhibit H

EXHIBIT 16 FILED UNDER SEAL

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Page 1
1
                UNITED STATES DISTRICT COURT
2
              NORTHERN DISTRICT OF CALIFORNIA
3
                      SAN JOSE DIVISION
    APPLE INC., a California
    corporation,
5
               Plaintiff,
                                          Case No.
6
                                          11-CV-01846-LHK
      VS.
7
    SAMSUNG ELECTRONICS CO., LTD.,
    a Korean business entity;
    SAMSUNG ELECTRONICS AMERICA,
    INC., a New York corporation;
    SAMSUNG TELECOMMUNICATIONS
10
    AMERICA, LLC, a Delaware
    limited liability company,
11
               Defendants.
12
13
14
15
        HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
16
17
          VIDEOTAPED DEPOSITION OF RICHARD HOWARTH
18
                 San Francisco, California
19
                  Monday, October 31, 2011
20
21
22
23
    REPORTED BY:
24
    CYNTHIA MANNING, CSR No. 7645, CLR, CCRR
25
    JOB NO. 43007
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Page 5 reporter please swear in the witness. 2 RICHARD HOWARTH, having first been duly sworn, testified as follows: THE VIDEOGRAPHER: You may proceed. 7 EXAMINATION BY MR. ZELLER: 10 Good morning. 0. 11 Morning. Α. 12 If you could please state and spell your 13 full name for the record for us. 14 Richard Howarth. R-I-C-H-A-R-D; Paul, Α. 15 P-A-U-L; H-O-W-A-R-T-H. 16 MR. MONACH: Before we get too far, I 17 just want -- so I don't forget -- I'm sure we're 18 going to do a lot of examination on documents that 19 have been marked "Highly Confidential, Attorneys' 20 Eyes Only." So rather than try to parse it out 21 now we'd like to have the entire transcript 22 designated as attorneys' eyes only. 23 And the witness reserves the right to 24 review and sign the deposition transcript. 25 Thank you.

- $^{
 m l}$ tablet designs that you worked on there for Apple.
- Is there -- is there an area that, on the
- front face of the tablet computer devices that you
- worked on, that you understood to include a border
- ⁵ or mask area?
- MR. MONACH: Objection; vague and
- ⁷ compound.
- 8 THE WITNESS: Yeah, I'm sorry.
- 9 Could you repeat the question?
- MR. ZELLER: Yes. If you could read it
- back, please.
- 12 (Whereupon the reporter read the record
- as follows:
- "Question: Is there an area that, on the
- front face of the tablet computer devices
- that you worked on, that you understood
- to include a border or mask area?")
- MR. MONACH: And I objected; vague and
- compound.
- THE WITNESS: Sometimes some people refer
- to -- or I refer to the area around the display as
- ²² a border.
- 23 BY MR. ZELLER:
- Q. But in general, you don't think that
- those terms are precise enough or clear enough

- that you could be -- you'd be able to say it's
- ² really definite; right?
- MR. MONACH: Objection; vague and
- ⁴ ambiguous.
- 5 THE WITNESS: I don't know what other
- ⁶ people think.
- ⁷ BY MR. ZELLER:
- Q. Well, I'm not asking about what other
- 9 people think. I'm asking you.
- Do you think that the word "border" or
- "mask" is a clear term to you as to what it is
- referring to in the context of tablet computer
- designs that Apple has made?
- MR. MONACH: Objection; vague and
- ambiguous, both a compound and incomplete
- 16 hypothetical.
- THE WITNESS: It could be.
- 18 BY MR. ZELLER:
- Q. I'm going to show you what was previously
- marked as Exhibit 8, which for the record is
- United States Design Patent 504,889.
- And please let me know when you've had an
- opportunity to review the '889 design patent.
- A. (Witness reviewing document.)
- Okay.

- O. You're named as an inventor of the '889
- ² design?
- 3 A. I was one of the industrial design team
- 4 that worked on this product.
- ⁵ Q. Looking at the drawings, these figures
- that are in the '889 design patent, do any of
- ⁷ those drawings show what you, in your view --
- well, I'm sorry. Let me rephrase it.
- Directing your attention to the figures
- and drawings in the '889 design patent.
- Do any of those drawings show a mask
- 12 area?
- MR. MONACH: Objection; lack of
- 14 foundation. Objection; compound. Objection;
- calls for a legal conclusion by a nonlawyer
- witness.
- THE WITNESS: I'm not a patent lawyer.
- 18 BY MR. ZELLER:
- Q. I'm not asking you as a patent lawyer.
- ²⁰ I'm asking you as an inventor of the '889 design
- patent.
- Do any of the drawings or figures in the
- '889 design patent depict a mask area?
- MR. MONACH: Same objection; lack of
- ²⁵ foundation --

- THE WITNESS: As --
- MR. MONACH: Hang on a second.
- Lack of foundation. Objection, to the
- 4 extent it calls for a legal conclusion.
- 5 THE WITNESS: As an industrial designer,
- and not a patent lawyer, it isn't clear to me that
- ⁷ there is an area here that is definitely a mask or
- ⁸ border.
- 9 BY MR. ZELLER:
- Q. Directing your attention to Figure 1.
- 11 A. Yes.
- Q. You'll see that on the interior of
- Figure 1, that there is a rectangular line.
- Do you see that?
- A. I see a dotted line.
- Q. Do you know, is that -- is that a broken
- 17 line?
- MR. MONACH: Objection; lack of
- 19 foundation. Under the Best Evidence Rule the
- document speaks for itself. Vague.
- THE WITNESS: It looks like a dotted
- line. It looks like an inconsistent dotted line.
- 23 BY MR. ZELLER:
- Q. Do you know why it's in that form? Do
- you have an understanding?

- MR. MONACH: Objection; lack of
- ² foundation.
- And let me just caution you. I'm not
- saying you did have any such communications, but I
- don't want you, in answering any of these
- questions, to reveal any attorney-client
- ⁷ communications.
- 8 THE WITNESS: Okay. I'm not exactly sure
- 9 what that rectangle is depicting.
- 10 BY MR. ZELLER:
- Q. Do you know if that dotted line that you
- were talking about that's in that rectangular
- shape on the interior of Figure 1 has some
- relationship to separating the active area of the
- display from the mask or nonactive areas of the
- 16 display?
- MR. MONACH: Objection; lack of
- foundation, calls for speculation. Object, to the
- extent it's asking for a legal conclusion.
- THE WITNESS: I'm not sure what that line
- represents.
- BY MR. ZELLER:
- Q. And I take it you don't have an
- understanding as to whether or not that particular
- line, this rectangular line on the interior of

- Figure 1 that's dotted, is part of the claimed
- ² design here?
- MR. MONACH: Objection; lack of
- foundation. Objection, to the extent it calls for
- 5 a legal conclusion.
- THE WITNESS: I'm not sure what that line
- ⁷ represents.
- 8 BY MR. ZELLER:
- 9 Q. Directing your attention to Figure 2 of
- the '889 design patent.
- You'll see that there are three sets of
- diagonal lines on the interior of this.
- 13 A. Yes.
- Q. And then directing your attention to
- ¹⁵ Figure 4.
- You'll see that it doesn't have those
- ¹⁷ diagonal lines.
- ¹⁸ A. Okay.
- Q. Do you see that?
- A. Yes, I see that.
- Q. Do you have any understanding or
- explanation as to why those diagonal lines don't
- appear in Figure 4 but they do appear in Figure 2?
- MR. MONACH: Objection; lack of
- foundation. Objection, to the extent it calls for

- ¹ a legal conclusion.
- THE WITNESS: I'm not sure why those
- 3 lines are in one view and not in another.
- 4 BY MR. ZELLER:
- 5 Q. Do you know if the design that's shown
- 6 here in the '889 design patent is showing a back
- surface or bottom surface that is flat and clear?
- 8 MR. MONACH: Same objection; lack of
- 9 foundation. Object, to the extent it calls for a
- 10 legal conclusion.
- THE WITNESS: I'm not sure what that is
- depicting.
- 13 BY MR. ZELLER:
- Q. Is the design that's shown here in the
- 15 '889 design patent, by your understanding, does
- it -- well, I'm sorry. Let me rephrase that.
- Directing your attention to the '889
- design patent.
- In your view, as an inventor and a
- designer, does this design show a clear front
- surface of the device?
- MR. MONACH: Objection; lack of
- foundation. Objection, to the extent it calls for
- ²⁴ a legal conclusion.
- You can give your understanding, if you

- ¹ have one.
- THE WITNESS: I'm not exactly sure what
- 3 this document -- what this figure is showing. It
- 4 could be.
- 5 BY MR. ZELLER:
- Q. And you're not sure one way or another
- whether what's shown here in the design shows a
- 8 clear, flat, continuous surface on the front?
- 9 MR. MONACH: Objection, to the extent it
- calls for a legal conclusion.
- THE WITNESS: I didn't create these
- drawings, so I don't know if that's what that is
- supposed to represent.
- 14 BY MR. ZELLER:
- Q. And even apart from the fact that you
- didn't create the drawings, you still don't know;
- is that true?
- MR. MONACH: Same objection. Object, to
- the extent it calls for a legal conclusion; asked
- and answered.
- THE WITNESS: It isn't completely clear
- to me that that's what that is representing.
- 23 BY MR. ZELLER:
- Q. Directing your attention to Figure 9.
- You'll see in Figure 9 that the top of

- the device that's shown there is -- from the
- orientation of the individual holding it -- is
- somewhat wedge-shaped, or it tapers?
- 4 MR. MONACH: Objection; mischaracterizes
- ⁵ the evidence, assumes facts not in evidence,
- 6 argumentative.
- ⁷ BY MR. ZELLER:
- Q. Do you see that?
- 9 MR. MONACH: Object, to the extent it
- calls for a legal conclusion.
- THE WITNESS: I see what you're referring
- 12 to. I see it's an object that the guy is holding.
- 13 BY MR. ZELLER
- Q. Well, from the perspective of the guy
- whose holding it --
- 16 A. Yes.
- Q. -- how would you describe the shape of
- the top of the device?
- 19 A. What --
- MR. MONACH: Objection; vague and
- 21 ambiguous. Object, to the extent it calls for a
- legal conclusion.
- THE WITNESS: What are you referring to
- 24 as "the top"?
- 25 //

- BY MR. ZELLER:
- Q. The top, from the orientation of the
- individual holding it, which would be your right.
- MR. MONACH: Objection. Objection;
- ⁵ vaque.
- 6 BY MR. ZELLER:
- 7 Q. If you could hand me your copy.
- ⁸ A. Okay.
- 9 MR. ZELLER: Let's please mark as Exhibit
- 10 1132 a copy of the '889 design patent with a
- marking that I'm about to give it. It will be an
- arrow consisting of an X on Figure 9, and then two
- 13 arrows with the Figure X, Label X, in Figure 2.
- 14 (Deposition Exhibit 1132 was marked for
- identification)
- 16 BY MR. ZELLER:
- Q. So directing your attention to Figure 2.
- ¹⁸ A. Okay.
- Q. You'll see that what I did there is, I
- 20 put two arrows with the Label X on there.
- A. Mm-hmm.
- Q. And you'll see that those portions, those
- sides, appear to taper, or narrow?
- MR. MONACH: Object to the form of the
- question as mischaracterizing the evidence;

- $^{
 m 1}$ assumes facts not in evidence.
- THE WITNESS: To me, it looks like a
- 3 slightly perspective drawing of a rectangular
- ⁴ object.
- 5 BY MR. ZELLER:
- Q. Do you have an understanding as to
- ⁷ whether or not those lines taper because of
- 8 perspective or because the design that is being
- 9 communicated here has tapering sides?
- A. I couldn't say for certain. To me
- personally, as an industrial designer, it looks to
- me like they're tapering because of perspective.
- Q. And in your view, is that an accurate
- 14 perspective?
- MR. MONACH: Objection; vague and
- ambiguous.
- THE WITNESS: I don't know about an
- accurate perspective. It looks, perhaps, like
- that's what was intended.
- 20 BY MR. ZELLER:
- Q. And if I asked you the same questions
- about that edge that I labeled as X in Figure 9,
- you'd give me the same answers?
- MR. MONACH: Objection, to the extent it
- calls for a legal conclusion. But you can give

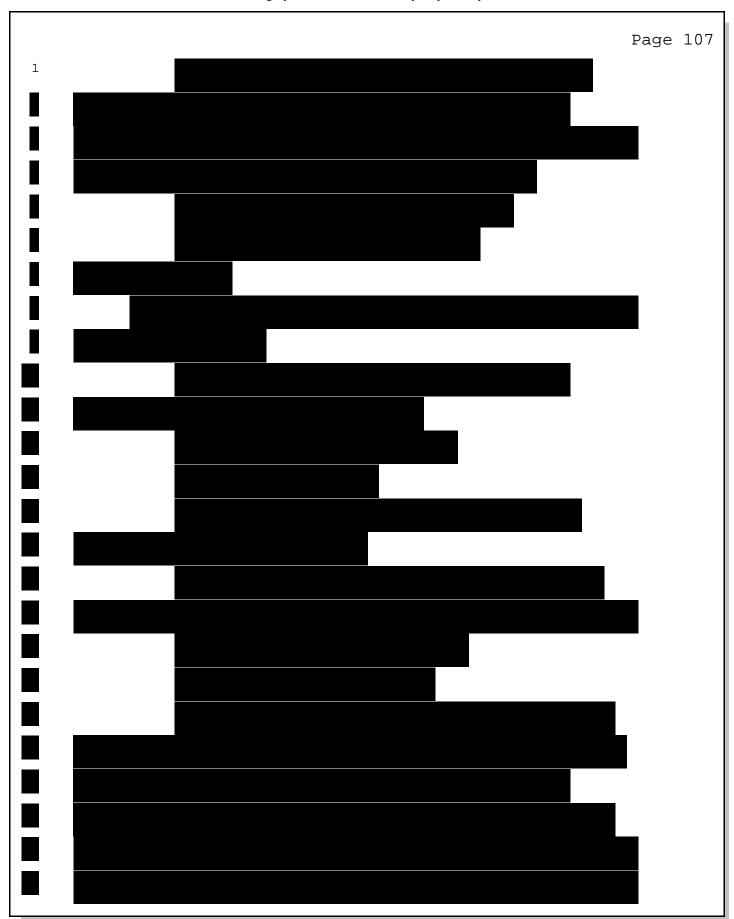
- your understanding.
- THE WITNESS: My understanding is that's
- what that is trying to represent.
- 4 BY MR. ZELLER:
- Q. It is perspective, but you're not
- 6 certain?
- 7 MR. MONACH: Object to the form of the
- ⁸ question.
- 9 THE WITNESS: It's possible that that's
- what that represents.
- 11 BY MR. ZELLER:
- Q. But, again, you can't say with certainty
- whether or not that's -- that tapering is because
- of perspective, as opposed to whether or not the
- design is actually showing that there is some kind
- of tapering?
- MR. MONACH: Objection; lack of
- foundation. Objection, to the extent it calls for
- a legal conclusion; asked and answered.
- You can do it again.
- THE WITNESS: In my opinion, as an
- industrial designer and not a patent lawyer, I
- think that that looks like it is an object with
- perspective and not a tapering geometry.
- 25 //

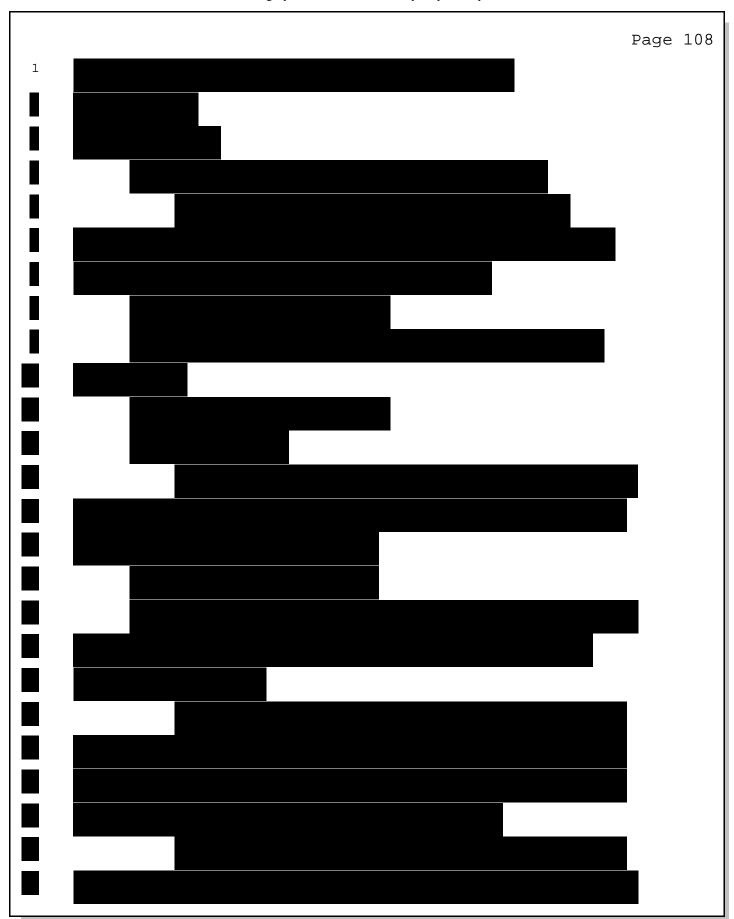
- BY MR. ZELLER:
- Q. And from your perspective, is that -- is
- that an accurate depiction of perspective?
- MR. MONACH: Objection; lack of
- foundation, incomplete hypothetical. Objection;
- ⁶ vague.
- THE WITNESS: Yes, it could be.
- 8 BY MR. ZELLER:
- Q. Can you say with any certainty if it is?
- MR. MONACH: Same objection.
- THE WITNESS: I can't say with any
- certainty without -- whether that's an absolutely
- accurate perspective view. But it looks okay. It
- 14 looks possible.
- 15 BY MR. ZELLER:
- Q. You'll see also in Figure 9 that there is
- a portion of it that has a thicker, darker line
- that runs around the perimeter of the front.
- Do you see that?
- A. Yes, I see that.
- Q. What does that depict?
- MR. MONACH: Objection; lack of
- foundation. Object, to the extent it calls for a
- legal conclusion.
- THE WITNESS: It's unclear to me exactly

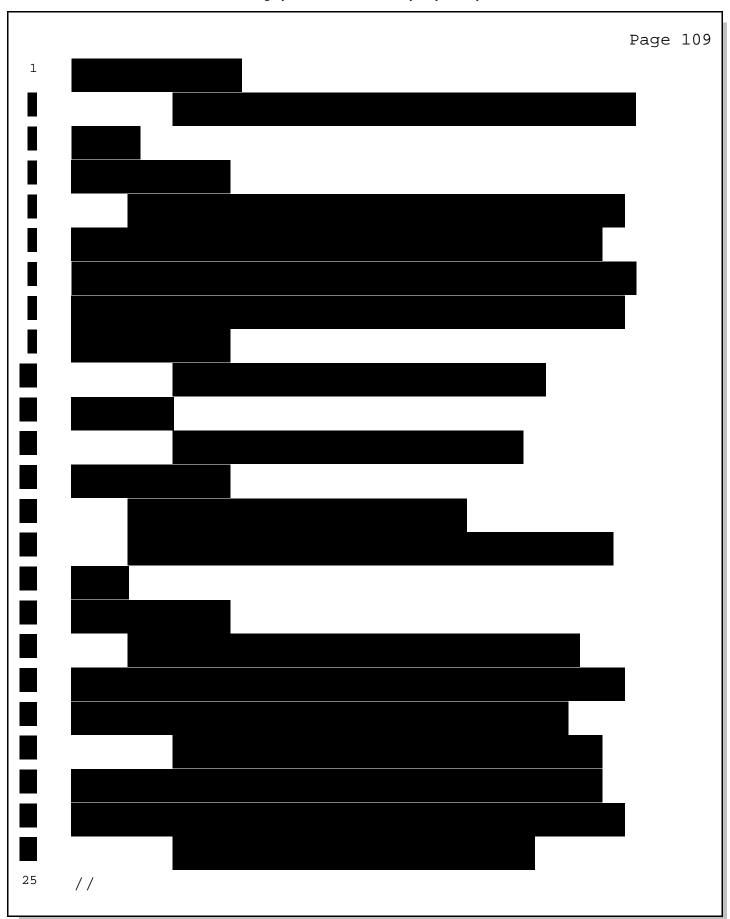
- 1 what that is trying to depict.
- 2 BY MR. ZELLER:
- Q. Does it depict a gap or a groove?
- MR. MONACH: Same objection; lack of
- foundation. Objection, to the extent it calls for
- 6 a legal conclusion.
- THE WITNESS: I'm not sure what that
- 8 precise detail is trying to depict. But it looks
- like the separation between two parts to me. Not
- the separation; it looks like the joint between
- 11 two parts.
- 12 BY MR. ZELLER:
- Q. And directing your attention to Figure 1,
- you'll see that also at least on part of the
- perimeter of this front surface there is a darker
- line there as well, darker, thicker line?
- A. I see that.
- Q. And do you have an understanding as to
- what that's depicting?
- MR. MONACH: Objection; lack of
- foundation. Object, to the extent it calls for a
- legal conclusion.
- THE WITNESS: I couldn't tell you exactly
- what that's trying to depict.
- 25 //

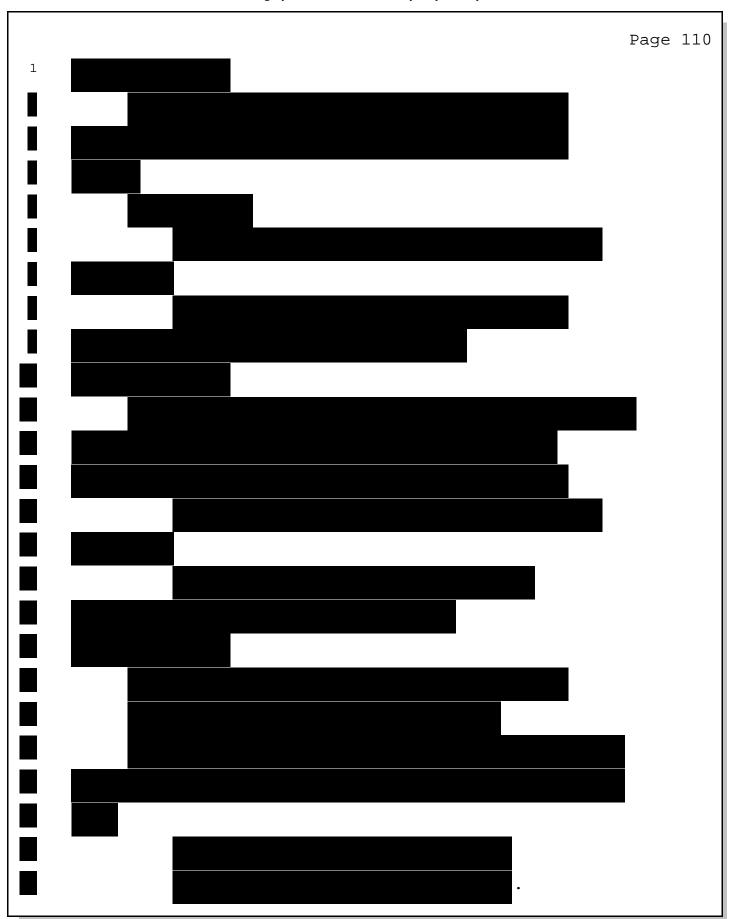
- 1 BY MR. ZELLER:
- Q. Is that darker, thicker line depicting a
- ³ gap or a groove?
- 4 MR. MONACH: Same objection. Lack of
- foundation, calls for a legal conclusion.
- ⁶ THE WITNESS: In my opinion as an
- industrial designer, it doesn't look like that's
- 8 trying to depict a groove or a gap. It looks like
- 9 it's perhaps trying to show a radius or an
- intersection of the rear housing, perhaps.
- 11 BY MR. ZELLER:
- Q. But you're not certain?
- MR. MONACH: Same objection. Asked and
- answered.
- THE WITNESS: I'm not certain.
- 16 BY MR. ZELLER:
- Q. You'll see that the date of this design
- patent for filing -- and this is on the first
- ¹⁹ page --
- 20 A. Okay.
- Q. -- in the middle of the first column,
- ²² March 17th, 2004.
- Do you see that date there?
- A. Yes, I do.
- Q. Prior to March 17th, 2004, which is the

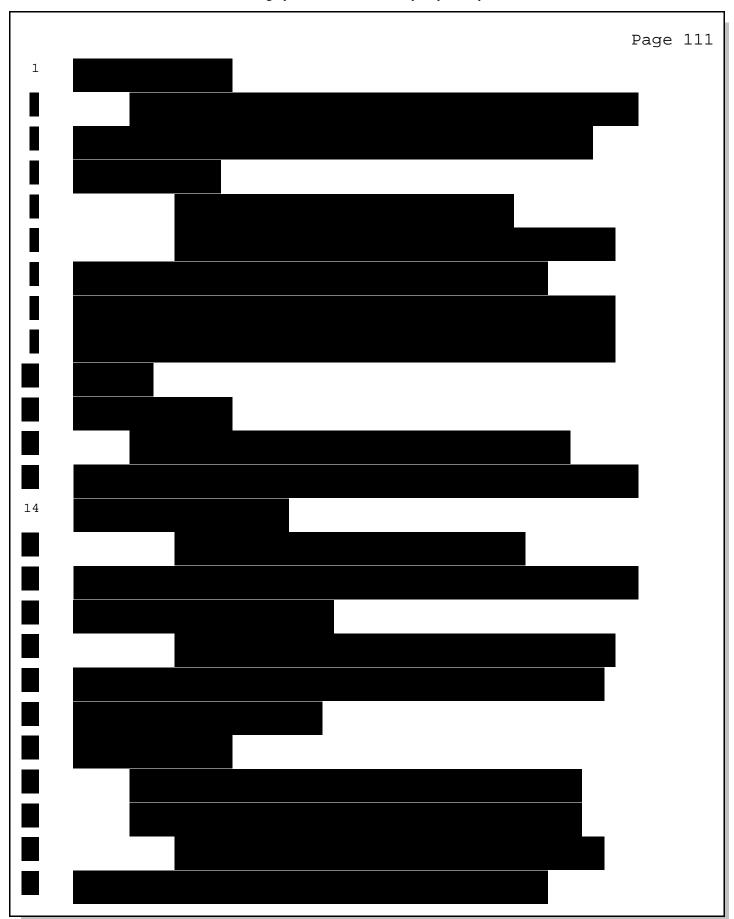
Page 106 filing date of the '889 design patent, the Apple 2 design team was working on tablet computer devices 3 that had a gap or groove that ran on the perimeter of the front of the device? MR. MONACH: Object to form. Lack of 6 foundation. 7 THE WITNESS: I don't recall. 8 BY MR. ZELLER: You just don't recall one way or another? 0. 10 Α. I don't recall. 11

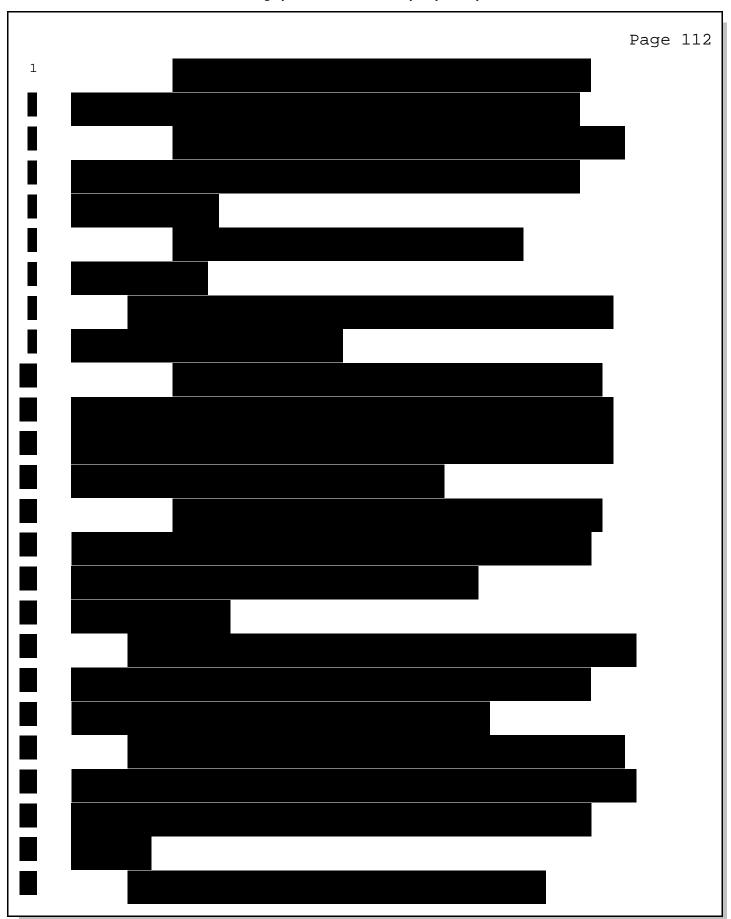












Page 113 7 BY MR. ZELLER: I'm going to show you what was previously marked as Exhibit 841. 10 Α. Mm-hmm. 11 And please let me know when you've had an 0. 12 opportunity to review those pages. 13 (Witness reviewing document.) Α. 14 Okay. 15 I take it generally speaking, at some 16 point, you became aware that there was a dispute 17 between Apple and Samsung, a legal dispute? 18 MR. MONACH: Object to the form of the 19 question as vague. 20 In answering this question, I'll instruct 21 the witness not to reveal any attorney-client 22 communications. 23 THE WITNESS: I can't remember when I 24 was -- when I first found out. 25 //

- BY MR. ZELLER:
- Q. Right. I'm not quite at that question
- yet. I'm just trying to understand something
- 4 generally. It's to help put some time periods on
- the questions I'm going to ask.
- ⁶ A. Okay.
- Q. So at some point, did you become aware
- 8 that there was a lawsuit between Apple and
- Samsung, just generally speaking?
- MR. MONACH: You can answer that question
- yes, no, or I don't recall.
- THE WITNESS: At some point, yes.
- 13 BY MR. ZELLER:
- Q. Now, prior to the time that you became
- aware that there was a lawsuit between Samsung and
- 16 Apple, had you seen these pages that were marked
- as Exhibit 841 before that time?
- A. I don't recall.
- Q. Do you recognize what's depicted here in
- ²⁰ Exhibit 841?
- MR. MONACH: Objection; vague and
- ²² ambiguous.
- THE WITNESS: I'm not -- I'm not clear on
- what this -- on what's depicted in these pages.
- 25 //