

KANG DECLARATION
EXHIBIT 10

EXHIBIT I

FILED UNDER SEAL

1 IN THE UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION
4

APPLE, INC., a California
5 corporation,

6
7 Plaintiff,

8
9 -vs-

No. 11-CV-01846-LHK

10 SAMSUNG ELECTRONICS CO., LTD.,
11 a Korean business entity; et al.,
 Defendants.

/

12
13 VIDEOTAPED DEPOSITION OF TIMOTHY SHEPPARD - 30(b)(6)
14 HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
15 SAN FRANCISCO, CALIFORNIA
16 WEDNESDAY, FEBRUARY 29, 2012
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21 Reported by: LOUISE MARIE SOUSOURES, CSR NO. 3575
22 Certified LiveNote Reporter
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25 JOB NO: 47031

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WEDNESDAY, FEBRUARY 29, 2012

1:26 p.m.

Deposition of TIMOTHY SHEPPARD,
held at the offices of Morrison & Foerster, 425 Market
Street, San Francisco, California, before Louise Marie
Sousoures, a Certified Shorthand Reporter and a
Certified LiveNote Reporter

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A P P E A R A N C E S

FOR THE PLAINTIFF:

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A P P E A R A N C E S (CONTINUED)

FOR THE DEFENDANT:

QUINN EMANUEL URQUHART & SULLIVAN

865 South Figueroa Street

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BY: ANTHONY P. ALDEN

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THE VIDEOGRAPHER:

ALINE MAYER

ALSO PRESENT:

JULIE J. HAN

SENIOR LITIGATION COUNSEL, SAMSUNG

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IT IS HEREBY STIPULATED AND AGREED
by and between the attorneys for the
respective parties herein, that filing and
sealing be and the same are hereby waived.

IT IS FURTHER STIPULATED AND AGREED
that all objections, except as to the form
of the question, shall be reserved to the
time of the trial.

IT IS FURTHER STIPULATED AND AGREED
that the within deposition may be sworn to
and signed before any officer authorized
to administer an oath, with the same
force and effect as if signed and sworn
to before the Court.

- oOo -

P R O C E E D I N G S

-oOo-

(Exhibit Nos. 1918 and 1919 were marked.) 13:26

THE VIDEOGRAPHER: Good afternoon. Here 13:26
marks the beginning of the deposition for Tim 13:26
Sheppard, 30(b)(6) in the matter of Apple, 13:26
Incorporated versus Samsung Electronics Company, 13:26
Limited et al., in the United States District Court, 13:26
Northern District of California, San Jose Division, 13:26
case 11-CV-01846-LHK. 13:26

Deposition is being held at 425 Market Street 13:26
in San Francisco, California on February 29th, 2012 at 13:26
approximately 1:26. 13:26

I am Aline Mayer, a legal video specialist 13:26
from TSG Reporting, headquartered at 747 Third Avenue, 13:26
New York, New York, and our court reporter is Louise 13:26
in association with TSG Reporting. 13:26

Counsel, please introduce yourselves and 13:26
state who you represent for the record. 13:27

MR. OLSON: Eric Olson from Morrison & 13:27
Foerster representing Apple. 13:27

MR. SELWYN: Mark Selwyn from WilmerHale also 13:27
on behalf of Apple. 13:27

MR. ALDEN: Anthony Alden on behalf of Quinn 13:27
Emanuel for Samsung and the witness, Tim Sheppard. 13:27

1 MS. HAN: Julie Han from Samsung. 13:27

2 THE VIDEOGRAPHER: The court reporter will 13:27

3 now please swear in the witness. 13:27

4 --oOo--

5 TIMOTHY SHEPPARD,

6 having been first duly sworn by the

7 Certified Shorthand Reporter to tell

8 the truth, the whole truth, and nothing

9 but the truth, testified as follows:

10 EXAMINATION BY MR. OLSON:

11 Q. Mr. Sheppard, you have been deposed in this 13:27

12 case before, correct? 13:27

13 A. Correct. 13:27

14 Q. And have your job responsibilities changed in 13:27

15 a material way since your deposition in January of 13:27

16 this year? 13:27

17 A. No. 13:27

18 Q. And is it correct that you are responsible 13:27

19 for accounting functions at Samsung Technology -- 13:27

20 excuse me, Telecommunications America? 13:27

21 A. Yes. 13:27

22 Q. And if I refer to that as STA, you would 13:27

23 understand what I was referring to? 13:27

24 A. Yes. 13:28

25 Q. Do you have any role in the accounting at 13:28

1 Samsung Electronics America? 13:28

2 A. No. 13:28

3 Q. Are you here to testify on behalf of Samsung 13:28

4 with respect to any topics under a Rule 30(b)(6) 13:28

5 notice? 13:28

6 A. I believe so. 13:28

7 Q. Are you here to testify on behalf of Samsung 13:28

8 Telecommunications America? 13:28

9 A. You mean STA? 13:28

10 Q. Yes. 13:28

11 A. Yes. 13:28

12 Q. Did I say it wrong? 13:28

13 A. No. I thought you previously said you were 13:28

14 going to refer to it as STA. 13:28

15 Q. I meant if I do refer to it, we will know 13:28

16 what I was talking about. 13:28

17 A. Yes. 13:28

18 Q. And just given that, let me make sure the 13:28

19 record is clear. 13:28

20 You are here to testify on behalf of STA or 13:28

21 Samsung Telecommunications America with respect to the 13:28

22 notice? 13:28

23 A. Yes. 13:28

24 Q. And are you here to testify on behalf of 13:28

25 Samsung Electronics America with respect to the 13:28

1 notice? 13:28

2 A. Yes. 13:28

3 Q. And are you here to testify on behalf of 13:28

4 Samsung Electronics Corporation, the Korean parent in 13:28

5 any way? 13:29

6 A. No. 13:29

7 Q. Let me hand you what I've had the court 13:29

8 reporter mark as Exhibit 1918 and also what I've had 13:29

9 her mark as Exhibit 1919. 13:29

10 Starting with Exhibit 1918, can you tell me 13:29

11 what that is? 13:29

12 A. Reading the front cover appears to be a 13:29

13 deposition notice. 13:29

14 Q. Have you ever seen Exhibit 1918 before? 13:29

15 A. It's possible. I'm not -- 13:29

16 Q. Did you see any list of topics you were being 13:30

17 designated to respond to before you came to the 13:30

18 deposition today? 13:30

19 A. Yes. 13:30

20 Q. In what form did you see that? 13:30

21 A. In the form of a Word document. 13:30

22 Q. From whom? 13:30

23 MR. ALDEN: Well, let me just state, caution 13:30

24 you to the extent that counsel sent you a document in 13:30

25 connection with the preparation of the deposition I'll 13:30

1 A. No. 14:06

2 Q. Were you ultimately able to validate whether 14:06

3 the report you were looking at was accurate? 14:07

4 A. Yes. 14:07

5 Q. And was it accurate? 14:07

6 A. Yes. 14:07

7 MR. ALDEN: Objection, asked and answered. 14:07

8 THE WITNESS: Yes. 14:07

9 MR. OLSON: I'm going to mark as the first 14:07

10 exhibit in order -- the next exhibit in order, 14:07

11 Exhibit 1920, a document that has been printed from a 14:07

12 native spreadsheet that was given to us on February 14:07

13 3rd and the Bates number of the document as it came to 14:07

14 us was SAMNDCA 323946. 14:07

15 I have placed that Bates number on the 14:07

16 document as well on the first page, an indication it 14:07

17 was marked highly confidential. 14:07

18 (Exhibit No. 1920 was marked.) 14:08

19 BY MR. OLSON: 14:08

20 Q. Mr. Sheppard, while you take a look at that, 14:08

21 I'm going to have marked as the next exhibit in order 14:08

22 Exhibit 1921 a document that is SAMNDCA 3259495 to 14:08

23 503. 14:08

24 MR. ALDEN: Let me state for the record as 14:08

25 discussed with counsel prior to the deposition there 14:08

1 have been some additional spreadsheets produced which 14:08

2 I believe would supersede Exhibits 1920 and 1921. 14:08

3 (Exhibit No. 1921 was marked.) 14:08

4 MR. OLSON: So are you representing 1920 and 14:08

5 1921 are incomplete or inaccurate? 14:08

6 MR. ALDEN: No, I believe that most of the 14:09

7 data in the new spreadsheets is the same as the data 14:09

8 in the old spreadsheets, but my understanding is that 14:09

9 they -- the new spreadsheets are intended to replace 14:09

10 the old ones and consolidate the two spreadsheets 14:09

11 you've marked as Exhibit 1920 and 1921. 14:09

12 MR. OLSON: So let me ask and have you 14:09

13 represent it for the benefit of the record. Is it the 14:09

14 case, then, the new document solely combines what is 14:09

15 Exhibit 1920 and 1921? 14:09

16 MR. ALDEN: I am not in a position to make 14:09

17 that representation. 14:09

18 BY MR. OLSON: 14:09

19 Q. Mr. Sheppard, have you ever seen Exhibit 1920 14:09

20 before? 14:09

21 A. Yes. 14:09

22 Q. When did you see it? 14:09

23 MR. ALDEN: Again, I'll object and instruct 14:10

24 you not to answer on the basis of the attorney-client 14:10

25 privilege to the extent you saw it during the meeting 14:10

1 with counsel. If you otherwise saw it, you can answer 14:10

2 the question. 14:10

3 BY MR. OLSON: 14:10

4 Q. Have you ever seen Exhibit 1920 other than in 14:10
5 the presence of counsel? 14:10

6 A. No. 14:10

7 Q. Do you understand Exhibit 1920 to have been 14:10
8 solely prepared for the purposes of this litigation? 14:10

9 A. Yes, my understanding. 14:10

10 Q. Was any part of it prepared in the ordinary 14:10
11 course of business on behalf of STA? 14:10

12 MR. ALDEN: Objection, vague and ambiguous. 14:10

13 BY MR. OLSON: 14:10

14 Q. Let me ask a better question. 14:10

15 Was any document in the format of 14:10
16 Exhibit 1920 prepared at STA in the ordinary course of 14:10
17 business? 14:10

18 A. No. 14:10

19 Q. Was any document in the format of 14:10
20 Exhibit 1920 prepared in the ordinary course of 14:10
21 business at SEA? 14:11

22 A. No. 14:11

23 Q. Was any document in the format of 14:11
24 Exhibit 1920 prepared in the ordinary course of 14:11
25 business at SEC? 14:11

1 MR. ALDEN: Objection, beyond the scope. 14:11

2 THE WITNESS: I have no personal knowledge of 14:11

3 what's prepared at SEC. 14:11

4 BY MR. OLSON: 14:11

5 Q. Do you know who prepared Exhibit 1920? 14:11

6 A. I do not. 14:11

7 Q. Do you have any information on where the 14:11

8 information prepared in 1920 comes from? 14:11

9 A. I know where the data for STA and SEA comes 14:11

10 from. 14:11

11 Q. All right. Is it your understanding that 14:11

12 Exhibit 1920 was prepared at the instructions of 14:11

13 counsel? 14:12

14 MR. ALDEN: Objection, to the extent that 14:12

15 your knowledge would -- comes from discussions with 14:12

16 counsel, I'll instruct you not to answer that 14:12

17 question. 14:12

18 If otherwise, you can answer that question. 14:12

19 THE WITNESS: I think I explained earlier I 14:12

20 don't know who prepared this document. 14:12

21 BY MR. OLSON: 14:12

22 Q. Do you know whether it's a member of your 14:12

23 staff that prepared it? 14:12

24 A. I don't know means I don't know. 14:12

25 Q. Are your answers the same as to Exhibit 1921? 14:12

1 A. So in the context of answering the question 14:16
2 do I have any information about this document that 14:16
3 didn't come from counsel, the answer is no. 14:16

4 MR. OLSON: Let me have marked as the next 14:17
5 exhibit in order, Exhibit 1922, a document marked 14:17
6 Bates numbered SAMNDCA 354292 to 354385 and I'll 14:17
7 represent for the record this was received yesterday 14:17
8 at approximately 3 p.m. 14:17

9 (Exhibit No. 1922 was marked.) 14:17

10 BY MR. OLSON: 14:17

11 Q. Let me first ask you, Mr. Sheppard, have you 14:18
12 ever seen Exhibit 1922 other than in the presence of 14:18
13 counsel? 14:18

14 A. No. 14:18

15 Q. Is it your understanding that Exhibit 1922 14:18
16 was prepared solely for purposes of this litigation? 14:18

17 A. That is my understanding. 14:18

18 Q. Do you have any understanding as to how 14:18
19 Exhibit 1922 differs from Exhibit 1920 and 1921? 14:19

20 A. Yes, I have some understanding. 14:19

21 Q. What's your understanding? 14:19

22 A. Let me just validate one moment. 14:19

23 My understanding is the individual pages at 14:20
24 the product level are the same in both reports, but 14:20
25 the products in this I believe is a different list 14:20

1 THE WITNESS: I've only reviewed this 14:24

2 document in the presence of counsel. 14:24

3 So I don't think I can give you an answer. 14:24

4 BY MR. OLSON: 14:24

5 Q. What, if anything, have you done to validate 14:24

6 whether the data that's contained in Exhibit 1922 is 14:24

7 accurate? 14:24

8 A. I selected one product and I reran SAP data 14:24

9 to confirm that it matches the data in this report. 14:24

10 Q. Which product was that? 14:24

11 A. The I500. 14:24

12 Q. The I500? 14:25

13 A. Yes. 14:25

14 Q. Does that product also have another name? 14:25

15 A. Not to me. 14:25

16 Q. And did you only seek to validate unit sales 14:25

17 and revenue or did you validate any other lines? 14:25

18 A. I validated all five lines. 14:25

19 Q. And by the five lines, you mean the five 14:25

20 lines that are listed under STA quantity, sales, COGS, 14:25

21 expense and operating profit? 14:25

22 A. Correct. 14:25

23 Q. Did you seek to validate any of the 14:25

24 information in the SEC category -- excuse me, SEA 14:25

25 category? 14:25

1 A. Yes. 14:25

2 Q. What did you do in that regard? 14:25

3 A. I think I had discussions with the colleague 14:26
4 I mentioned before at SEC, Giho Ro. 14:26

5 Q. And Mr. Ro gave you information on the SEA 14:26
6 category? 14:26

7 A. Yes. 14:26

8 Q. What information did he give you to validate 14:26
9 that the information regarding SEA was valid? 14:26

10 A. He confirmed that the data is -- is a pure 14:26
11 extract from an SAP system. 14:26

12 Q. Was he the one who extracted it? 14:26

13 A. I do not know. 14:26

14 Q. How did he validate that's true? 14:26

15 A. I don't know. I didn't ask him to validate 14:26
16 in that sense. 14:26

17 When you say validate it's true, what's true 14:26
18 are you referring to? 14:27

19 Q. How did he validate that the information 14:27
20 that's contained in Exhibit 1922 is from the SAP 14:27
21 database on behalf of SEA? 14:27

22 A. Oh, okay. 14:27

23 In that case, I have to actually say he did 14:27

24 send me a confirmation e-mail that explained which 14:27

25 fields he had extracted from SEA, from the SAP system. 14:27

1 Q. When did he send this e-mail to you? 14:27

2 A. Last night. 14:27

3 Q. And which fields did he say were extracted 14:27
4 from the SAP database? 14:27

5 A. I don't recall the fields. 14:27

6 Q. There's only five fields there, correct? 14:27

7 A. Yes, there are five lines, but that doesn't 14:27
8 represent five fields in SAP. 14:27

9 Q. Do you know which lines he validated that are 14:28
10 under SEA? 14:28

11 A. He validated all five lines on the 14:28
12 spreadsheet. 14:28

13 Q. And what's your understanding as to how he 14:28
14 did that? 14:28

15 A. So have you read the spreadsheet? 14:28

16 Q. I have. 14:28

17 A. Okay, good. 14:28

18 So as you can tell, the summary page here 14:28
19 appears to be a list of the many pages behind it. 14:28

20 Would you agree with that? 14:28

21 Q. Actually, in the case of 1920, it wasn't. 14:28

22 So I haven't been able to do the math since 14:28
23 yesterday at seven when I got this. 14:28

24 Are you able to tell me that's true? 14:28

25 A. I thought you got this at three. 14:28

1 Q. It was sent to us at three. 14:28

2 A. Okay. 14:29

3 Q. Are you able to tell me whether or not the 14:29

4 totals on the first five pages are, in fact, the 14:29

5 addition of all of the material that's behind it? 14:29

6 A. I cannot tell you that I -- I can tell you I 14:29

7 have not validated that calculation on the 14:29

8 spreadsheet. 14:29

9 Q. You don't know? 14:29

10 A. I don't know. 14:29

11 Q. Do you know whether that's true of the unit 14:29

12 sales data? 14:29

13 A. Well, I haven't established, I don't know. I 14:29

14 think you can ask this question a hundred ways and 14:29

15 I'll still have to give you the same answer. 14:29

16 Q. The same as to any line item? 14:29

17 A. Yes. 14:29

18 Q. How did -- who was the gentleman in your 14:29

19 general accounting department that you spoke to about 14:29

20 this document? I've forgotten his name. 14:29

21 A. Christopher Park. 14:29

22 Q. Yes. How did Mr. Park validate the 14:29

23 information around the I500? 14:29

24 A. He was able to run a report out of SAP for 14:30

25 that particular model. 14:30

1 Q. And does the report only include the five 14:30
2 lines that are listed under STA? 14:30

3 A. The report he ran contained more than five 14:30
4 lines. 14:30

5 Q. Other than checking the I500, have you done 14:30
6 anything else to determine whether or not the data 14:30
7 that's in Exhibit 1922 is valid? 14:30

8 A. Yes. 14:31

9 Q. What? 14:31

10 A. The data for the STA was prepared by STA 14:31
11 staff. 14:31

12 Q. Who prepared the data? 14:31

13 A. So Jaehee -- what's the last name, I forgot 14:31
14 her last name, J-A-E-H-E-E, I forgot the last name for 14:31
15 the moment. 14:32

16 Q. To whom -- is that a male or female? 14:32

17 A. Female. 14:32

18 Q. To whom did she give the data? 14:32

19 A. I do not know. 14:32

20 Q. How did it get from her to being included in 14:32
21 Exhibit 1922? 14:32

22 A. I think I said before I don't know who 14:32
23 prepared this report. 14:32

24 Q. How do you know that her work -- this 14:32
25 document is an accurate reflection of her work? 14:32

1 A. So two answers to that. 14:32

2 One, the conversation I had in counsel's 14:32

3 presence with SEC staff that I referred to earlier and 14:32

4 more importantly he was validating it by validation 14:33

5 with Christopher Park. 14:33

6 Q. With respect to the one product? 14:33

7 A. Yes. 14:33

8 Q. What is it about the conversation you had 14:33

9 with the person from SEC that causes you to believe 14:33

10 her work is accurately reflected in Exhibit 1922? 14:33

11 A. Because he told me because -- it was accurate 14:33

12 as reflected in this report. 14:33

13 Q. How did he know? 14:33

14 A. I don't know. 14:33

15 Q. Was he involved in the preparation of 14:33

16 Exhibit 1922? 14:33

17 A. I don't know who prepared Exhibit 1922. 14:33

18 Q. I didn't ask that question. 14:33

19 Was this gentleman involved in the 14:33

20 preparation of Exhibit 1922 in any way? 14:33

21 A. I don't know who prepared the Exhibit 1922. 14:34

22 It's very hard for me to then speculate as to who may 14:34

23 have been involved in the preparation of document 14:34

24 1922. 14:34

25 Q. What's your understanding as to how he knew 14:34

1 that the information was -- that's in Exhibit 1922 is 14:34

2 an accurate representation of what's in STA's system? 14:34

3 A. Can you repeat that question? 14:34

4 Q. Right. What -- see if I can rephrase it in a 14:34

5 way that may be easier for you to understand. 14:34

6 What did he tell you that caused you to 14:34

7 believe that Exhibit 1922 is an accurate reflection of 14:34

8 information that's in STA's system of record? 14:34

9 A. He told me that no one at SEC had prepared 14:34

10 any data for STA and the data had been prepared by STA 14:35

11 staff. 14:35

12 Q. Did he identify who? 14:35

13 A. Yes, I just named the person. 14:35

14 Q. Mr. Park? 14:35

15 A. No, Giho. 14:35

16 Q. Did he identify anybody else? 14:35

17 A. No. 14:35

18 Q. Did he identify anything else he had done to 14:35

19 validate the data in any way as to STA? 14:35

20 A. No. 14:35

21 Q. Are you able to say on behalf of Samsung on 14:35

22 the record whether or not this document is a -- 1922 14:35

23 is a complete and authoritative and accurate statement 14:35

24 of the quantity of each of the products that are 14:35

25 listed -- quantity sold by period of each of the 14:35

1 products that are listed on Exhibit 1922? 14:35

2 MR. ALDEN: Objection, vague and ambiguous 14:35

3 and Mr. Sheppard is designated on behalf of STA and 14:35

4 SEA only so his answers can only be on behalf of those 14:35

5 entities. 14:36

6 THE WITNESS: Do you want to -- 14:36

7 BY MR. OLSON: 14:36

8 Q. Sure. Let me see if I can correct it in a 14:36

9 way that you can answer. 14:36

10 On behalf of STA and SEA, are you able to say 14:36

11 whether Exhibit 1922 is an authoritative and accurate 14:36

12 statement of the unit sales of each of the products 14:36

13 that are listed under the category STA and SEA in 14:36

14 Exhibit 1922? 14:36

15 A. Yes. 14:36

16 MR. ALDEN: Objection, vague and ambiguous. 14:36

17 THE WITNESS: Authoritative -- so best of my 14:36

18 knowledge based on the analysis I've done I believe 14:36

19 these are accurate -- these spreadsheets contain 14:36

20 accurate data about the sales of the units listed in 14:36

21 this document. 14:36

22 BY MR. OLSON: 14:36

23 Q. All right. Not quite my question. 14:36

24 Are you able to state one way or the other, 14:36

25 yes or no, whether this document Exhibit 1922 is an 14:37

1 authoritative and accurate statement of the unit sales 14:37

2 of each of the products that are listed as it relates 14:37

3 to the category STA and SEA on the spreadsheet? 14:37

4 MR. ALDEN: Same objection. 14:37

5 THE WITNESS: I'm not familiar with the term 14:37

6 authoritative in the accounting context. 14:37

7 So what I can say is that I believe this data 14:37

8 is an accurate reflection of what is contained in our 14:37

9 SAP database for STA and SEA. 14:37

10 BY MR. OLSON: 14:37

11 Q. And other than speaking to Mr. Park and 14:37

12 Mr. Ro, what other analysis or information do you have 14:37

13 that causes you to believe that? 14:37

14 A. That that's it. 14:38

15 MR. OLSON: Let me have marked as the next 14:38

16 exhibit in order, Exhibit 1923, a document that is 14:38

17 SAMNDCA 354386 through 354600. 14:38

18 (Exhibit No. 1923 was marked.) 14:38

19 BY MR. OLSON: 14:38

20 Q. Mr. Sheppard, let me ask you first: Have you 14:39

21 ever seen Exhibit 1923 before other than in the 14:39

22 presence of counsel? 14:39

23 A. Give me a second and try to figure out what 14:40

24 this is. 14:40

25 I'd have to say no, I've not. 14:40

1 THE VIDEOGRAPHER: Here marks the end of tape 15:00

2 1 in today's deposition, we're off the record, it's 15:00

3 3:00 o'clock. 15:00

4 (Recess taken.) 15:00

5 THE VIDEOGRAPHER: Here marks the beginning 15:14

6 of tape 2 in the deposition of Mr. Sheppard. 15:14

7 We are back on the record, the time is 3:15. 15:14

8 BY MR. OLSON: 15:14

9 Q. Mr. Sheppard, did you have anyone on your 15:14

10 staff check any of the information as to any of the 15:14

11 products that are included in Exhibit 1923? 15:14

12 A. No. 15:14

13 Q. Did you ask anybody at SEA or SEC's staff to 15:14

14 check the information as to any of the products that 15:14

15 are in Exhibit 1923? 15:14

16 A. No, but 1923 doesn't contain any SEA data. 15:15

17 Q. So obviously, then, you didn't do it as to 15:15

18 SEA. 15:15

19 Did you ask anybody at SEC to validate any of 15:15

20 the information as to a specific product like you did 15:15

21 with Mr. Park in any of the products in Exhibit 1923? 15:15

22 A. No. Once I had established how the data was 15:15

23 extracted from SAP, and I was available to validate 15:15

24 the point that Mr. Ro had made to me, I was quite 15:15

25 comfortable these were actual reflections what is in 15:15

1 SAP. 15:15

2 Q. Did you see Mr. Ro? 15:15

3 A. Yes, remember I said earlier I had spoken to 15:15
4 Mr. Ro at SEC. 15:15

5 Q. I thought I heard Rowland so I wanted to make 15:15
6 sure. 15:15

7 A. It's R-O, not a common name. 15:15

8 Q. And what is your understanding as to how the 15:15
9 data that's included on Exhibit 1922 and 1923 was 15:16
10 extracted? 15:16

11 A. 1922 and 1923, oh -- so ignoring the summary 15:16
12 page which I believe this just represents a 15:16
13 spreadsheet, but if you actually go to -- 15:16

14 Q. Let me pause you there. When you say 15:16
15 'spreadsheet,' the addition of the other items? 15:16

16 A. So I -- in my mind, the front -- so in native 15:16
17 form you would see this, I think, as a -- I would 15:16
18 imagine you would see this, I haven't seen this in 15:16
19 native form -- at least I don't think so -- in the 15:16
20 first page this would be the first tab of a 15:16
21 spreadsheet. 15:16

22 After that, you then see a tab for each -- 15:16
23 each product. 15:16

24 And by validating the data back to SAP for 15:16
25 the I500, I'm confident each tab then represents just 15:17

1 a straight extract from SAP and summarized in this 15:17
2 spreadsheet format. 15:17

3 Q. And how did you -- how did you come to the 15:17
4 understanding that this was an extract from SAP? 15:17

5 A. Because that's our system of record. 15:17

6 Q. But did someone tell you that or did you know 15:17
7 that the minute you saw it? 15:17

8 A. I suspected that the minute I saw it, but I 15:17
9 validated it with a discussion with Mr. Ro. 15:17

10 Then I asked one of my -- Mr. Park to 15:17
11 actually reperform the extract to validate it was 15:17
12 accurately done. 15:17

13 Q. With respect to the I500, did Mr. Park do it 15:17
14 just for one period of time or for all periods of 15:17
15 time? 15:17

16 A. He did it for all the periods that were in -- 15:17
17 let me see which one did he do. 15:17

18 He did it for the periods 2010, 2011. 15:17

19 So I didn't want him to just do it an extract 15:18
20 for one month. I wanted to see a broader validation. 15:18

21 I wanted to be very confident this was 15:18
22 complete data and I knew where it came from. 15:18

23 Q. If you'll grab Exhibit 1922, please, if 15:18
24 you'll first turn to the page that's marked at the top 15:18
25 Acclaim and at the bottom 354296. 15:18

1 Q. In this case if you look at the next page it 15:40
2 shows what your total sales were, right? 15:40

3 [REDACTED] [REDACTED] [REDACTED]
4 [REDACTED] [REDACTED] 15:40

5 A. Using that ratio of about 10 percent it's in 15:40
6 the right ballpark. 15:40

7 This number is net of whatever the number 15:40
8 was. 15:40

9 Yes, this sounds about right. 15:40

10 Q. Do you have any understanding as to why there 15:40
11 is no information in the category manufacturing below 15:40
12 with respect to the months August, September and 15:40
13 December? 15:40

14 A. This is the SEC part of the document. 15:40

15 I don't know how they prepared this. I can 15:40
16 only speculate they would -- no manufacturing occurred 15:40
17 in that period. 15:41

18 Q. Do you have any understanding as to why 15:41
19 there's nothing in the category COGS or expense for 15:41
20 STA in September of 2011? 15:41

21 A. If we hadn't sold any units we wouldn't have 15:41
22 any COGS entries to book. 15:41

23 So we would have to have sold some products 15:41
24 through to be able to record an entry there or had to 15:41
25 receive DOA units back to record a reverse entry. 15:41

1 I don't know where profit is earned in the 16:36
2 whole entire supply chain. 16:36

3 So if manufacturing is -- supplies are in 16:36
4 multiple countries, I don't know where their 16:36
5 individual relative profits lie in the entire supply 16:36
6 chain. 16:36

7 So it could be China, could be the U.S., if 16:36
8 we have supplies in the U.S., making profit that are 16:36
9 selling to Samsung, there's a lot of people involved 16:36
10 in manufacturing handsets. 16:36

11 BY MR. OLSON: 16:36

12 Q. So in the hypothetical situation in which on 16:36
13 a consolidated basis from STA all the way up through 16:36
14 all the subsidiaries, Samsung collectively is making 16:36
15 [REDACTED], the plan by means of the APA [REDACTED] 16:37

16 [REDACTED] [REDACTED]
17 [REDACTED] 16:37

18 MR. ALDEN: Objection, assumes facts not in 16:37
19 evidence, vague and ambiguous. 16:37

20 THE WITNESS: Well, firstly, I don't know 16:37
21 what the actual total consolidated profit is so I 16:37
22 don't know if it's [REDACTED]. Sounds like a 16:37
23 wonderful number to get to, but I don't know what the 16:37
24 reality is. 16:37

25 In terms of attempting to move profit, I 16:37

1 don't think that's the way it works. 16:37

2 So the negotiation for the APA is really a 16:37
3 three-party negotiation between the Korean IRS, the 16:37
4 U.S. IRS and Samsung to say based on our economic 16:37
5 activity, they hire economists, we hire economists, 16:37
6 the Korean government hires economists and says based 16:37
7 on the activity STA does, this is a fair and 16:37
8 reasonable amount of profit that reflects the activity 16:38
9 that STA is doing. 16:38

10 Based on that, that's how the tax is paid. 16:38

11 So the tax is paid no matter whether STA's 16:38
12 having a good or bad year, guaranteed income to the 16:38
13 U.S. government. 16:38

14 BY MR. OLSON: 16:38

15 Q. What I'm trying to understand is the 16:38
16 guarantee is limited to by virtue of the Berry ratio 16:38
17 ultimately approximately one to one and a half 16:38
18 percent; is that correct? 16:38

19 A. Yeah, but it's guaranteed no matter what. 16:38

20 There's no risk from the U.S. government 16:38
21 point of view. They're in a good position. 16:38

22 Q. Any other profits go to other entities and 16:38
23 would be paid taxes elsewhere outside the United 16:38
24 States, correct? 16:38

25 A. I don't know if there are profits. You're 16:38

1 MR. OLSON: Let me have marked as the next 17:18
2 exhibit in order 1926 a document that's identified as 17:18
3 S-ITC 500028870 to 28895 and labeled on the front as 17:18
4 part of a global consolidation package system. 17:18

5 (Exhibit No. 1926 was marked.) 17:18

6 THE WITNESS: Okay. 17:20

7 BY MR. OLSON: 17:20

8 Q. What is Exhibit 1926? 17:20

9 A. It's an example of a global consolidation 17:20
10 package system report. 17:20

11 Q. And is this provided by STA to SEC every 17:20
12 month? 17:20

13 A. Yes. 17:20

14 Q. And does it reflect information on STA's 17:20
15 financial results as of the end of a fiscal period? 17:20

16 A. It does. 17:20

17 Q. And in this case, it's February 2010, 17:20
18 correct? 17:20

19 A. Correct. 17:20

20 Q. And one of these is prepared for every month? 17:20

21 A. Yes. 17:20

22 Q. If you'll turn to the section that starts at 17:20
23 the top income statement, is this a detailed statement 17:20
24 of the accounts and their balances or amounts for that 17:21
25 period of February 2010 -- February 28th, 2010 from 17:21

1 STA? 17:21

2 MR. ALDEN: Objection, vague and ambiguous. 17:21

3 THE WITNESS: So running from left to right, 17:21
4 the left-hand column represents the account GL code 17:21
5 from the standard global chart of accounts. 17:21

6 The account name is the name used globally. 17:21

7 February 2010, the third column represents 17:21
8 activity for the month of February 2010 and the next 17:21
9 column represents activity for the month of February 17:21
10 2011. 17:21

11 And all this -- it says top right-hand corner 17:21
12 local currency. All these numbers are U.S. dollars. 17:21

13 BY MR. OLSON: 17:21

14 Q. So if you look at the first section it says 17:22
15 sales and it goes down to a new item that says cost of 17:22
16 goods sold. 17:22

17 Do you see that? 17:22

18 A. Yes. 17:22

19 Q. Looking at Exhibit 1922 and 1923 where it 17:22
20 says STA sales, would it be -- would that information 17:22
21 that's presented there be available in the detail that 17:22
22 is provided in -- on this page? 17:22

23 A. So let's -- the short answer is yes, but let 17:22
24 me qualify that because this could get a little 17:22
25 confusing. 17:22

1 So this activity here represents all activity 17:22
2 for businesses for STA which includes network, handset 17:22
3 sales, represent accessory sales, represent all 17:22
4 activity, whereas this report is looking at specific 17:22
5 products. 17:22

6 So if I take -- so this would include 17:22
7 activity for selling parts to add warranty, repair 17:22
8 fenders, it would include the revenue for R&D that's 17:23
9 required to be booked under the APA agreement. 17:23

10 This activity here contains a lot more than 17:23
11 just on this document. 17:23

12 Q. Understood. Is the information that's in 17:23
13 1922 and 1923 in that sales line available at this 17:23
14 level of detail? 17:23

15 MR. ALDEN: Objection, vague and ambiguous. 17:23

16 THE WITNESS: Yes, it is. 17:23

17 Both of these are just pure extracts straight 17:23
18 from SAP. 17:23

19 BY MR. OLSON: 17:23

20 Q. And the same then would be true as to -- that 17:23
21 the cost of goods line, COGS line is available in the 17:23
22 degree of detail that's available under cost of goods 17:23
23 sold on Exhibit 1926, correct? 17:23

24 MR. ALDEN: Same objection. 17:23

25 THE WITNESS: I'm sorry. Yes. 17:23

1 The account code on the left is the lowest 17:23
2 level in the GL that you can extract account level 17:23
3 information at the general ledger. 17:24

4 I don't know how familiar you are with SAP, 17:24
5 there are other modules you can get to a finer level 17:24
6 of granularity, depending on what data you want to 17:24
7 look at, but from a general ledger point of view, this 17:24
8 is as low as you go from an account code point of 17:24
9 view. 17:24

10 BY MR. OLSON: 17:24

11 Q. Let me simplify the need to go through any of 17:24
12 these. 17:24

13 All of the line items in sales COGS expense 17:24
14 are available from the GL at this level of detail as 17:24
15 presented in page -- Exhibit 1926? 17:24

16 A. Correct, and when I referred earlier that I 17:24
17 validated the data, when I pulled the data for the 17:24
18 I500, I went to this level of detail to confirm that 17:24
19 this data was exactly matching. 17:24

20 Q. When you said "this level of detail," that's 17:24
21 the level of detail in Exhibit 1926? 17:24

22 A. This is -- yes, exactly. 17:24

23 So the thing about SAP, you can extract the 17:25
24 data and say show me at the sales COGS operating, show 17:25
25 me those four lines because you can pull it at that 17:25

1 do was mark the entire transcript as highly 18:13
2 confidential attorneys' eyes only under the protective 18:13
3 order. 18:13

4 MR. OLSON: All right. 18:13

5 MR. ALDEN: I should say and all the exhibits 18:13
6 attached to the transcript. 18:13

7 MR. OLSON: No objection to that. 18:13

8 We -- handful of things. 18:13

9 One, I do not feel we're in a position to 18:13
10 close this deposition in part because of the late 18:13
11 production of documents in violation of a court order, 18:13
12 in fact, I believe in violation of two court orders. 18:13

13 And believe that in certain categories, 18:13
14 Mr. Sheppard was not adequately prepared, but with 18:13
15 that reservation, I don't have any questions and don't 18:13
16 have any objection to the marking of the transcript 18:14
17 confidential. 18:14

18 MR. ALDEN: I'll just say that we disagree 18:14
19 with counsel's position that the deposition is not 18:14
20 closed or that Mr. Sheppard hasn't been adequately 18:14
21 prepared. 18:14

22 This is Mr. Sheppard's fourth deposition in 18:14
23 connection with Samsung-Apple matters, his second 18:14
24 deposition in the Northern District of California. I 18:14
25 believe his life has been sufficiently interrupted and 18:14

1 consider the deposition closed. 18:14

2 I have nothing further, though. 18:14

3 THE VIDEOGRAPHER: Here marks the end of 18:14

4 today's deposition of Tim Sheppard, total number of 18:14

5 tapes used is three. We are off the record, it's 18:14

6 6:14. 18:14

7

8

9 (Whereupon, at 6:14 p.m. the deposition of

10 TIMOTHY SHEPPARD was adjourned.)

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15 TIMOTHY SHEPPARD

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1 I, LOUISE MARIE SOUSOURES, duly
2 authorized to administer oaths pursuant to Section
3 2093(b) of the California Code of Civil Procedure, do
4 hereby certify: That the witness in the foregoing
5 deposition was by me duly sworn to testify the truth
6 in the within-entitled cause; that said deposition was
7 taken at the time and place therein cited; that the
8 testimony of the said witness was reported by me and
9 was hereafter transcribed under my direction into
10 typewriting; that the foregoing is a complete and
11 accurate record of said testimony; and that the
12 witness was given an opportunity to read and correct
13 said deposition and to subscribe the same.

14 Should the signature of the witness not be affixed
15 to the deposition, the witness shall not have availed
16 himself or herself of the opportunity to sign or the
17 signature has been waived.

18 I further certify that I am not of counsel, nor
19 attorney for any of the parties in the foregoing
20 deposition and caption named, nor in any way
21 interested in the outcome of the cause named in said
22 caption.

23 DATE: 3-1-2012

24 LOUISE MARIE SOUSOURES, CSR. #3575
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1 ERRATA SHEET FOR THE TRANSCRIPT OF:

2 Case Name: Apple Inc v. Samsung Electronics Company Limited

3 Dep. Date: Wednesday, February 29, 2012

4 Deponent: TIMOTHY SHEPPARD

5 CORRECTIONS:

6	Pg.	Ln.	Now Reads	Should Read	Reason
7	_____	_____	_____	_____	_____
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22 (Notary Public) MY COMMISSION EXPIRES: _____

24 TIMOTHY SHEPPARD