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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

APPLE INC., a California corporation,

Plaintiff,

vs.

SAMSUNG ELECTRONICS CO., LTD., a  
Korean business entity; SAMSUNG  
ELECTRONICS AMERICA, INC., a New  
York corporation; SAMSUNG  
TELECOMMUNICATIONS AMERICA,  
LLC, a Delaware limited liability company,

Defendants.

CASE NO. 11-cv-01846-LHK-PSG

**[PROPOSED] ORDER GRANTING  
SAMSUNG'S MOTION FOR RELIEF  
FROM NONDISPOSITIVE ORDER**

Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung  
Telecommunications America, LLC (collectively, "Samsung") have filed a Motion for Relief from  
the Nondispositive Order of the Honorable Paul. S. Grewal, entered June 27, 2012, Granting  
Apple's Motion to Strike Expert Testimony.

For good cause shown, and because the Court finds that the references and opinions struck  
were timely disclosed pursuant to Fed. R. Civ. P. 26, and because any untimely disclosure was  
substantially justified and/or harmless pursuant to Fed. R. Civ. P. 37(c)(1), the Court ORDERS  
that Samsung and its expert witnesses shall not be precluded from relying on the following  
references or proffering the following opinions:

1           **A.     References and Opinions Disclosed at Preliminary Injunction Stage:**

- 2           1.     Space Odyssey 2001 (Sherman Report pp. 25-26);
- 3           2.     “Tomorrow People” (1973-79) (*id.*);
- 4           3.     Samsung F700 (*id.* pp. 39, 57, 65);
- 5           4.     KR30-0452985 (Anders Report, Tables B.II, C.II);
- 6           5.     JP D1178470 (Anders Report, Table E.II);
- 7           6.     1994 Fidler Tablets (*id.*, Tables E.III(a), E.III(d));
- 8           7.     HP Compaq TC1000 (*id.*, Table E.III(b));
- 9           8.     JP D1241638 (*id.* Tables B.IV-B.XIII, C.IV-XIV);
- 10          9.     Infringement analyses regarding the D’889 patent based on comparisons of
- 11          the D’889 patent with 1994 Fidler Tablet, HP Compaq TC1000, and the
- Galaxy Tab. 10.1 (*id.* Table E.IV);
- 12          10.    Infringement analyses regarding the D’889 patent based on the shape of the
- 13          front face, including width of borders and aspect ratio; edge and side
- profile; and shape and appearance of the back surface (*id.* Table E.IV);
- 14          11.    Infringement analyses regarding the D’677 patent based on the corners and
- 15          corner radii; screen location and aspect ratio; speaker shape, location and
- 16          size; presence, absence, and nature of buttons on the front surface; presence,
- and absence and nature of other markings on the front surface (*id.* Tables
- C.IV-C.XIV; PartXV);
- 17          12.    Infringement analyses regarding the D’087 patent based on the corners and
- 18          corner radii; screen location and aspect ratio; speaker shape, location and
- 19          size; presence, absence, and nature of buttons on the front surface; presence,
- absence and nature of other markings on the front surface; and the presence,
- absence and characteristics of a bezel (*id.* Tables B.IV-B.XIII; Part XIV);

20           **B.     References and Opinions Disclosed in Samsung’s December 19, 2011**

21           **Interrogatory Responses:**

- 22           1.     KR 30-0304213 (Sherman Report p. 17; Anders Report Table B.II);
- 23           2.     U.S. D500,037 (Sherman Report. pp. 21, 29-30; Anders Report Table E.II,
- Table E.III(c), Table E.V);
- 24           3.     EU Registered Design 000048061-0001 (Sherman Report pp. 22);
- 25           4.     U.S. D514,590 (Sherman Report pp. 34-35, 55-56);
- 26           5.     E.U. Registration 000569157-0005 (Sherman Report pp. 41-42, 60-61;
- 27           Anders Report Table B.II, Table C.II);
- 28           6.     U.S. D504,889 (Sherman Report pp. 50-53; Anders Report Table C.II);

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- 7. Samsung F700 (Sherman Report at 39, 57, 65);
- 8. E.U. Design Reg. 000584529-0001 (Lucente Report at 62);
- 9. E.U. Design Reg. 000505532-0001 (*id.* at 66);
- 10. E.U Design Reg. 000778741-0001 (*id.*);
- 11. KR 30-0403504 (*id.*);
- 12. KR 30-0441582 (*id.* at 68);
- 13. JP D1189312 (*id.* at 61);
- 14. JP D1279226 (*id.* at 40);
- 15. U.S. D445,428 (*id.* 72);

**C. References that Were the Subject of Motions to Compel and Extensive Discovery:**

- 1. 035 mockup of D’889 Design (Sherman Report at pp. 51-52, 65);
- 2. Apple’s “Brain box” display (*id.* pp. 15-16, 30);

**D. References Disclosed in Samsung’s Amended Initial Disclosures:**

- 1. Nokia Fingerprint design concept (Sherman Report at pp. 36-37, 54-55, 65, 70; Anders Report, Table C.II);

**E. References that Were the Subject of Third-Party Discovery:**

- 1. D500,037 (Sherman Report. pp. 21, 29-30; Anders Report Table E.II, Table E.III(c), Table E.V);
- 2. U.S. D497,364 (Sherman Report at pp. 37-38);
- 3. E.U. registered design 000048061-0001 (*id.* p. 22);
- 4. KR 30-0398307 (*id.* p. 71; Anders Report, Table B.II, Table B.III(a), Tables B.IV-B.XIII, Part B.XIV);
- 5. Bluebird Pidion BM-200 (Sherman Report pp. 71-72);
- 6. Olympus MR500i (*id.* at pp. 36, 65);
- 7. iRiver U10 (*id.* at pp. 35-36, 56-57, 65);
- 8. Sony Ericsson W950 Walkman Phone (*id.* at pp. 48-50);
- 9. Apple’s “Brain box” display (*id.* at pp. 15-16, 30);
- 10. 1998 University of Illinois Apple design contest Tablet (*id.* at pp. 14-15; Anders Report at Table E.II);

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- 11. D464,344 (Sherman Report at pp. 23-25);
- 12. D463,797 (*id.* at pp. 23-24);
- 13. Q72 iBook (*id.* at p. 24)
- 14. KR 30-0394921 (*id.* at p. 36; Anders Report Table C.II);
- 15. JP D1250487 (*id.* Table B.II, Table C.II)

**F. References that Were Otherwise Disclosed:**

- 1. JP D1204221 (*id.* at pp. 33-34, 47-48, 55, 65; Anders Report, Table C.II, C.III(a), Tables C.IV-C.XIV, Part C.XV);
- 2. KR 30-0394921 (Sherman Report. at p. 36; Anders Report Table C.II);
- 3. U.S. D560,192 (Sherman Report at p. 39);
- 4. U.S. D534,516 (*id.* at pp. 42-43, 61-62; Anders Report, Table C.II);
- 5. Samsung K3 MP3 (Sherman Report at pp. 44, 62-63; Anders Report, Table C.II);
- 6. JP D1295003 (Sherman Report at pp. 44-45, 54);
- 7. JP D128057 (Anders Report at Table B.II);
- 8. JP D1142127 (*id.* Table B.II, Table C.II);
- 9. JP D1104685 (*id.* Table E.II);
- 10. U.S. D532,791 (*id.*);
- 11. U.S. D333,574 (*id.*)

**IT IS SO ORDERED.**

DATED: July \_\_, 2012

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Honorable Lucy H. Koh  
United States District Judge