

EXHIBIT 1

**D'AMATO DECLARATION
EXHIBIT B
FILED UNDER SEAL**

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

5 APPLE INC., a California
6 corporation,

7 Plaintiff,

8 vs. CASE NO. 11 cv 01846 LHK

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 H I G H L Y C O N F I D E N T I A L
20 O U T S I D E C O U N S E L O N L Y

21 VIDEOTAPED DEPOSITION OF JONATHAN IVE
22 SAN FRANCISCO, CALIFORNIA
23 THURSDAY, DECEMBER 1, 2011

24 BY: ANDREA M. IGNACIO HOWARD, CSR, RPR, CCRR, CLR
25 CSR LICENSE NO. 9830
JOB NO. 43920

1 MR. ZHANG: Patrick Zhang, Morrison &
2 Foerster, for Apple.

3 THE VIDEOGRAPHER: Will the court reporter
4 please swear in the witness.

5
6 JONATHAN IVE,
7 having been sworn as a witness
8 by the Certified Shorthand Reporter,
9 testified as follows:

10

11 THE VIDEOGRAPHER: You may proceed.

12

13 EXAMINATION BY MR. ZELLER

14 MR. ZELLER: Q. Good morning.

15 A Good morning.

16 Q I understand you've had the pleasure of being
17 deposed at least a couple of times before, but one, if
18 I understand correctly, and tell me if if you
19 recall this, was a case called Apple versus Future
20 Power?

21 A Yes, I do recall.

22 Q All right.

23 And generally speaking, that was about the
24 iMac?

25 A Yes.

1 We are off the record at 4:02 p.m.

2 (Recess taken.)

3 THE VIDEOGRAPHER: This is the beginning of
4 Disc No. 5, Volume I.

5 We are back on the record at 4:25 p.m.

6 You may proceed.

7 MR. ZELLER: Q. What I'd like to show you is
8 a three dimensional mockup of a tablet that's been
9 produced by Apple in this case, and it's generally
10 known as the 035 mockup or or prototype, and please
11 take a look at that.

12 Have you seen the 035 mockup before?

13 A Yes, I have.

14 Q And when do you remember first seeing the 035
15 mockup?

16 A My recollection of of first seeing it is
17 very hazy, but it was, I'm guessing, sometime between
18 2002 and 2004, some but it was I remember seeing
19 this and and perhaps models similar to this when we
20 were first exploring tablet designs that ultimately
21 became the iPad.

22 Q Do you recognize the 035 mockup as a mockup
23 that the Apple model shop produced?

24 A I actually don't know which model shop
25 made made this, but I recognize this as a model

1 that was produced during our exploration.

2 Q Do you recall if the the group that
3 produced the actual physical model of this 035 mockup
4 was an internal group or whether it was an outside
5 vendor?

6 A I have no no recollection.

7 Q Is the 035 mockup a tablet design that you
8 personally worked on?

9 A It was the best of my recollection, this
10 was a design that was modeled as a consequence of the
11 way that we work, which is as a team.

12 Q Do you recognize the 03 mockup design as a
13 design that you, among other people, invented?

14 A You said 03.

15 Q '5 mockup, the physical one that you have in
16 front of you?

17 A Yes, I recognize this as one of one of the
18 models that we made as part of the design process, as
19 part of the exploration.

20 Where my recollection is hazy is trying to
21 remember, you know, at what point in the exploration
22 we made this, the circumstances around making it.

23 But I certainly recognize it as a model that
24 we made as part of that exploration.

25 Q Is the design that's shown in the '889

1 design patent, which is marked as Exhibit 8, the same
2 design as the 035 mockup?

3 A I think that there are many similarities.

4 Q Apart from being able to say that there are
5 many similarities, can you tell me with any certainty
6 one way or another whether the design that's shown in
7 the '889 design patent is the same design as the 035
8 mockup?

9 MR. JACOBS: Objection; lacks foundation.

10 THE WITNESS: I can say confidently that
11 there are many, many elements that are represented in
12 this model that I see in our patent.

13 MR. ZELLER: Q. And can you tell me anything
14 beyond that with any certainty in terms of whether
15 that's the same design or not?

16 A I think I I think I've done my best to
17 answer the question, which is I think there are many
18 elements that I see here that I see in our design
19 patent.

20 Q Are you aware of any three dimensional
21 models

22 A Yeah.

23 Q of any tablet designs that were created
24 prior to March 17, 2004, that was closer in its
25 appearance to the design that's shown in the

1 '889 design patent than the 035 mockup?

2 A I'm not aware of any that are closer or less
3 close. I recall this model; I, of course, recall this
4 patent, and I can see many similarities.

[REDACTED]

18 MR. ZELLER: And that's fair enough. So let
19 me let me rephrase it.

20 Q You have in front of you the 035 mockup.

21 A Yes.

22 Q And I'll tell you, that's that's the one
23 that we have here.

24 A Yes.

25 Q And so what I'm really trying to find out is:

1

CERTIFICATE OF REPORTER

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3

4

I, ANDREA M. IGNACIO HOWARD, hereby certify
that the witness in the foregoing deposition was by me
duly sworn to tell the truth, the whole truth, and
nothing but the truth in the within-entitled cause;

8

9

That said deposition was taken in shorthand
by me, a Certified Shorthand Reporter of the State of
California, and was thereafter transcribed into
typewriting, and that the foregoing transcript
constitutes a full, true and correct report of said
deposition and of the proceedings which took place;

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That I am a disinterested person to the said
action.

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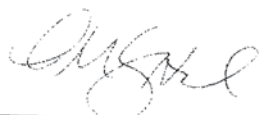
19

IN WITNESS WHEREOF, I have hereunto set my
hand this 2nd day of December, 2011.

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ANDREA M. IGNACIO HOWARD, RPR, CCRR, CLR, CSR No. 9830

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