

# EXHIBIT 3

**In The Matter Of:**

*APPLE INC.*

*v.*

*SAMSUNG ELECTRONICS CO., LTD., et al.*

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**RAVIN BALAKRISHNAN**

*July 12, 2012*

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**MERRILL CORPORATION**

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1           THE WITNESS: As I said before, apart  
2           from this duality here of the Exhibit 4G  
3           where there were two devices with different  
4           colored casings and the replacement of some  
5           of the devices for a variety of reasons,  
6           those were the only devices that I considered  
7           for the purposes of my infringement report.

8           Q. So for a given product -- for a given  
9           product, have you reviewed or considered more than  
10          one Android version in formulating the infringement  
11          opinions in your report on infringement of the '381  
12          patent?

13          MR. MONACH: Objection. Vague.

14          THE WITNESS: If you can restate that  
15          question or maybe have the court reporter  
16          read it back, if you don't mind, I want to  
17          make sure I'm clear on the question.

18          MR. TUNG: Sure. You can read back the  
19          question.

20                        (Question read back.)

21          A. So for a given product -- so, for example,  
22          the Captivate or the Continuum, the device I  
23          reviewed had the particular version of Android that  
24          I have listed in this table in Exhibit 101 running  
25          on it. And for that particular version of Android

1 running on that particular device I've determined  
2 that the particular applications have the infringing  
3 behavior.

4           What I've also determined is that additional  
5 versions of Android by looking at the source code  
6 and also the other versions of the phone would also  
7 have similar behavior, infringing behavior. So what  
8 I mean to say by that is if, for example, you have  
9 the Captivate phone running Android version 2.2.1,  
10 given that Android version 2.2.1 running on the  
11 Droid Charge, I have determined to be infringing the  
12 '381 patent claim for some applications. If that  
13 same version of Android was to run on a Captivate  
14 phone, there is no reason why it would not infringe.  
15 So that would also infringe.

16           Q. But you have not considered or examined a  
17 Captivate phone running 2.2.1, correct?

18           MR. MONACH: Object to the form of the  
19 question as vague and compound. It was asked  
20 and answered. You can do it again.

21           THE WITNESS: I've not examined the  
22 Captivate phone, per se, running 2.2.1, but I  
23 have looked at 2.2.1 code that was produced.  
24 If that 2.2.1 would run the Captivate, then  
25 that would infringe as well.

1 Q. How do you know that the 2.2.1 code running  
2 on the Captivate would also infringe?

3 A. Because the 2.2.1 code running on the Droid  
4 Charge or the Epic 4G and some of the other devices  
5 I have listed here clearly infringe. And code, if  
6 running on another device, there's no reason why it  
7 would be any different behavior if it's the exact  
8 same code running on that device.

9 Q. So is it your testimony that the same code  
10 running on different devices always operates the  
11 same way?

12 MR. MONACH: Object to the form of the  
13 question. Object as beyond the scope.

14 THE WITNESS: For the particular  
15 functionality we're talking about here, for  
16 the bounceback functionality, that particular  
17 functionality, that software-based  
18 functionality, if it's running on another  
19 device that had similar touch hardware  
20 capability, in other words, which all these  
21 phones and tablets do, as one skilled in the  
22 art, I don't see any reason why it would not  
23 behave the same way.

24 Q. So have you ever observed two different  
25 devices running the same version of Android and

1 exhibiting different behavior?

2 MR. MONACH: Objection. Incomplete  
3 hypothetical. Object. Beyond the scope.

4 THE WITNESS: I have not observed two  
5 different devices running the exact same code  
6 that exhibits different behavior.

7 Q. My question is have you observed two  
8 different devices running the same version of  
9 Android exhibiting different behavior?

10 MR. MONACH: Same objections.

11 THE WITNESS: I might have, but I want  
12 to make a distinction between what you call  
13 the version of Android and what I'm saying is  
14 the same source code. So just because  
15 somebody labels it a version of Android  
16 doesn't mean somebody else couldn't have  
17 changed it and putting in on a different  
18 phone and calling it the same version of  
19 Android. I just wanted to draw that  
20 distinction. If it's the exact same code  
21 running on a different device with the same  
22 capabilities as a device, that would  
23 infringe.

24 Q. Do you know if Captivate running Android  
25 version 2.2.1 code has the exact same code as, for

1 example, the Droid Charge running Android version  
2 2.2.1?

3 MR. MONACH: Object. Beyond the scope  
4 of the supplemental deposition.

5 THE WITNESS: If 2.2.1 were running on  
6 the Captivate, it would be the same code.  
7 Why would it be different? If I take one  
8 piece of code and put it on another machine,  
9 it's the same code.

10 Q. But didn't you just testify that someone  
11 could have changed the code?

12 A. Then it's not the same code anymore.

13 Q. So you haven't observed the Captivate running  
14 the source code that you inspected for the Droid  
15 Charge, correct?

16 A. I have not seen the Captivate running 2.2.1,  
17 per se, no.

18 Q. But you are rendering an opinion on Captivate  
19 running 2.2.1 Android version code?

20 A. That's right. If it ran 2.2.1, and it's the  
21 same 2.2.1 that I've examined in the context that  
22 was provided by Samsung for examination, and that I  
23 have determined when running on the Droid Charge and  
24 Epic 4G, for example, do infringe, if that same code  
25 were to run on the Captivate, I don't see any reason