

**D'AMATO DECLARATION
EXHIBIT A
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 _____/
20
21 H I G H L Y C O N F I D E N T I A L
22 O U T S I D E C O U N S E L O N L Y

23 VIDEOTAPED DEPOSITION OF CHRISTOPHER STRINGER
24 REDWOOD SHORES, CALIFORNIA
25 FRIDAY, NOVEMBER 4, 2011

BY: ANDREA M. IGNACIO HOWARD, CSR, RPR, CCRR, CLR
CSR LICENSE NO. 9830
TSG JOB NO. 43706

1 themselves for the record.

2 MR. ZELLER: Mike Zeller for Samsung.

3 MR. JACOBS: Michael Jacobs from Morrison &
4 Foerster for Apple. With me is Cyndi Wheeler from
5 Apple Legal.

6 THE VIDEOGRAPHER: Thank you.

7 Will the reporter please swear the witness.

8

9 CHRISTOPHER STRINGER,

10 having been sworn as a witness,

11 by the Certified Shorthand Reporter,

12 testified as follows:

13

14 THE VIDEOGRAPHER: Thank you.

15 Please proceed.

16

17 EXAMINATION BY MR. ZELLER

18 MR. ZELLER: Let's please mark as

19 Exhibit 1161 the Reply Declaration of Christopher

20 Stringer in Support of Apple's Motion for Preliminary

21 Injunction.

22 (Document marked Exhibit 1161

23 for identification.)

24 MR. ZELLER: Q. Please let me know when

25 you've reviewed 1161.

1 A Yes.

2 Q -- that you see there, had you seen tablet
3 computer models there at Apple back in the 2004 time
4 period that had that kind of broader gap in that
5 general location?

6 A I do not recall seeing such gaps on models
7 for tablet projects.

8 Q Do you have any understanding or information
9 as to why there is what we're calling that broader
10 gap?

11 A I do not have a recollection of this design,
12 so I do not know the purpose of that broader gap.

13 Q And you'll see, if you look in the opening of
14 the larger gap -- and you'll have to look at it at
15 various angles, but you can see that there appears to
16 be some kind of detail on the interior there?

17 A I see that.

18 Q Do you know what that is?

19 A It's a very tight-ribbed component -- or are
20 they holes? I can't tell.

21 Q Do you know if that -- that ribbed component
22 or those holes were intended -- because obviously,
23 we're talking about a nonworking model -- to -- to be
24 vent holes or whether they were purely ornamental or
25 something else?

1 A I don't know.

2 Q Direct your attention back to the '889 design
3 patent.

4 A Yes.

5 Q Do you have any knowledge or information as
6 to whether or not photographs of that physical mockup
7 that you have in front of you, the 035 mockup, were
8 submitted to the patent office as part of the
9 application and prosecution process for the
10 '889 design patent?

11 A In my preparations for today, we looked at
12 copies of photographs of this object that I understand
13 are attached to this patent.

14 Q And so if I understand you correctly, it's
15 your understanding that the photographs that were
16 submitted to the patent office as part of the
17 '889 design patent depict the three-dimensional mockup
18 that you have in front of you that we call the 035?

19 A It is my understanding, and my recollection
20 of yesterday's discussion, that the photographs that I
21 saw related to this model and this patent.

22 Q Right.

23 And I guess I'm trying to now figure out
24 what -- what photographs we're talking about so that
25 we're on the same page. So let me -- let me provide

1 some, and maybe that will help.

2 What's the next number?

3 THE REPORTER: 1171.

4 MR. ZELLER: 1171?

5 THE REPORTER: Yes.

6 MR. ZELLER: Please mark as Exhibit 1171
7 excerpts from the prosecution history of the
8 504,889 design patent.

9 (Document marked Exhibit 1171
10 for identification.)

11 THE WITNESS: Thank you.

12 MR. ZELLER: So you have both sets in front
13 of you at the same time, let's also please mark as
14 Exhibit 1172 -- I'm sorry. Actually, we marked this
15 before. What's this exhibit number? I think it's
16 841.

17 MR. JACOBS: He has the better photos. He
18 has the better photos.

19 MR. ZELLER: Don't worry. I gave you the
20 other set, too. I'm not trying to be totally unfair
21 here.

22 So I'm going to show you what I am fairly
23 confident was previously marked as Exhibit 841. We'll
24 in the interim confirm that that is the exhibit
25 number, but I believe I have it memorized now.

1 that's depicted in the photographs that we marked as
2 Exhibit 841, where the -- where the mockup is shown,
3 the same physical mockup that you have in front of you
4 that we call the 035 mockup?

5 A I believe you're asking me, are these
6 photographs of the subject? And it is my belief that
7 these are photographs of the object.

8 Q And so the record is clear, when you say --

9 A Oh.

10 Q -- "the photographs," you're referring to the
11 photographs that are depicted in 841, and then the
12 object that you're pointing to and referring to is
13 what we call the 035 model?

14 A Yes.

15 MR. JACOBS: If we could just ask you,
16 Mr. Zeller, is this -- these -- this writing on this,
17 is this in the '841 that you -- that is in the record?
18 I'm looking at '18792.

19 MR. ZELLER: This is exactly how it was
20 produced to us.

21 MR. JACOBS: Oh, with these lines on it?

22 MR. ZELLER: Right.

23 THE WITNESS: I recall those lines yesterday.

24 MR. JACOBS: Okay.

25 MR. ZELLER: All right.

1 Q And setting aside the various lines and
2 drawings that appear to be on these photographs, you
3 understood I was asking you about the object that's
4 depicted in the actual photographs; is that correct?

5 A Yes.

6 Q And without disclosing the substance of what
7 you discussed with your counsel, did -- did you
8 satisfy yourself that the 035 mockup is, in fact,
9 what's in the -- the photographs that we've marked as
10 Exhibit 841?

11 A I am convinced from studying both the object
12 035 and the Document 841 that these are one and the
13 same object.

14 Q And that comparison that you did led you to
15 be satisfied that they're one and the same?

16 A Yes. I studied the photographs. I studied
17 the object. I believe that these are photographs of
18 model Apple Proto 035.

19 Q And directing your attention, then, to the
20 page ending '18787, which is part of Exhibit 841.

21 A Yes.

22 Q And working with the images such as we have
23 them --

24 A Yes.

25 Q -- is that ribbing that you see there that

1 runs along what we can generally say is the perimeter
2 of the -- the front surface, at least in terms of the
3 corner that appears closest to the -- to the --

4 A Yes, ribbing or holes. I need to pick the
5 model apart to be sure, but it looks more like some
6 form of rib.

7 Q And that's one of the comparisons that you
8 see between the photographs and the three-dimensional
9 model, the 035 model, that satisfied you that they're
10 one and the same?

11 A That is one of the details that satisfied me
12 that it was one and the same.

13 Q Directing your attention to '18790.

14 A Yes.

15 Q You'll see that, at least as shown in this
16 image here, there appears to be a somewhat thicker,
17 darker line that runs at least part of the perimeter
18 of the front of the device that can be seen there on
19 the front; do you see that?

20 A There are a number of parallel lines, one of
21 which is darker and broader than others.

22 Q And does that line, in your view, correspond
23 to the -- the broader gap that's discernible there on
24 the 035 model?

25 A It appears to be either the edge of the cover

1 A Where is it?

2 Q It's the photographs that we were working
3 with of the model on the cusp.

4 A I have it.

5 Q And could you look, please, at -- could you
6 look please at the page marked '18781.

7 A I am looking at it now.

8 Q Do you see above there's a hole and an
9 insignia above the hole that looks like a headphone?

10 A That is a headphone icon.

11 Q And the hole, what does that represent to
12 you?

13 A That represents the headphone socket.

14 Q When you compared the -- the model marked 035
15 to '18781, did you compare the apparent color of the
16 headphone icon on the model to the apparent color of
17 the headphone icon on the photograph?

18 A Yes.

19 Q And what did you -- did you observe any
20 difference between the two?

21 A Yes, it appears white in the real world with
22 the model. It appears black on this image.

23 Q What did you con- -- what did you conclude as
24 you compared 035 to the photographs depicted in 841
25 about why the headphone icon looked different?

1 A It's the nature of the translucent material.
2 The white icon on the model was created by a rubdown
3 which is a transfer similar to retrosic, if that's
4 more familiar, and on the outside surface shadowing
5 occurs, and quite often the shadow reads stronger than
6 the actual icon itself.

7 Q Reads stronger in what circumstance?

8 A As more visible, as more pronounced.

9 Q In what con- -- in the photographs? In the
10 model? In which context is it more pronounced?

11 A In the context of, if it's a luminous object
12 and it's lit from the back, you'll just see darkness
13 on that icon because you're seeing the shadow of the
14 icon, and in other lighting conditions you will see
15 the shadow reflected on the inside surface more
16 strongly than you may see the actual icon printed on
17 the outside.

18 Q So what did you conclude about whether the
19 model 035 is represented by the photographs in 841
20 based on the apparent difference in color?

21 A I was convinced that this was that phenomenon
22 taking place and that this was same object.

23 MR. JACOBS: No further questions.

24 MR. ZELLER: Nothing further at this point.

25 THE VIDEOGRAPHER: This marks the end of Disc

1 No. 3 of 3 and concludes today's deposition of Chris
2 Stringer.

3 The time is 3:23 p.m., and we are off record.
4 (WHEREUPON, the deposition ended at
5 3:23 p.m.)

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CERTIFICATE OF REPORTER

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;

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;

That I am a disinterested person to the said action.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of November 2011.

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