

**D'AMATO DECLARATION EX. E
FILED UNDER SEAL**

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Civil Action No.: 11-CV-01846-LHK

APPLE, INC., a California corporation,
Plaintiff,

vs.

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

_____/

*** HIGHLY CONFIDENTIAL ***
ATTORNEYS' EYES ONLY

VIDEOTAPED PERSONAL DEPOSITION OF:

GEE-SUNG CHOI

Tuesday, April 17, 2012
Kim & Chang
Seoul, South Korea
1:24 p.m. to 6:24 p.m.

1 P R O C E E D I N G S

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01:24:28 3 VIDEOGRAPHER: My name is Inga Kornev, a
01:24:30 4 videographer with American Realtime Court
01:24:32 5 Reporters/Asia.

01:24:33 6 The date today is April 17th, 2012. And the
01:24:36 7 time on the video monitor is 1:24.

01:24:40 8 This deposition is being held at the
01:24:43 9 Renaissance Hotel in Seoul, South Korea.

01:24:47 10 The caption of this case is Apple, Inc.
01:24:49 11 versus Samsung Electronics Co., held in the
01:24:54 12 United States District Court, Northern District
01:24:57 13 of California, San Jose Division, with a civil
01:25:00 14 action number of 11-CV-01846-LHK.

01:25:08 15 The name of the witness today is Gee-Sung
01:25:13 16 Choi, testifying in his individual capacity.

01:25:16 17 The court reporter today is Tracey LoCastro,
01:25:18 18 also with American Realtime Court
01:25:19 19 Reporters/Asia.

01:25:19 20 At this time I would like to ask all counsel
01:25:24 21 and interpreters and all present to please state
01:25:27 22 their appearances and whom they represent for
01:25:29 23 the record. And please speak up.

01:25:32 24 MR. MCELHINNY: My name is Harold McElhinny.
01:25:35 25 I'm here as an attorney for Apple, Inc., and I

01:25:37 1 represent the plaintiff in these actions.

01:25:39 2 MR. CHUNG: Minn Chung from Morrison and

01:25:41 3 Foerster for Apple.

01:25:45 4 MS. STEPHANIE KIM: Stephanie Kim from

01:25:46 5 Morrison and Foerster for Apple.

01:25:48 6 MR. HALL: Scott Hall from Quinn Emanuel for

01:25:51 7 Samsung.

01:25:52 8 MR. ZELLER: Mike Zeller for Samsung.

01:25:54 9 MR. QUINN: John Quinn representing Samsung

01:25:56 10 and the witness, Mr. Choi.

01:25:59 11 VIDEOGRAPHER: All others, please state

01:26:00 12 their name for the record.

01:26:00 13 MR. BRIAN KIM: Brian Kim, Samsung inhouse.

01:26:05 14 MR. KIJOONG KANG: Kijoong Kang, Samsung

01:26:06 15 inhouse.

01:26:06 16 LEAD INTERPRETER: Albert S. Kim,

01:26:07 17 interpreter of record.

01:26:09 18 CHECK INTERPRETER: Ann Park, check

01:26:10 19 interpreter.

01:26:11 20 MR. MCELHINNY: This is a stipulation that

01:26:17 21 I've been given that I understand that we both

01:26:19 22 will join in.

01:26:20 23 It says: We understand the court reporter

01:26:22 24 is not authorized to administer oaths in this

01:26:25 25 venue; nevertheless, we request that she

01:26:29 1 administer the oaths, and we stipulate that we
01:26:29 2 waive any objection to the validity of the
01:26:31 3 deposition based on the oaths.

01:26:32 4 MR. QUINN: That is fine.

5 COURT REPORTER: Do you solemnly swear or
6 affirm that you will well and truly interpret
7 the questions propounded by counsel and the
8 answers given by the witness from Korean to
9 English and English to Korean to the best of
01:26:46 10 your ability?

01:26:46 11 LEAD INTERPRETER: I do.

01:26:46 12 CHECK INTERPRETER: Yes, I do.

01:26:46 13 GEE-SUNG CHOI,

01:26:46 14 after having been duly sworn by the reporter, pursuant
01:26:46 15 to stipulation of counsel, was examined and testified
01:27:02 16 through the interpreter as follows:

01:27:02 17 THE WITNESS: I do.

01:27:02 18 EXAMINATION

01:27:02 19 BY MR. MCELHINNY:

01:27:06 20 Q. Good afternoon, Vice-Chairman Choi. As you
01:27:09 21 may have heard, my name is Harold McElhinny. I'm with
01:27:13 22 the law firm of Morrison and Foerster and I'm
01:27:15 23 representing Apple, and I'm going to ask you some
01:27:17 24 questions this afternoon.

01:27:33 25 Sir, have you ever given testimony under

01:46:18 1 Q. Thank you.

01:46:28 2 A. And in terms of those units that belong
01:46:32 3 under his auspices, those would be Mobile
01:46:34 4 Communications, Telecom Systems, IT Solutions and
01:46:39 5 Digital Imaging.

01:46:41 6 Q. Thank you.

01:46:43 7 Today does Samsung Electronics have a
01:46:46 8 business unit which is referred to as System LSI?

01:47:02 9 A. Yes, there is a business division called
01:47:05 10 System LSI within Semiconductor.

01:47:09 11 Q. And so today that would --

01:47:10 12 A. The Semiconductor Business Unit.

01:47:13 13 Q. And today that would report up through
01:47:18 14 Mr. Kwon; is that correct?

01:47:22 15 A. Yes, that is correct.

01:47:23 16 Q. And is it correct that my client Apple is a
01:47:28 17 customer of the System LSI division?

01:47:41 18 A. That is correct.

01:47:42 19 Q. Is Apple the largest customer of the System
01:47:46 20 LSI division?

01:47:50 21 A. Of the System LSI division, I perhaps would
01:48:01 22 believe so.

01:48:03 23 MR. QUINN: At this point I'm going to
01:48:05 24 designate this entire transcript as being highly
01:48:08 25 confidential and attorneys' eyes only under the

01:48:11 1 terms of the protective order in this case.

01:48:25 2 BY MR. MCELHINNY:

01:48:26 3 Q. Do you know, sir, approximately, what the

01:48:29 4 volume of business in U.S. dollars was that Apple did

01:48:32 5 with the System LSI division last year?

01:48:36 6 MR. QUINN: Vague and ambiguous as to volume

01:48:39 7 of business.

01:49:06 8 A. Well, if you want me to state it in dollars

01:49:09 9 I will try, but I don't know as to the exact amount.

01:49:09 10 BY MR. MCELHINNY:

01:49:12 11 Q. Fair enough.

01:49:12 12 There have been reports that Apple paid

01:49:15 13 Samsung in excess of 8 billion dollars last year. Do

01:49:18 14 you know whether that is accurate or not?

01:49:20 15 MR. QUINN: I object to the preamble to the

01:49:22 16 question, assumes facts not in evidence.

01:49:28 17 MR. MCELHINNY: I'm going to rephrase the

01:49:29 18 question.

01:49:29 19 BY MR. MCELHINNY:

01:49:31 20 Q. Did Apple pay Samsung in excess of 8 billion

01:49:34 21 dollars last year?

01:49:49 22 A. That I do not know for certain.

01:49:51 23 Q. Okay. Sir, do you know whether or not in

01:49:56 24 doing business with System LSI Apple gives to that

01:50:03 25 Samsung business unit confidential Apple information?

01:50:08 1 MR. QUINN: Vague and ambiguous.

01:50:32 2 A. No, there is no such event.

01:50:37 3 In fact, the reason why we split up the

01:50:48 4 organization as we did was in order that there be no

01:50:52 5 cross sharing of such information so that there be no

01:50:55 6 such appearance as to any improprieties.

01:50:55 7 BY MR. MCELHINNY:

01:51:00 8 Q. Okay. Which is my question. First of all,

01:51:02 9 does Apple place orders with the System LSI division?

01:51:19 10 A. Well, I know that the division does business

01:51:21 11 with Apple. I also know that Apple is a big customer

01:51:26 12 of ours.

01:51:28 13 Q. Within Samsung does Samsung treat the size

01:51:37 14 of the orders that Apple places as confidential

01:51:41 15 information?

01:51:52 16 MR. QUINN: Objection. Lacks foundation.

01:52:17 17 A. The company happens to have a number of

01:52:20 18 clientele, and as a matter of principle, the company

01:52:22 19 does not disclose the amount of business it does with

01:52:25 20 each of such clientele.

01:52:25 21 BY MR. MCELHINNY:

01:52:28 22 Q. Does Apple -- does Samsung disclose to its

01:52:33 23 Mobile Communications Unit the size of the orders that

01:52:40 24 Apple has placed with its System LSI division?

01:52:45 25 MR. QUINN: Counsel, I've listened as you've

01:52:48 1 asked a few questions in this area, and so far
01:52:50 2 as I'm aware, this is completely irrelevant to
01:52:52 3 any issue in this case. We're here for a short
01:52:58 4 period of time and I'm just wondering if you can
01:53:01 5 explain to us the relevance of these inquiries.

01:53:54 6 A. The company, as a matter of principle --

01:53:56 7 MR. QUINN: Well, wait a minute. Excuse me,
01:53:57 8 excuse me. I've asked counsel to clarify the
01:53:59 9 relevance, and I'm waiting for an explanation.

01:54:02 10 MR. MCELHINNY: And you can wait because I'm
01:54:04 11 not going to take the time on the record to
01:54:06 12 explain it. I'll take the answer.

01:54:08 13 MR. QUINN: In my understanding in this
01:54:11 14 case, both sides have objected and refused to
01:54:14 15 disclose sensitive, irrelevant information. And
01:54:19 16 I've asked for an explanation about the
01:54:21 17 relevance of this. And as I understand it,
01:54:24 18 Counsel, you're refusing to explain it; is that
01:54:26 19 true?

01:54:27 20 MR. MCELHINNY: I'm not going to take the
01:54:28 21 time on the record to explain the relevance.

01:54:32 22 LEAD INTERPRETER: Yes, and interjection by
01:54:35 23 the interpreter.

01:54:35 24 With due respect to both parties, in the
01:54:38 25 absence of any instruction by Mr. Quinn, the

01:54:42 1 gentleman did offer an answer. The interpreter
01:54:44 2 was partially done with the interpretation. He
01:54:46 3 is under legal obligation to render the rest of
01:54:49 4 it. And, therefore, the interpreter would like
01:54:50 5 to remain in sync with all parties, therefore,
01:54:53 6 as to the answer by the witness.

01:54:55 7 A. As a matter of principle, the company does
01:54:57 8 not disclose such kind of information.

01:55:00 9 LEAD INTERPRETER: Now, as for Mr. Quinn's
01:55:02 10 objection to the witness --

01:55:05 11 MR. QUINN: It was to the question.

01:55:08 12 LEAD INTERPRETER: Yes.

01:55:12 13 (Colloquy was interpreted.)

01:56:11 14 MR. QUINN: If I may make inquiry of the
01:56:15 15 interpreter whether the interpreter has
01:56:17 16 interpreted my objection as well as
01:56:19 17 Mr. McElhinny's response.

01:56:20 18 LEAD INTERPRETER: Yes.

01:56:20 19 And if Mr. Quinn could indulge the
01:56:23 20 interpreter and just allow the interpreter to
01:56:25 21 finish one thing at a time. Yes.

01:56:27 22 MR. QUINN: I apologize if I cut you off.
01:56:31 23 I'll try to do better.

01:56:33 24 LEAD INTERPRETER: No problem at all.

01:56:33 25 BY MR. MCELHINNY:

01:56:35 1 Q. Mr. Choi, during your career at Samsung,
01:56:37 2 were you ever the head of the Mobile Communications
01:56:40 3 Unit?
01:56:48 4 A. Yes.
01:56:53 5 Q. And during what period was that, sir?
01:57:09 6 A. It seems to me that that was from around the
01:57:12 7 end of 2006. So in other words, starting in 2007
01:57:15 8 through about the end of 2008 for approximately a
01:57:20 9 two-year period of time.
01:57:21 10 Q. Sir, did you ever hold the position as head
01:57:27 11 of the design center at Samsung?
01:57:39 12 MR. QUINN: I have an objection. It assumes
01:57:42 13 facts not in evidence. It's vague and
01:57:44 14 ambiguous.
01:57:52 15 A. I have held the position as the head of the
01:58:00 16 design center at one time or another.
01:58:00 17 BY MR. MCELHINNY:
01:58:04 18 Q. And first, does the design center still
01:58:08 19 exist at Samsung Electronics?
01:58:17 20 A. Yes.
01:58:20 21 Q. And what -- who makes up the design center?
01:58:27 22 MR. QUINN: Vague and ambiguous.
01:58:39 23 A. Designers, most of them are designers.
01:58:39 24 BY MR. MCELHINNY:
01:58:41 25 Q. And is the design center within a particular

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Q. Why does Samsung seek to collect information about its competitors' products?

MR. MCELHINNY: Beyond the scope.

A. That's in order to come up with a better product in comparison to the competition out there from a cost perspective, a quality perspective, a performance perspective or usability perspective, every perspective.

MR. QUINN: Nothing further.

MR. MCELHINNY: I have no further questions.

VIDEOGRAPHER: This marks the end of disc number 4 in the deposition of Gee-Sung Choi. Going off the record. The time is 6:24.

(Time noted: 6:24 p.m.)