

EXHIBIT 1

FILED UNDER SEAL

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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.

No: 11-CV-01846-LHK

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

DEPOSITION OF QUIN HOELLWARTH
Redwood Shores, California
Tuesday, October 25, 2011

Reported By:
LINDA VACCAREZZA, RPR, CLR, CRP, CSR. NO. 10201
JOB NO. 42859

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Tuesday, October 25, 2011
9:32 a.m.

Videotaped deposition of QUIN
HOELLWARTH, held at Quinn Emanuel
Urquhart & Sullivan, LLP, 555 Twin
Dolphin Drive, Redwood Shores,
California, pursuant to
Subpoena before Linda Vaccarezza, a
Certified Shorthand Reporter of the
State of California.

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A P P E A R A N C E S:

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BY: ERIK J. OLSON, ESQ.
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also present: Wendy Anna Herby,
Apple in-house Counsel

Videographer: Jason Kocol

1 THE VIDEOGRAPHER: This is the
2 start of tape labeled Number 1 of the
3 videotaped deposition of Quin Hoellwarth
4 in the matter Apple Incorporated versus
5 Samsung Electronics Company, Limited, in
6 the United States District Court,
7 Northern District of California, San Jose
8 division. Case number 11-CV-01846-LHK.
9 This deposition is being held at 555 Twin
10 Dolphin Drive, Redwood Shores,
11 California, on October 25th, 2011. It is
12 approximately 9:32 a.m.

13 My name is Jason Kocol and I'm
14 a legal video specialist from TSG
15 Reporting, Incorporated, headquartered at
16 747 Third Avenue, New York, New York.
17 The court reporter is Linda Vaccarezza in
18 association with TSG Reporting.

19 Will counsel please introduce
20 yourselves for the record.

21 MR. ZELLER: Mike Zeller for
22 Samsung.

23 MS. NEILL: Anna Neill for Samsung.

24 MR. OLSON: Erik Olson of Morrison
25 & Foerster on behalf of Apple and the

1 witness.

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

4 QUIN HOELLWARTH,
5 having been duly
6 sworn, by the Certified Shorthand
7 Reporter, was examined and testified as
8 follows:

9 EXAMINATION

10 BY MR. ZELLER:

11 Q. Good morning.

12 A. Good morning.

13 Q. Please tell us and spell your full
14 name for the record.

15 A. Quin Hoellwarth. Q-U-I-N, C as a
16 middle initial, Hoellwarth, H-O-E-L-L-W-A-R-T-H.

17 Q. Have you ever been known as or
18 gone by any other name?

19 A. I have not.

20 Q. And are you currently employed?

21 A. I am.

22 Q. By whom?

23 A. Apple.

24 Q. How long have you worked for
25 Apple?

1 12:13 p.m.)

2 THE VIDEOGRAPHER: The time is

3 12:13 p.m. We are on the record.

4 BY MR. ZELLER:

5 Q. You've an opportunity to review
6 the 889 design patent?

7 A. I have.

8 Q. Do you recognize this as an issued
9 patent that you worked on the application for?

10 A. Yes.

11 Q. And you did this back when you
12 were with Beyer Weaver & Thomas?

13 A. Yes.

14 Q. Was your involvement complete
15 prior to the time that you went and began working
16 as an Apple employee or did your work on this
17 design patent application continue on?

18 MR. OLSON: Did he work on, you
19 mean the prosecution?

20 MR. ZELLER: Yes.

21 THE WITNESS: I started at Apple
22 in 2007. This issued in 2005.

23 Q. So the answer is that it was
24 completed before you left?

25 A. Yes.

1 Q. Before you left Beyer Weaver &
2 Thomas?

3 A. Yes.

4 Q. And generally speaking, what did
5 you do in connection with the application that
6 resulted in the 889 design patent?

7 A. What do you mean, generally do?
8 Can you be more specific?

9 Q. Well, please tell me what the
10 nature of your tasks and responsibilities were in
11 connection with the 889 design patent in the
12 prosecution?

13 A. I prepared the patent application
14 and filed it. Is that what you mean?

15 Q. When you say that you prepared the
16 application, were you responsible for the
17 generation of the figures that are shown here in
18 the 889 design patent?

19 A. Yes.

20 Q. I take it you didn't draw them
21 yourself?

22 A. Are you asking me if I did or --

23 Q. Right.

24 A. I did.

25 Q. You drew these?

1 A. I did.

2 Q. Did you draw all nine of the
3 figures?

4 A. I believe so.

5 Q. Generally speaking, in connection
6 with those design patent applications that you
7 worked on when you were with Beyer Weaver &
8 Thomas, did you actually draw the figures?

9 A. I did.

10 Q. Since you've been working as an
11 employee for Apple, with respect to those design
12 patent applications that you've worked on, do you
13 typically actually draw the figures?

14 A. No.

15 Q. So that practice changed at some
16 point?

17 A. Yes, when I started at Apple.

18 Q. Since the time period you began
19 working for Apple, who has prepared the figures
20 for the design patent applications? And I'm
21 talking about actually physically drew them.

22 A. In some circumstances, the outside
23 counsel. Actually, an outside counsel prepares
24 the final drawings. It's probably a better
25 answer.

1 Q. My question is, is more pedestrian
2 and mundane. I'm trying to find out in those
3 instances where you were involved with design
4 patent applications after starting with Apple,
5 who was the person who actually physically does
6 the drawing?

7 A. Well, in what time frame, because
8 it's an organic process.

9 Q. Well, I've been focusing on the
10 time period since you began working for Apple.
11 But if the person who actually does the drawings
12 changed over time, please tell me that.

13 A. Well, let's just say it varies or
14 it depends.

15 Q. In general, are the figures of the
16 Apple design patent applications prepared by
17 Apple employees?

18 A. The drawings for the patent
19 applications?

20 Q. Right.

21 A. No.

22 Q. Typically, in those instances
23 where you've been involved with the applications,
24 are they done by outside vendors?

25 A. Since being at Apple?

1 out the facts from you. What I can say is is
2 that, that these -- and I'm talking about exactly
3 in this form is how it was produced by an Apple
4 prosecuting firm, the Stern firm, as I understand
5 it. That's my best understanding.

6 A. This is from the file wrapper.

7 Q. I believe that there are photos
8 that are in the file wrapper that I'm going to
9 ask you about next that I believe correspond to
10 these. But again, I'm just an outside lawyer.
11 I'm trying to see how these things are related.
12 And that's my -- that's the point of my
13 questioning. So it's a little hard for me to
14 make representations to you about any of this
15 because that's part of what I'm trying to find
16 out.

17 MR. OLSON: Did we provide source
18 information for these?

19 MR. ZELLER: I don't think so. My
20 last understanding -- we have asked for
21 the native files of these, these images.

22 MR. OLSON: And I'm happy to
23 address that as well, but go ahead.

24 MR. ZELLER: And any original
25 photographs so that we would have clear

1 images of it and the like. But, you
2 know, the information we have is pretty
3 limited. It was, as I understand it,
4 produced by Stern, which I believe took
5 over the prosecution, but -- and that's
6 probably why it's in possession of them.
7 But it doesn't -- we don't know what the
8 ultimate source of this was.

9 It was presumably transferred
10 from Beyer Weaver & Thomas at some point
11 would be my assumption, but again, that's
12 part of what I'm trying to find out. So
13 maybe if we step back for a minute and
14 try some kind of foundational things and
15 see if this helps --

16 A. Okay.

17 Q. -- jog your memory on any of
18 this. And let's first focus on the '889 design
19 patent for a moment.

20 A. Yes.

21 Q. At some point, did you actually
22 have a three-dimensional model that you were
23 shown or had access to that helped you form the
24 basis of the drawings that you made on the '889
25 design patent?

1 A. Yes.

2 Q. And if you could direct your
3 attention to the page of Exhibit 841 that bears
4 Bates number APLPROS 0000018789.

5 A. 18789?

6 Q. Yes. And you'll see this is a
7 photograph of an individual. Is this you?

8 A. Yes.

9 Q. And this photograph shows you
10 holding a three-dimensional tablet mock-up?

11 A. Yes.

12 Q. And does this depict the three-
13 dimensional mock-up that you had available to you
14 as a resource to create the '889 design patent
15 figures?

16 A. Yes.

17 Q. And in the course of that, was
18 there one model that you had to do that?

19 MR. OLSON: As opposed to?

20 MR. ZELLER: As opposed to more
21 than one.

22 THE WITNESS: I don't recall.

23 Q. Directing your attention to the
24 last page of Exhibit 841.

25 A. (Witness complies.)

1 Q. You'll see that this is a
2 cornucopia of you?

3 A. Yes.

4 Q. Do you know who created these?

5 A. I mean, I don't know but I think
6 it was me.

7 Q. And then directing your attention
8 to the other photographs that are part of Exhibit
9 841 which show various perspectives of the mock-
10 up, did you take these photos?

11 A. It's likely.

12 Q. Do you recall where you did this?
13 In other words, were you at the Beyer law firm's
14 offices? Did you go to Apple to do this? Do you
15 remember?

16 A. Yes, I remember.

17 Q. And where was it?

18 A. Apple.

19 Q. And I take it that's the occasion
20 in which you were provided the mock-up that's
21 depicted in these photographs and other images
22 that we have marked as Exhibit 841?

23 A. I believe so.

24 Q. Do you know where the photographs
25 are?

1 mock-up?

2 A. Just to verify, point to what
3 you're talking about.

4 Q. You'll see that there's an area
5 here between the glass surface and then what
6 sometimes people call the bezel, there's an
7 actual physical gap or groove that runs all
8 around the perimeter of the front of the device.

9 A. It does feel that way.

10 Q. And as you can tell from looking
11 at the mock-up and also can tell from this
12 photograph at 842, underneath that opening, that
13 gap or groove, there are a series of holes?

14 A. Are you referring to these holes?

15 Q. Yes.

16 A. Much easier to see in the
17 picture.

18 Q. And you do see, even though it's a
19 little tougher to actually see it in the physical
20 mock-up, but you do see that underneath the gap
21 or that groove that runs around the front surface
22 of the mock-up that there's a series of holes?

23 A. Does -- I can't tell that they are
24 holes from what I'm looking at, but there's a
25 series of something, a feature.

1 Q. Is there some word you would use
2 to describe what those are, if you can't tell
3 that they are holes?

4 A. I mean, I would call them a
5 feature. With regards to the device, the picture
6 it seems -- it appears more like a hole, series
7 of holes.

8 Q. Now, in the course of working on
9 the '889 design patent prosecution, did it come
10 to your attention that the design had vents that
11 ran around the perimeter of the front of the
12 device?

13 A. I don't recall.

14 Q. Directing your attention to
15 Exhibit 841, and specifically --

16 MR. OLSON: Let him find 841.

17 MR. ZELLER: 841.

18 THE WITNESS: This one.

19 BY MR. ZELLER:

20 Q. Right.

21 A. Okay.

22 Q. Directing your attention to
23 Exhibit 841 and specifically page APLPROS
24 0000018791.

25 A. This one?

1 Q. Yes. Now, you'll see that this
2 depicts a closer end view of the corner of the
3 mock-up that you had, right?

4 A. Okay.

5 Q. And, again, this is the mock-up
6 that was used to create the design drawings that
7 are shown in the '889 design patent, right?

8 A. I think, yes.

9 Q. You'll see from this perspective
10 that running around the perimeter of the front of
11 the device that's shown that there is that
12 thicker black line. Do you see that?

13 A. I see a thicker black line.

14 Q. And that corresponds to the groove
15 or the gap in the mock-up that you have, correct?

16 MR. OLSON: Objection. Lack of
17 foundation.

18 THE WITNESS: I don't know what
19 that is.

20 Q. Is the physical mock-up that you
21 have in front of you --

22 A. Yes.

23 Q. -- that your counsel brought and
24 photographs of which we have marked as Exhibit
25 842 and 843 the mock-up that is depicted here in

1 Exhibit 841?

2 A. Exhibit 842? You're saying these
3 photos that you took which represents this, are
4 you saying is what was in the case?

5 Q. Let me break it down further. Is
6 the physical mock-up that your counsel brought
7 the physical mock-up that's depicted in
8 Exhibit 841?

9 A. I don't know.

10 Q. Who would know?

11 A. I don't know. I don't know that
12 there's a person. It may have been Cal Seid.

13 Q. Directing your attention to
14 Exhibit 841, specifically page APLPROS 000001879.

15 A. Yes.

16 Q. This is a photograph that was
17 submitted to the patent office by Apple in
18 connection with the '889 design patent
19 prosecution, correct?

20 MR. OLSON: I don't think you're
21 on the same page.

22 THE WITNESS: This one?

23 MR. ZELLER: Yes.

24 MR. OLSON: You have a different
25 number down.

1 THE VIDEOGRAPHER: This marks the
2 end of the addendum to Tape Number 5 of
3 today's deposition of Quin Hoellwarth,
4 and concludes today's deposition.

5 The time is 8:47 p.m. We are
6 off the record.

7

8 (Time noted: 8:47 p.m.)

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QUIN HOELLWARTH

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16

17 Subscribed and sworn to before me

18 This day of , 2011.

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1 C E R T I F I C A T E

2 STATE OF CALIFORNIA)

3)

4 COUNTY OF SAN FRANCISCO)

5 I, LINDA VACCAREZZA, a Certified
6 California, do hereby certify:Shorthand
7 Reporter for the State of

8 That QUIN HOELLWARTH, the witness
9 whose deposition is hereinbefore set
10 forth, was duly sworn by me and that such
11 deposition is a true record of the
12 testimony given by such witness.

13 I further certify that I am not
14 related to any of the parties to this
15 action by blood or marriage; and that I
16 am in no way interested in the outcome of
17 this matter.

18 IN WITNESS WHEREOF, I have hereunto
19 set my hand this 26th day of October, 2011.

20

21

22

23 LINDA VACCAREZZA, CSR. NO. 10201

24

25