

EXHIBIT 66
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

APPLE INC., a California corporation,
Plaintiff,

v.

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.

Case No. 11-cv-01846-LHK

**EXPERT REPORT OF SUSAN
KARE**

****CONFIDENTIAL – CONTAINS MATERIAL DESIGNATED AS HIGHLY
CONFIDENTIAL – ATTORNEYS’ EYES ONLY PURSUANT TO A PROTECTIVE
ORDER****

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TABLE OF CONTENTS

| | Page |
|--|-------------|
| I. INTRODUCTION | 1 |
| II. QUALIFICATIONS | 1 |
| III. MATERIALS CONSIDERED | 5 |
| IV. FUNDAMENTALS OF ICON DESIGN | 6 |
| V. OPINIONS REGARDING SIMILARITIES BETWEEN APPLE AND SAMSUNG ICONS AND USER INTERFACE GRAPHICS | 8 |
| A. Characteristics of Apple Icons and User Interface Graphics | 8 |
| B. Similarity Between Apple Designs and Samsung Icons and User Interface Graphics | 29 |
| C. The Similarities Between the Samsung Phones and the iPhone Devices Support the Possibility that Samsung Used the iPhone Devices as a Guide in Designing Icons and User Interface Graphics for the Samsung Phones. | 44 |
| VI. CONCLUSION | 51 |
| VII. SUPPLEMENTATION | 51 |
| VIII. EXHIBITS TO BE USED..... | 52 |

1 will consider additional facts and material produced through discovery to determine whether such
2 additional material has an impact on my opinions. I may amend or supplement this report as
3 necessary based on such additional information.

4 **IV. FUNDAMENTALS OF ICON DESIGN**

5 25. The icon design process is one of creative problem-solving and involves
6 conceptual and visual components. It often involves the marriage of metaphor and aesthetics.
7

8 26. An icon is a visual representation that creates a shortcut for a user in a device
9 interface. A group of icons can represent a set of ideas with images that are differentiated from
10 each other so they can be recognized at a glance.

11 27. Sometimes an icon is a graphical illustration of a user interface element that
12 functions as something in particular (e.g., a clock). Icons may instead be designed as symbols,
13 either because they represent abstract concepts or verbs (e.g., “copy” or “undo”) or portray a
14 generic concrete noun (e.g., document).
15

16 28. The first step in icon design is to identify the concept (e.g., a specific category or
17 function) for which an icon is required and consider what visual metaphors might be used to
18 represent that concept or to make it easy to remember. This is the “design problem” that the
19 designer must solve: How can a particular concept or function be represented by an image?
20 Sometimes, the design problem might extend to developing a set of related icons.
21

22 29. Icon design may also need to take into account any marketing or design
23 considerations typically found in a creative brief. These considerations might include the nature
24 of the product itself; the target audience; the desired appearance for the user interface graphics;
25 and the competitive landscape (e.g., the goal of being differentiated from competitors in some
26 way). All of these factors can influence the development of an icon beyond the need for the clear
27 and memorable communication of an idea.
28

1 30. Because icon design is not an exact science, there is always a great range of visual
2 alternatives for an icon image even when a designer opts for a conventional approach, such as
3 using images associated with traditional postal service mail (e.g., an envelope, stamp, or mail
4 slot) to represent an electronic mail application. An icon of an envelope, for example, still
5 requires many aesthetic choices—including those involving color, style, viewpoint, rendering
6 techniques, etc.—as it is designed. The envelope icon could be a photograph, an illustration, or a
7 simple diagram; either side of the envelope can be shown; details such as a stamp and/or print can
8 be indicated; and the envelope can be rotated or shown in perspective. An icon can also appear to
9 be a flat, two-dimensional image or have the appearance of a three-dimensional image with depth.
10 Beyond the appearance of an individual icon, the designer also takes into consideration how the
11 image will appear along with other icons and graphic elements on a screen.

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14 31. Various factors influence the development of an icon’s final visual appearance.
15 Aesthetics are a prime consideration, but issues mandated by a mobile phone environment might
16 include limited screen real estate, touch screen “hit” area space requirements, the relationship of
17 the industrial design to the user interface, and creative issues or goals provided by a client’s
18 marketing organization. Moreover, the designer must be aware of any technical requirements or
19 constraints, such as pixel dimensions, bit depth, specific color palette, or touch screen issues. An
20 additional consideration might be optimizing for a user’s perception of ease of use, which may
21 affect the desired number and density of icons within a space.

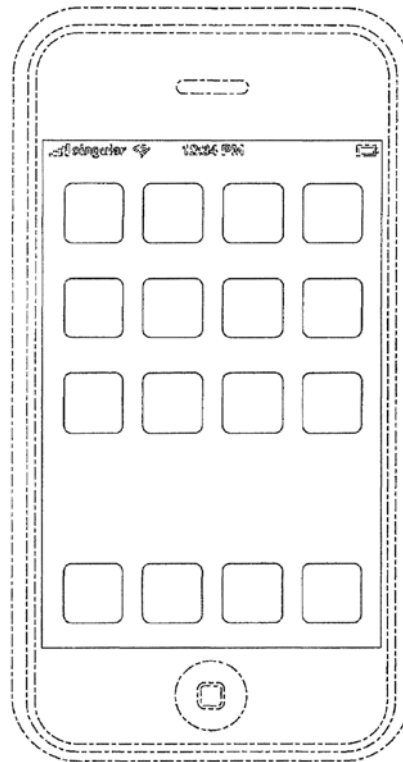
22
23 32. Various alternative design approaches are available for the overall layout of a
24 group of icons, such as presenting icon images as “badges” or “buttons” with a uniform
25 background shape (e.g., a circle or rounded rectangle); presenting icons with border shapes that
26 are irregular regions (different border shapes than a single, fixed border shape); or presenting
27 icons within a visible grid or other delineated framework. Color palette might be determined by
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1 branding considerations or used to indicate categories of applications or features. Overall visual
2 style (e.g., a two-dimensional or three-dimensional look, hand drawn effect, primary colors, etc.)
3 might be driven by marketing issues such as target audience or price point. Icon design is
4 typically an iterative process, with design alternatives presented and a final icon set chosen in
5 tandem with a client decision maker.
6

7 **V. OPINIONS REGARDING SIMILARITIES BETWEEN APPLE AND SAMSUNG
8 ICONS AND USER INTERFACE GRAPHICS**

9 **A. Characteristics of Apple Icons and User Interface Graphics**

10 **1. The Design Patents**



22
23
24 **Figure 1
D'790 Patent**

25 33. The D'790 depicts an overall appearance for the layout and shape of icons in a
26 graphical user interface for a display screen. (See Figure 1, above.) A 4 x 3 array (4 columns, 3
27
28

1 rows) of rounded rectangular² shapes, which appear to be squares with rounded corners, is shown
2 in the top portion of a display screen.³ (APLNDC00032009-012.) A separate row of rounded
3 rectangular shapes is shown along the bottom of the display screen. In both the 4 x 3 array and
4 the row along the bottom of the display screen, the shapes are evenly spaced horizontally. Within
5 the 4 x 3 array, the shapes are evenly spaced vertically, with slightly more space vertically than
6 horizontally. The width:height ratio of the display screen is approximately 1:1.5.

8 34. In the D’305 patent, icons are displayed on a display screen. (APLNDC00030421-
9 425.) The width:height ratio of the display screen is approximately 1:1.5. There is a 4 x 3 array
10 (4 columns, 3 rows) on a black background, with an additional row of icons in a gray gradient
11 area at the bottom of the screen. (See Figure 2, below.) Approximately the top 80% appears as a
12 solid black background containing the 4 x 3 array. Against the black background, the 12 icons in
13 the top portion provide a bright contrast and appear virtually illuminated against the black. The
14 lower approximately 20% of the screen has a gray gradient-patterned background containing the
15 additional row of icons—the main effect being that the top part and lower part of the screen
16 appear as separate, bounded areas, setting off the icons in the lower part as a separate group. The
17 icons in the D’305 patent have the shape of squares with rounded corners. Under each icon there
18 is gray text that describes the application represented by the icon. There is a band across the top
19 of the screen displaying information: signal strength, carrier name, time, and battery charge
20 status.
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26 ² I use the term “rounded rectangle,” the name of the shape drawn by a tool in Adobe Photoshop and Adobe
27 Illustrator, to refer to the shapes appearing in the D’790 patent as well as the shape of icons in the D’305 patent, the
28 D’334 patent, the iPhone Devices, and the Samsung Phones. Because the icons appear to have equal height and
width dimensions, I also refer to their shape as “square with rounded corners.”

³ In dotted lines, the D’790 patent shows elements besides the display screen and the rounded rectangles. I have not
been asked to offer any commentary on anything shown in dotted lines.

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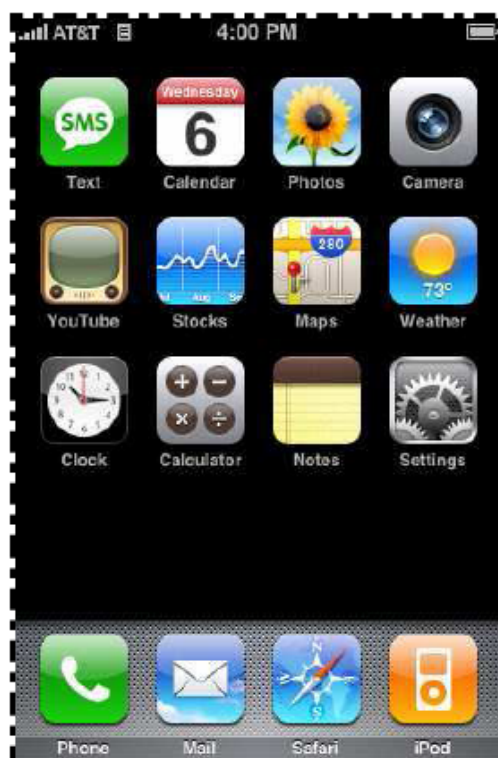


Figure 2
D'305 Patent Fig. 1⁴

35. The D'334 patent shows a display screen with two additional features. (APLNDC00030409-4220.) First, there are additional icons placed in a fourth row in the top portion of the screen. Second, there is a row of dots between the top portion and the bottom portion of the screen. The width:height ratio of the display screen is approximately 1:1.5.

⁴ Although the D'305 patent was published in black-and-white, I have been informed that this color image submitted during prosecution of the patent is available from the USPTO. This drawing corresponds to Figure 1 in the issued patent. I have been informed that this drawing has been produced to Samsung in this case. (See APLNDC-Y0000232557 at 232558.)

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VIII. EXHIBITS TO BE USED

93. I anticipate using as exhibits during trial certain documents and things referenced or cited in this report or accompanying this report. I also anticipate using other demonstrative exhibits or things at trial.

Dated: March 22, 2012



SUSAN KARE

sf-3098252