

EXHIBIT 20
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 whether a design is new and original as compared
2 to the prior art prior to the time that a design
3 application is made?

4 MR. OLSON: Objection. Asked and
5 answered, but you can answer this "yes,"
6 "no," "I don't know," "I don't remember,"
7 or to the extent that the only
8 information is privileged, you should so
9 state.

10 THE WITNESS: I don't know.

11 Q. Has it ever had such guidelines,
12 to your knowledge?

13 A. I don't know.

14 Q. Show you what's previously marked
15 as Exhibit 8, which is a copy of United States
16 design patent 504889. Please let me know when
17 you've had a chance to review the 889 design
18 patent.

19 MR. OLSON: Do you have a darker
20 copy?

21 MR. ZELLER: We can get one. Why
22 don't we go off the record for a moment.

23 THE VIDEOGRAPHER: The time is
24 12:11 p.m. and we are off the record.

25 (Recess taken from 12:11 p.m. to

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 as compared to the prior art?

2 MR. OLSON: I'll instruct him not
3 to answer on the basis of privilege and
4 attorney work product.

5 (Testimony marked as requested.)

6 Q. Did Apple or its counsel do
7 anything to determine that the design that's
8 shown here in the 889 design patent was new and
9 original as compared to the prior art?

10 MR. OLSON: So if I may make a
11 suggestion as to how you may reframe that
12 in which I would allow the question.

13 MR. ZELLER: Okay.

14 MR. OLSON: Is he obviously was
15 personally involved in the participation
16 of the filing of this application in
17 2004. So I would permit you to ask the
18 question whether he recalls doing
19 anything at that time.

20 MR. ZELLER: Yeah. That was the
21 context in which I was asking is back in
22 the prosecution of this application. So
23 let me be more definitive, then, on the
24 time period of what I'm talking about.

25 Q. Prior to the time that this design

1 patent issued on May 10, 2005, did Apple or its
2 counsel do anything to determine that the design
3 shown in the 889 design patent was new and
4 original as compared to the prior art?

5 MR. OLSON: Objection. Vague on
6 "Apple or its counsel." Obviously, I'll
7 allow him to answer as to what he did.

8 THE WITNESS: I don't recall.

9 Q. Do you have any knowledge or
10 information in that regard?

11 A. Not that I can remember.

12 Q. You'll see that there are a number
13 of named inventors listed in the first column on
14 the first page of the 889 design patent. Do you
15 see that?

16 A. Yes.

17 Q. Was anything done prior to the
18 time that this patent issued to determine that
19 these individuals were, in fact, the appropriate
20 inventors?

21 A. I don't recall.

22 Q. Do you have any knowledge or
23 information in that regard?

24 A. Not that I can remember.

25 Q. Now, you mentioned that you

1 prepared the figures that are shown in the 889
2 design patent?

3 A. Yeah.

4 Q. Did you base those drawings on
5 some information that you received from Apple?

6 A. Yes.

7 Q. And one of the sources of
8 information that you used to prepare the figures
9 were photographs?

10 A. Yes.

11 Q. I'm going to show you what was
12 previously marked as Exhibit 841, which is a
13 multi-page document bearing Bates numbers APLPROS
14 00000 18778 through 18798. And please let me
15 know when you've had an opportunity to review
16 Exhibit 841.

17 A. (Document review.)

18 Q. Do you recognize what's been
19 marked as Exhibit 841?

20 A. I do.

21 Q. What are these?

22 A. These are copies of a product,
23 copies of a picture of some product.

24 Q. And what is the product that is
25 represented in these copies, these materials?

1 A. It's an electronic device of some
2 sort.

3 Q. Is this electronic device that's
4 shown here in Exhibit 841 the same electronic
5 device that was used as the basis for the
6 drawings in the 889 design patent?

7 A. Just to clarify where these -- I
8 know that you presented this as evidence, but
9 where are they from?

10 Q. Well, I'm going to get to that in
11 a minute. But I'm just trying to first figure
12 out something is, do these photographs and other
13 images in Exhibit 841 have some relationship to
14 the drawing and drawings that are depicted here
15 in the 889 design patent

16 MR. OLSON: And Mr. Zeller, I
17 think what we're saying is if he knew the source
18 of them, it would help him to answer that
19 question. I may be --

20 THE WITNESS: Yeah, I mean, as far
21 as I don't know -- I mean, until I know
22 where this is from, I don't -- I can't
23 answer your question, right. I mean...

24 Q. Well, I mean, I'm just an outside
25 lawyer; I don't know facts. I'm trying to find

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 the inventors?

2 MR. OLSON: You can testify as to
3 any steps you may have taken, meetings
4 you may have had, et cetera, without
5 disclosing the content of such
6 communication, to the extent that you
7 have a recollection.

8 THE WITNESS: I can't speak to
9 Apple. For myself, I don't recall.

10 Q. Was anything done to determine
11 whether any of the named inventors on the '889
12 design patent application, in fact, made a
13 contribution to the claimed invention?

14 MR. OLSON: You can identify any
15 steps you took or meetings you had or things that
16 you did with respect to that question.

17 THE WITNESS: Just generally?

18 MR. OLSON: Without -- I think the
19 question is specific to the '889 patent.
20 But you can give steps you took or
21 actions you took or things you can
22 remember yourself doing without
23 disclosing the content of any
24 communication that you may have received
25 from someone.

1 THE WITNESS: I don't recall.

2 Q. Generally speaking, you're aware
3 that a design patent can only have a single
4 claim, right?

5 A. Yes.

6 Q. And what's your understanding of
7 what defines a claim in a design patent, just
8 generally speaking?

9 MR. OLSON: I'll let that answer.

10 THE WITNESS: The drawings.

11 Q. You're generally aware that you
12 can't get more than one design patent for what is
13 substantially or essentially the same design,
14 right?

15 MR. OLSON: Objection. Vague.

16 THE WITNESS: Generally, yes.

17 Q. And generally speaking, you
18 understand that when Apple seeks and obtains a
19 design patent, that Apple is necessarily
20 representing or stating to the patent office that
21 the overall appearance of the patent design is
22 not substantially the same as another patented
23 design, right?

24 MR. OLSON: Wait a second. Calls
25 for a legal opinion and instruct him not

1 to answer on the ground of attorney-
2 client privilege and work product.

3 (Testimony marked as requested.)

4 THE WITNESS: Can we take a
5 break? Is it possible?

6 MR. ZELLER: Okay.

7 THE VIDEOGRAPHER: The time is
8 5:06 p.m. We are off the record.

9 (Recess taken from 5:06 p.m. to 5:19 p.m.)

10 THE VIDEOGRAPHER: The time is
11 5:19 p.m. We are on the record.

12 BY MR. ZELLER:

13 Q. Does Apple --

14 MR. OLSON: Do you mind, while we
15 are doing stuff, can we just clean up the
16 figures?

17 MR. ZELLER: Sure.

18 Q. Does Apple have any processes or
19 procedures in place to ensure that it is not
20 double patenting?

21 A. At this time? Is that what your
22 question, is at this time?

23 Q. Yes. I'm talking about currently.

24 A. I don't know.

25 Q. Has it ever?

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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