

EXHIBIT 28
FILED UNDER SEAL

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3

4 APPLE, INC.,)
5)
6 Plaintiff)

) No. 11-CV-01846-LHK

7 vs.)

8 SAMSUNG ELECTRONICS, LTD.)
9 et al.,)
10)
11 Defendants)

12 -----)

13 ***

14 ATTORNEYS' EYES ONLY
15 PURSUANT TO THE PROTECTIVE ORDER

16 ***

17 VIDEOTAPED DEPOSITION OF JANUSZ A. ORDOVER
18 New York, New York
19 Friday, April 27, 2012
20

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23 Reported by:
24 THOMAS A. FERNICOLA, RPR
25 JOB NO. 49019

1 case that it's the court's action in enjoining
2 Apple that causes the antitrust entry?

3 A. It would be hard to blame the court
4 for causing an antitrust injury. The court
5 makes a ruling in response to Samsung's request
6 or demand for injunctive relief.

7 I am opposed to the whole concept of
8 Samsung asking for injunctive relief, given its
9 repeated FRAND commitments on these seven
10 patents, the blanket commitment and then the
11 individual FRAND commitments relating to each
12 one of those seven patents made late but,
13 nevertheless, they were made.

14 Q. Are you aware of any actual -- strike
15 that.

16 Is it your opinion that Apple has
17 sustained any actual injury to date -- strike
18 that again.

19 Is it your opinion that Apple has
20 sustained antitrust injury to date?

21 MS. MILLER: Objection.

22 A. I think that "antitrust injury" is a
23 term of art. It certainly sustained certain
24 harm due to the needs to defend itself across a
25 broad range of jurisdictions, that is no doubt

1 significant cost.

2 So that's a harm to Apple. It has
3 yet to harm competition because Apple, at this
4 point, can pay the bills. It does not have to
5 necessarily cut back on its R&D. So we are
6 lucky that that's the -- that they are the
7 target as opposed to some other company which
8 may have a lesser ability to survive the
9 multi-jurisdictional litigation that Samsung
10 has rolled out in this particular situation.

11 So someone else may actually have --
12 be forced to exit, and such exit may, in fact,
13 harm competition and, therefore, be an
14 antitrust injury.

15 Q. But -- so the only injury you're
16 aware of Apple sustaining to this point is
17 incurring litigation costs; correct?

18 A. No. I believe that they are also
19 incurring additional costs, such as the time of
20 the management that's being diverted perhaps
21 from other matters that they should be paying
22 attention to. It's a competitive environment.
23 It's a highly -- it's a quickly moving
24 marketplace and, clearly, there's been a lot of
25 time and energy spent at Apple trying to

1 respond to these litigations and trying to
2 perhaps map out how the -- how its market
3 circumstances are going to unfold, given the
4 allegations and the claims made by Samsung.

5 So there's more to the effect other
6 than just, you know, whatever the millions and
7 tens of millions of dollars worth of costs
8 incurred. There is other less tangible
9 consequences.

10 Q. In terms of the setting aside
11 legitimate costs, any other, with respect to
12 any injury that Apple has sustained, other than
13 litigation costs, have you conducted any
14 investigation as to the extent of that injury?

15 A. No. I have not conducted any such
16 investigation, neither do I know what Apple's
17 litigation costs have been heretofore.

18 Q. So you haven't don't -- quantified
19 any of the injury that Apple has sustained as a
20 result of any antitrust injury; correct?

21 A. I think you misspoke a couple of
22 times, but I know what you have in mind -- I
23 think that I have not quantified the dollar
24 harm to Apple as a result of these issues that
25 we are now talking about, the Samsung lawsuits