

Exhibit 10
(Submitted Under Seal)

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.

CASE NO. 11-cv-01846-LHK

**REBUTTAL EXPERT REPORT OF STEPHEN GRAY
REGARDING NON-INFRINGEMENT OF ASSERTED CLAIMS OF U.S. PATENT NOS.
7,844,915 AND 7,864,163**

**SUBJECT TO PROTECTIVE ORDER
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1 Motion events describe movements in terms of an action code and a set of
2 axis values. The action code specifies the state change that occurred such
3 as a pointer going down or up. The axis values describe the position and
4 other movement properties.

5 41. (See <http://developer.android.com/reference/android/view/MotionEvent.html>)

6 42. Paragraph 322 of the Singh Report asserts that the Android MotionEvent object
7 represents the event object described in Claim 1. However, the MotionEvent object never invokes a
8 scroll or gesture operation.

9 43. Instead of asserting that MotionEvent invokes a scroll or gesture operation, the Singh
10 Report maintains that *another*, different event object includes a method,
11 `WebView.handleQueuedMotionEvent()`, which invokes a scroll or gesture operation (*e.g.*,
12 `handleTouchEventCommon()` for a single input point and `handleMultiTouchInWebView()` for two or
13 more input points). I agree with the Singh Report's apparent conclusion that the MotionEvent object
14 does not invoke a scroll or gesture operation.

15 44. The Singh Report provides no additional discussion of how the "event object invokes"
16 the scroll or gesture operation. See Singh's report ¶¶321-323

17 45. For at least reason, the Accused Products do not infringe any of the asserted claims of the
18 '915 Patent.

19 **2. It Is My Understanding That The Singh Report Opinions Regarding Indirect**
20 **Infringement Were Not Properly Disclosed In Apple's Infringement**
21 **Contentions.**

22 46. The opinions of the Singh Report rely on an indirect theory of infringement with respect
23 to the method claims of the '915 Patent. The opinion, as stated by the Singh report, is that "the Samsung
24 defendants have indirectly infringed the method claims of the '915 Patent." Singh Report at ¶ 304.
25 However, it is my understanding that Apple's P.L.R. 3-1 infringement contentions did not previously
26 disclose that it would be relying on this type of infringement theory with regard to the '915 Patent. The
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1 59. The Singh Report does not identify any specific component in the Accused Products that
2 receives a user input. Singh merely asserts that "[e]ach '915 Accused Product ... includes a touch-
3 sensitive display," but does not cite to any evidence to establish that any such touch-sensitive displays
4 receive "one or more input points." Further, The Singh Report does not identify any software
5 component that receives or handles the user input from the touch-sensitive display. Singh Report ¶ 308.

6 60. Additionally, I note that any Accused Products that do not receive user input in the form
7 of "one or more input points" do not infringe Claim 1.

8 **3. '915 Patent, Claim 1[b]**

9 61. Claim 1[b] recites:

10 *creating an event object in response to the user input;*

11 62. I note that any Accused Products that do not create an event object in response to user
12 input in the form of "one or more input points" do not infringe this limitation.

13 **4. '915 Patent, Claim 1[c]**

14 63. Claim 1[c] recites:

15 *determining whether the event object invokes a scroll or gesture operation*
16 *by distinguishing between a single input point applied to the touch-*
17 *sensitive display that is interpreted as the scroll operation and two or*
18 *more input points applied to the touch-sensitive display that are*
19 *interpreted as the gesture operation;*

20 64. As discussed above, the Accused Products do not only use the number of touch inputs to
21 determine whether a scroll or gesture operation is performed and therefore do not infringe this
22 limitation.

23 65. Claim 1[c] requires "determining whether the event object invokes a scroll or gesture
24 operation." I have previously submitted an expert report outlining the reasons for my conclusion that
25 Claim 1 of the '915 Patent is indefinite and therefore invalid over the cited prior art.

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1 66. In the alternative, should the court find that Claim 1 is not indefinite and confirms its
2 validity over the cited prior art, it is my opinion that Claim 1 is not infringed by the Accused Products,
3 either literally or under the doctrine of equivalents, for at least the following reasons:

4 **(a) The Event Object does not "invoke"**

5 67. The claim limitation relating to the event object invoking a scroll or gesture operation in
6 Claim 1[c] is preceded by the language "creating an event object in response to the user input" in Claim
7 1[b]. Therefore, both limitations refer to the same "event object."

8 68. Paragraph 322 of the Singh Report asserts that the Android system's MotionEvent object
9 represents the event object described in the claim. However, Apple fails to show that the MotionEvent
10 object invokes a scroll or gesture operation. In fact, it does not.

11 69. I note that Android's MotionEvent object is used to "report movement (mouse, pen,
12 finger, trackball) events. Motion events may hold either absolute or relative movements and other data,
13 depending on the type of device." (See
14 <http://developer.android.com/reference/android/view/MotionEvent.html>.)

15 Some devices can report multiple movement traces at the same time.
16 Multi-touch screens emit one movement trace for each finger. The
17 individual fingers or other objects that generate movement traces are
18 referred to as pointers. Motion events contain information about all of the
19 pointers that are currently active even if some of them have not moved
20 since the last event was delivered.

21 70. (*Id.*)

22 71. Rather than alleging that the MotionEvent object invokes a scroll or gesture operation,
23 which would be inaccurate, the Singh Report maintains that *another* Android object, called WebView,
24 includes a method called `handleQueuedMotionEvent()` that invokes a scroll or gesture operation. Singh
25 Report ¶ 331.

26 72. The Singh Report goes on to state that the `handleTouchEventCommon()` method is
27 invoked by the WebView for a single touch input point, while the `handleMultiTouchInWebView()`
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1 method is invoked for two or more touch input points. *Id.* I agree with the Singh Report's implicit
2 conclusion that the event object, MotionEvent, found in the Accused Products never invokes a scroll or
3 gesture operation. *See* produced Android source code [SAMNDCA-C000002857].

4 73. The Singh Report provides no additional discussion of how the "event object invokes"
5 the scroll or gesture operation, as required by this limitation of Claim 1. *See* Singh's report ¶¶321-323.

6 74. For at least these reasons, the Accused Products do not infringe Claim 1 of the '915
7 Patent, either literally or under the doctrine of equivalents.

**(b) The number of touch inputs are not used to determine whether to
scroll or scale**

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9
10 75. As described above in Section IV.A.1.a, on the Accused Products a user is able to scroll
11 with one or more fingers (*e.g.*, two-finger scroll, three-finger scroll, etc.). Scrolling with two or more
12 fingers does not meet the limitation of "distinguishing between a single input point . . . interpreted as the
13 scroll operation and two or more input points . . . interpreted as the gesture operation."

14 76. I note that the Singh Report does not show that the Accused Products invoke a scroll or
15 gesture operation by distinguishing "between a single input point . . . interpreted as the scroll operation
16 and two or more input points . . . interpreted as the gesture operation." Rather, the Singh Report claims
17 that in response to a single input point the WebView class triggers one operation
18 (handleTouchEventCommon()), while two or more input points initially triggers a different operation
19 (handleMultiTouchInWebView()). I note that the Singh Report does not connect these methods to scroll
20 or gesture operations.

21 77. The Singh Report correctly points to the WebView.handleQueuedMotionEvent() method
22 as receiving the MotionEvent object in WebView.java at lines 10281-10314. Singh Report ¶ 331.

23 78. On the Galaxy Tab 10.1 tablet, the WebView class's handleQueuedMotionEvent()
24 method interprets the input points associated with the MotionEvent object it processes. The
25 handleQueueMotionEvent() method distinguishes between a single input point
26 (ev.getPointerCount == 1) and two or more input points (ev.getPointerCount > 1). Singh Report ¶ 331;
27 see also WebView.java:10281-10314 [SAMDNCA-C000002857].
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1 79. If one input point is detected, the `handleTouchEventCommon()` method is called. See
2 `WebView.java:10312` [SAMNDCA-C000002857]. If two or more input points are detected, the
3 `handleMultiTouchInWebView()` method is called. Singh Report ¶ 331; see also `WebView.java:10302`
4 [SAMNDCA-C000002857]; `WebView.java:7887-7944` [SAMNDCA-C000002858].

5 80. However, a careful analysis of Android's `WebView.java` source code reveals that the
6 `handleTouchEventCommon()` method may be called in response to both single and a multi-touch inputs.
7 See `WebView.java:7943` [SAMNDCA-C000002859].

8 81. The Singh Report fails to prove infringement because the '915 Patent's definition of a
9 "gesture," found in the Specification, includes both scrolling and scaling operations. The Accused
10 Products therefore do not meet the claimed limitation of "distinguishing between a single input point . . .
11 interpreted as the scroll operation and two or more input points . . . interpreted as the gesture operation."
12 I also point out that Claim 1 uses the term "the scroll operation" to indicate that this operation is separate
13 and different from "the gesture operation." As set forth in my initial expert report on invalidity, the
14 conflation of scroll operations and gesture operations provided the basis for my conclusion that the '915
15 Patent is indefinite.

16 82. For at least these reasons, the Accused Products do not infringe Claim 1 of the '915
17 Patent either literally or under the doctrine of equivalents.

(c) Additional Comments

18 83. The Singh Report also relies on Ioi Lam's deposition testimony stating that Android has
19 "event objects." Singh Report ¶ 325. I note that this statement and citation is nearly meaningless, as all
20 event-driven GUI systems have event objects, or similar message-passing models.
21

5. '915 Patent, Claim 1[d]

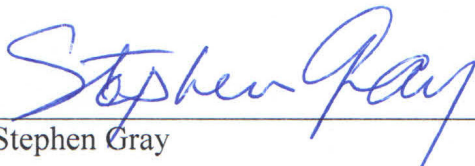
22 84. Claim 1[d] recites:

23 *issuing at least one scroll or gesture call based on invoking the scroll or*
24 *gesture operation;*
25

26 85. As discussed above, systems that do not issue one or more scroll or gesture calls from the
27 event object created in response to user input in the form of "one or more input points" do not infringe
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1 Dated: April 16, 2012

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4 By  _____
5 Stephen Gray
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