

EXHIBIT 1

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 --o0o--

4 APPLE INC., a California
5 corporation,

6 Plaintiff,

7 Vs.

Case No. 11-CV-01846-LHK

8 SAMSUNG ELECTRONICS CO., LTD.,
9 a Korean business entity;
10 SAMSUNG ELECTRONICS AMERICA,
11 INC., a New York corporation;
12 SAMSUNG TELECOMMUNICATIONS
13 AMERICA, LLC, a Delaware
14 limited liability company,

15 Defendants.

16 _____ /

17 VIDEOTAPED DEPOSITION OF COOPER WOODRING

18 Redwood Shores, California

19 Friday, August 5, 2011

20 (HIGHLY CONFIDENTIAL ATTORNEYS' EYES

21 ONLY PORTIONS BOUND SEPARATELY)

22 Reported By: CAROL S. NYGARD, CSR No. 4018
23 Registered Merit Reporter
24
25

1 at all with your reliance upon market research from the
2 1986 and earlier time period from J.C. Penney in order
3 to reach your opinions in this case in lieu of any
4 market research undertaken in the course of the last
5 decade concerning smartphones and tablet computers;
6 right?

7 MR. MONACH: Object to form.

8 THE WITNESS: No, I don't find it unusual at
9 all in that all of this -- the whole consumer research
10 issue that we're discussing is all targeted toward what
11 a hypothetical ordinary observer might think.

12 So in that context I don't --

13 No, I don't think the it's unusual at all.

14 I think it's probably highly reliable.

15 MR. ZELLER: Let's please mark as Exhibit 67 a
16 one-page document consisting of a design.

17 (Exhibit 67 was marked for Identification.)

18 MR. ZELLER: Just so you know -- yeah, this is
19 the top part, the speaker hole.

20 BY MR. ZELLER:

21 Q. Do you know what Exhibit 67 depicts?

22 A. I could surmise it's a smartphone.

23 Q. In your view is the design that's depicted
24 here on Exhibit 67 substantially the same as the design
25 that's depicted in Exhibit 6, which is the 087 design

1 patent?

2 MR. MONACH: Object to the form of the
3 question. Vague, and incomplete hypothetical. Calling
4 for a legal conclusion without providing the required
5 information or adequate time.

6 But the witness can respond.

7 THE WITNESS: Ask the question again.

8 Did I think it was what?

9 BY MR. ZELLER:

10 Q. Do you believe that the design that's
11 reflected here on Exhibit 67 is substantially the same
12 from the perspective of the ordinary observer or
13 purchaser as the design that's depicted in the 087
14 design patent which is Exhibit 6?

15 MR. MONACH: Same objection.

16 THE WITNESS: Yes, it certainly is --
17 substantially the same in the eyes of the ordinary
18 observer of at least one embodiment of the 087.

19 BY MR. ZELLER:

20 Q. And you would agree that it is also
21 substantially the same from the perspective of the
22 ordinary purchaser or observer as the design that's
23 depicted in Exhibit 7, which is the 677 design patent;
24 correct?

25 MR. MONACH: Same objection.

1 THE WITNESS: Probably.

2 I -- I can't answer that question
3 definitively, because the 677 claims the front surface
4 of an electronic device that is black, and the Exhibit
5 67 that you've shown me, there's no indication that the
6 front surface is black.

7 BY MR. ZELLER:

8 Q. Well, let me rephrase it then.

9 Directing your attention to the design that's
10 reflected here in Exhibit 67, setting aside the color
11 limitation that's set forth in the 677 design patent, do
12 you believe that the ordinary observer or purchaser
13 would consider the overall design, again, saying aside
14 the color, of the design in Exhibit 67 to be
15 substantially the same as the design depicted in the 677
16 design patent?

17 MR. MONACH: Object to the form of the
18 question.

19 Object for the reasons previously stated.

20 THE WITNESS: Yeah, they're -- they're
21 substantially the same.

22 BY MR. ZELLER:

23 Q. And specifically the -- the design that's
24 reflected here in Exhibit 67, you'll agree, has a -- has
25 a speaker slot that's smaller and more near the top than

1 MR. ZELLER: No, you can have a standing
2 objection.

3 MR. MONACH: I'll say "objection," but it
4 includes all the elements previously stated.

5 MR. ZELLER: Understood. I appreciate that.

6 MR. MONACH: Okay.

7 MR. ZELLER: I'll absolutely agree that you
8 have a standing objection, as well that that's an
9 appropriate shorthand.

10 MR. MONACH: Okay.

11 THE WITNESS: If we assume that what I had
12 previously characterized in my declaration -- I called
13 them the "major design elements" that are listed on the
14 top of page 5, the A, B, C, D, if those major design
15 elements that conspicuously depart from the prior art
16 are considered not limited to those, but considered and
17 in combination, no, the -- the movement of that little
18 slot quarter of an inch one way or another is not -- not
19 going to make it a different design.

20 BY MR. ZELLER:

21 Q. Let me --

22 In fact, maybe we can -- do this a little bit
23 more efficiently then by relying on your declaration.

24 Directing your attention to paragraph 16 of
25 your declaration, as you mention -- you lay out what you

1 consider to be the four major design elements of the 677
2 design patent; right?

3 A. Right.

4 Q. And in your view all the elements that are
5 listed there in that paragraph under A through D are
6 present in the 6 -- in the design that we've marked as
7 Exhibit 67?

8 A. Well, you've already testified we can't tell.
9 I can't tell if this is black, for example.

10 Q. Well, okay.

11 Then setting aside the black portion of it, do
12 you agree that all the other --

13 A. Well --

14 Q. -- what you call "major design elements" that
15 listed here in A through D are present in the design we
16 marked as Exhibit 67?

17 MR. MONACH: Objection. Lack of foundation.
18 Vague.

19 Incomplete hypothetical in light of the
20 witness' prior testimony that he can't tell what this
21 is.

22 Go ahead.

23 THE WITNESS: I -- it's an analysis I haven't
24 made previously, so let me attempt to answer your
25 question, and it appears --

1 Although, again, I can't tell if it's flat, I
2 can't tell if it's clear, I can't tell if it's
3 black-colored.

4 I can tell that it's a rectangular front
5 surface with four evenly rounded corners.

6 I can't tell if it has an inset rectangular
7 display screen.

8 I can tell if it's centered on the front
9 surface, and that it leaves very narrow borders on
10 either side of the display screen and substantial
11 borders above and below the display screen.

12 I can tell that it has a rounded horizontal
13 speaker slot centered on the front surface above the
14 display screen, and I can tell that where the
15 rectangular front surface is otherwise substantially
16 free of ornamentation outside of an optional button area
17 centrally below the display.

18 So, if it has most of those major visual
19 characteristics, excusing the ones that we can't make a
20 determination about, then I would have to conclude that
21 it's substantially the same in the eyes of the ordinary
22 observer.

23 BY MR. ZELLER:

24 Q. And just to make sure I heard everything that
25 you said here, the -- you agree that the major design

1 elements that you list in paragraph 16 in A through D
2 are all present in the design that we marked as Exhibit
3 67 except for the part where it says a flat clear black
4 color, those elements you're not sure about, but the
5 rest of them you do see there?

6 A. No. I didn't say that.

7 MR. MONACH: Objection. Mischaracterizes
8 prior testimony.

9 BY MR. ZELLER:

10 Q. What are the other ones you can't tell then?
11 That's why I want to make sure I heard you
12 correctly.

13 A. Apparently you didn't.

14 In B it's impossible to tell from this that it
15 has an inset rectangular display screen.

16 Q. So you don't know whether it's inset or not,
17 you can see it's a rectangular display screen that's
18 centered on the front surface?

19 A. It could be protruding.

20 Q. So --

21 But the rest of it you do agree is present in
22 the design that's Exhibit 67 except for the inset part
23 in B?

24 A. Yes.

25 Q. So, again, just --

1 A. I don't know if I need a copy or not because I
2 don't know what you're going to ask.

3 MR. MONACH: Well, why don't you give it to
4 him so he doesn't have to try to find it in a binder
5 with exhibits.

6 MS. BUCHAKJIAN: There you go.

7 MR. MONACH: Thank you.

8 BY MR. ZELLER:

9 Q. The 889 design patent, which has been
10 previously marked as Exhibit 8, is a design patent that
11 you reviewed previously and you offered an opinion about
12 in your declaration; correct?

13 A. Yes, that is correct.

14 Q. Directing your attention to Figure 3 of the
15 889 design patent, you see that there are those diagonal
16 lines on the -- the surface?

17 A. Yes, I see that.

18 Q. What's your understanding of what those
19 depict?

20 A. Those are described in the MPEP as being
21 oblique line shading and that indicates that that
22 surface is flat and clear, or at least translucent.

23 Q. And you understand that in the figures in the
24 087 design patent anyway, those diagonal lines don't
25 appear; right?

1 A. Is that -- that's correct.

2 Q. Which is why, when you were saying earlier
3 there's some ambiguity, at least with respect to just
4 the drawings, it's because it doesn't have those
5 diagonal lines; right?

6 A. That's correct, but the description clarifies
7 it.

8 Q. Now, you recognize that the 889 design patent
9 was -- was issued as of May 10th, 2005; right?

10 A. Yep.

11 Q. And so you'll certainly agree with me that by
12 that time the art taught having a clear continuous
13 surface on the front of an electronic device; correct?

14 A. Yes.

15 Q. Whether that was taught some time before that
16 you can't be sure, but you certainly know that by this
17 time that was something the art had taught; right?

18 A. It was known.

19 Q. Directing your attention to the 889 design
20 patent, Exhibit 8, in your view are portions of the
21 design that's depicted here significant to the ordinary
22 observer or purchaser?

23 MR. MONACH: Objection. Vague. Incomplete
24 hypothetical.

25 THE WITNESS: Well, when you say "are they

1 important," I -- you know, it begs the question,
2 compared to what?

3 I would say that they're reasonably important,
4 yes.

5 BY MR. ZELLER:

6 Q. And would you agree that the proportions of
7 the designs that are depicted in the other two design
8 patents, the 087 design patent and the 677 design
9 patent, are important from the perspective of the
10 ordinary observer or purchaser?

11 MR. MONACH: Objection. Vague. Incomplete
12 hypothetical.

13 THE WITNESS: Yeah, reasonably so.

14 BY MR. ZELLER:

15 Q. You describe one feature of the 889 design --
16 design patent as -- that it -- it's -- has a thin
17 profile; right?

18 A. Well, I called it a thin -- thin form factor,
19 but I -- you can substitute "profile."

20 That's fine with me.

21 Q. Directing your attention to Figures 5 through
22 8 of the 889 design patent, you consider that to be
23 thin?

24 A. Yes, I do.

25 Q. Do you consider the profile depicted here in

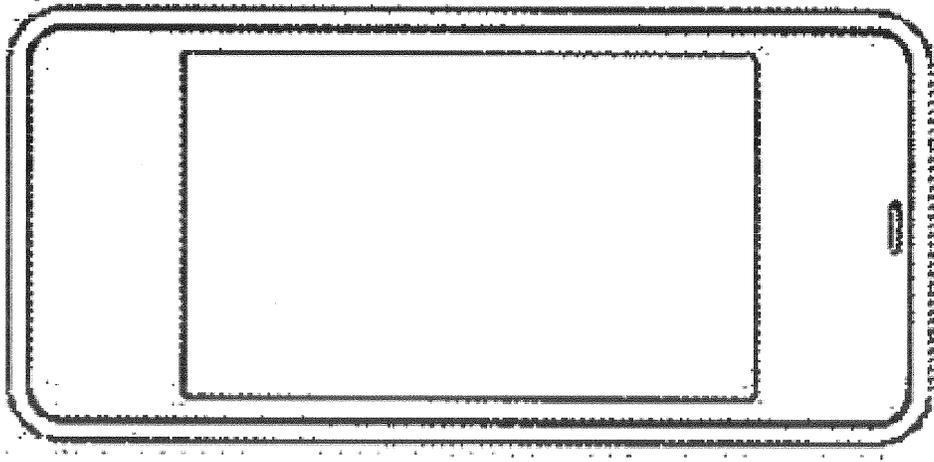


EXHIBIT 69
WIT: Watson
DATE: 8-5-19
CAROL NYGARD