

# EXHIBIT 38

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

APPLE INC., a California  
corporation,

Plaintiff,

vs. Case No. 11-CV-01846-LHK

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.

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CONFIDENTIAL ATTORNEYS' EYES ONLY

VIDEOTAPED DEPOSITION OF DANIELE De IULIIS  
Redwood Shores, California  
Friday, October 21, 2011

Reported by:  
LORRIE L. MARCHANT, CSR No. 10523, RPR, CRR, CCRR, CLR  
JOB NO. 43000

1 Q. Did you work on the design of this tablet?

2 A. I worked alongside my colleagues in the  
3 industrial design department as a collective and as  
4 a team on this.

5 Q. Approximately how many months did you spend  
6 working on this design?

7 A. We spent -- I really don't recall. It's  
8 going back a long time.

9 Q. More than three months?

10 A. Yes. I'm guessing. My best guess would be  
11 yes, more than three months.

12 Q. Did you create any sketches relating to the  
13 development of this tablet design?

14 A. I may have.

15 Q. Is it common that you work on a design for  
16 more than three months and don't create a single  
17 sketch related to it?

18 MR. MONACH: Objection. Vague.

19 THE WITNESS: I believe I mentioned to you  
20 earlier that we tend to go into three dimensions  
21 very, very quickly. That's generally how we work.

22 BY MS. CARUSO:

23 Q. Is it common that you work on a design for  
24 more than three months and don't create a single  
25 sketch related to it?

1 MR. MONACH: Objection. Vague.

2 THE WITNESS: It's possible.

3 BY MS. CARUSO:

4 Q. Is it your understanding that you didn't  
5 create any sketches relating to tablet design?

6 A. I don't remember.

7 Q. Have you gone back to look through your  
8 sketchbooks from the 2003 time period to see if  
9 there were any sketches relating to the tablet  
10 design?

11 A. I don't remember the dates that were asked  
12 for us to look at. So I don't remember the dates.

13 Q. You referred to this -- did you call it an  
14 early prototype of the tablet design?

15 A. I don't remember if I called it an early  
16 prototype or a prototype.

17 Q. Do you agree that it's an early prototype?

18 A. I agree that it's a prototype. I guess a  
19 prototype by definition is -- anyway. I'm sorry.

20 Q. You've been handed what has been marked as  
21 Exhibit 8, Lutton Exhibit 8. Do you have that in  
22 front of you?

23 A. Yes.

24 Q. Do you -- and that is US Design Patent  
25 504889 --

1 A. Yes.

2 Q. -- correct?

3 You're named as an inventor of this design;  
4 is that correct?

5 A. Yes.

6 Q. Did you participate in the team that  
7 created this design?

8 A. I did.

9 Q. Does this D889 reflect the design of the  
10 prototype that's in front of you?

11 MR. MONACH: Objection. Lack of  
12 foundation. Vague. Objection, calls for a legal  
13 conclusion.

14 THE WITNESS: I believe so.

15 BY MS. CARUSO:

16 Q. Do you see Figure 6 of the D889 patent?

17 A. I do.

18 Q. There's a circular element on that. Do you  
19 see it?

20 A. I do.

21 Q. Do you also see that on the prototype that  
22 you're holding?

23 A. I do.

24 Q. In Figure 1 of the D889 patent, there's  
25 a -- a line that's thicker than the other lines. Do

1 you see that?

2 MR. MONACH: Objection. Vague. Objection  
3 to the extent it may not accurately reflect the  
4 drawing.

5 THE WITNESS: I see a bad photocopy.

6 BY MS. CARUSO:

7 Q. Starting at the left, do you see three  
8 parallel lines on the left-hand side of the top  
9 drawing?

10 A. I do.

11 Q. Do you see the middle line of those three?

12 A. I do.

13 Q. Does it appear to you to be thicker than  
14 the other two?

15 A. Yes.

16 Q. Do you have an understanding of why it's  
17 thicker?

18 MR. MONACH: Objection. Lack of  
19 foundation. Objection to the extent it calls for a  
20 legal conclusion.

21 THE WITNESS: I don't.

22 BY MS. CARUSO:

23 Q. Do you have any understanding of what that  
24 middle line represents?

25 MR. MONACH: Same objection.

1 THE WITNESS: One more time. What was your  
2 question.

3 BY MS. CARUSO:

4 Q. Do you have any understanding of what that  
5 middle line represents?

6 A. No.

7 Q. Figure 1, looking at the prototype in front  
8 of you, do you agree that there is a gap between the  
9 screen portion and the outer rim?

10 A. I do agree there's a gap.

11 Q. Was that gap -- did you participate in the  
12 design that led to that gap?

13 MR. MONACH: Object to the form of the  
14 question as it assumes facts that are not in  
15 evidence.

16 THE WITNESS: I was part of the team that  
17 designed this product, and, therefore, I  
18 participated in the design of that detail.

19 BY MS. CARUSO:

20 Q. Was that detail intended to serve any  
21 function?

22 A. I don't -- I'm sorry. What do you mean by  
23 "function"?

24 Q. Any purpose that enabled the product to  
25 work.

1 MR. MONACH: Objection. Vague.

2 THE WITNESS: I don't understand if I  
3 understand your definition.

4 BY MS. CARUSO:

5 Q. Did the gap -- why was there a gap? I'll  
6 ask that question.

7 A. I really don't remember.

8 Q. If you'd look at this --

9 A. Thank you.

10 Q. -- and if you could just hold that up again  
11 for the camera.

12 THE VIDEOGRAPHER: I didn't get a shot of  
13 the front. You have to hold it longer for me.

14 Thank you. Great.

15 BY MS. CARUSO:

16 Q. Does that prototype also have a gap?

17 A. It does.

18 Q. And is there anything sort of in the  
19 interior of that gap that you can see?

20 MR. MONACH: Objection. Vague.

21 THE WITNESS: I see a detail within what  
22 you're calling the gap.

23 BY MS. CARUSO:

24 Q. Is that detail found in the first prototype  
25 you were looking at, as well?