

# EXHIBIT 46

1 UNITED STATES INTERNATIONAL TRADE COMMISSION

2 Washington, D.C.

3 Before the Honorable Charles E. Bullock

4 Acting Chief Administrative Law Judge

5  
6 In the Matter of: )  
7 CERTAIN ELECTRONIC DIGITAL )  
8 MEDIA DEVICES AND COMPONENTS ) Inv. No. 337-TA-796  
9 THEREOF )  
10 )

11  
12  
13  
14 CONFIDENTIAL BUSINESS INFORMATION

15 SUBJECT TO PROTECTIVE ORDER

16  
17 DEPOSITION OF RICHARD HOWARTH

18 WEDNESDAY, FEBRUARY 8, 2012

19  
20  
21  
22  
23 Job Number: 45710

24 REPORTED BY:

25 JANIS JENNINGS, CSR 3942, CLR, CCRR

1 page, the left column at the top says "U.S. Patent  
2 Documents," and if you read about two-thirds of the  
3 way down you see a reference to the 558,757 patent.

4 Do you see that?

5 A. Yes, I do.

6 Q. And the 558,757 patent is Exhibit 4 that  
7 we were just talking about a moment ago. Can you  
8 take a look at Exhibit 4.

9 A. Yes.

10 Q. Which is the '757 patent.

11 A. Okay.

12 Q. And the '757 patent, which is Exhibit 4,  
13 is a cited reference in the '678 patent, which is  
14 Exhibit 6.

15 Can you tell me what's new or original in  
16 the '678 patent compared to the '575 [sic] patent --  
17 I'm sorry -- compared to the '757 patent?

18 MS. TAYLOR: Calls for a legal conclusion.

19 THE WITNESS: I don't -- I can't answer  
20 that, no. I really don't understand patent drawings  
21 very well. It's difficult for me.

22 MS. TAYLOR: Scott, is this a good time  
23 to -- I need something more to drink. Is it a good  
24 time to take a break?

25 MR. KIDMAN: Sure.

1 MS. TAYLOR: Thanks.

2 THE VIDEOGRAPHER: The time is 4:02 p.m.

3 and we are off the record.

4 (Off the record.)

5 THE VIDEOGRAPHER: The time is 4:19 p.m.,

6 and we are on the record.

7 MR. KIDMAN: Let's mark the next document

8 as Exhibit 7.

9 (Exhibit 7 was marked for identification

10 and attached hereto.)

11 BY MR. KIDMAN:

12 Q. And Exhibit 7 is a copy of U.S. design  
13 patent 504,889. And, Mr. Howarth, do you recognize  
14 the '889 design patent as a patent on which you are  
15 an inventor?

16 A. I see my name is written here in the list  
17 of inventors.

18 Q. And have you seen this patent before?

19 A. I don't recall.

20 Q. Do you recall having any role in the  
21 application or prosecution of this patent?

22 A. I'm not sure exactly what you mean by  
23 "application or prosecution" of it.

24 Q. Do you recall having any role in the  
25 preparation of the application for this patent?

1 A. I don't recall that.

2 Q. And what's new or original about the  
3 design shown in the drawings of the '889 patent?

4 MS. TAYLOR: Calls for a legal conclusion.

5 THE WITNESS: I can't tell from this what  
6 is new -- new about this.

7 BY MR. KIDMAN:

8 Q. Do you have any understanding as to what's  
9 new or original about the design is shown in the  
10 '889 patent?

11 MS. TAYLOR: Calls for a legal conclusion.

12 THE WITNESS: I'm not trained in reading  
13 these sort of patent drawings, so I can't tell you  
14 what's new or original based on these.

15 BY MR. KIDMAN:

16 Q. As a named inventor of the '889 patent,  
17 can you tell me if you have any understanding as to  
18 what's new or original in the design shown in this  
19 patent?

20 MS. TAYLOR: Calls for a legal conclusion.

21 THE WITNESS: Again, I -- I haven't been  
22 trained in reading patent drawings, and I can't -- I  
23 can't tell what these drawings are trying to show.

24 BY MR. KIDMAN:

25 Q. Did Apple release to market any product

1 with the design that's shown in the '889 patent?

2 MS. TAYLOR: Calls for a legal conclusion.

3 It's also not relevant to the ITC case.

4 THE WITNESS: I'm not sure what -- what  
5 design is being shown here, based on these drawings.

6 BY MR. KIDMAN:

7 Q. And so, therefore, you can't tell me if  
8 Apple released any product to market with the design  
9 that's shown in the '889 patent; is that correct?

10 MS. TAYLOR: Calls for a legal conclusion.

11 THE WITNESS: I -- based on these  
12 drawings, I can't tell you if Apple released a  
13 product that was -- that was like this.

14 BY MR. KIDMAN:

15 Q. And take a look back at Exhibit 6, which  
16 is the '678 patent, and you see on -- it is actually  
17 the third page of the '678 patent. I think we  
18 looked at this before, but maybe not.

19 But the '889 patent is one of the cited  
20 references in the '678 patent. Do you understand --  
21 do you see that? If you look at the column on  
22 page 3 of the '678 patent that says "U.S. Patent  
23 Documents."

24 A. The what? Sorry.

25 Q. Why don't you take a look at Exhibit 6,

1 page 3.

2 A. Uh-huh. Yes.

3 Q. You see the column on the left that  
4 says "U.S. Patent Documents"?

5 A. Uh-huh, yes.

6 Q. And about a quarter of the way down, there  
7 is a reference to the 504,889 patent.

8 A. I see that.

9 Q. Okay. And so the '889, patent which is  
10 Exhibit 7, is one of the references cited in the  
11 '678 patent, which is Exhibit 6.

12 Are you with me?

13 A. Got it.

14 Q. Okay. And can you tell me what's new or  
15 original about the design in the '678 patent over  
16 the design in the '889 patent?

17 MS. TAYLOR: Calls for a legal conclusion.

18 THE WITNESS: No, I can't tell you that,  
19 based on these drawings.

20 BY MR. KIDMAN:

21 Q. Do you recognize the design in the '889  
22 patent as the design of any version of the iPad?

23 MS. TAYLOR: Calls for a legal conclusion.

24 THE WITNESS: I'm not sure what this is  
25 trying to show (indicating).

1 BY MR. KIDMAN:

2 Q. And when you say "this," you are referring  
3 to Exhibit 7, which is the '889 patent?

4 A. That's correct.

5 Q. What was new or original about the  
6 original iPhone when it was brought to market?

7 MS. TAYLOR: Calls for a legal conclusion.

8 THE WITNESS: I'm not sure it was new or  
9 original about the original -- about the initial  
10 iPhone. It was -- it was a wonderful product when  
11 it came out, and it was beautiful.

12 BY MR. KIDMAN:

13 Q. Can you identify anything that was new or  
14 original about the original iPhone when it was  
15 brought to market?

16 MS. TAYLOR: Asked and answered.

17 THE WITNESS: I think -- I think it was a  
18 beautiful product that people seemed to really,  
19 really like. I really liked it.

20 BY MR. KIDMAN:

21 Q. My question is a little bit different, and  
22 that is: Was there anything that you can identify  
23 that was new or original about it?

24 MS. TAYLOR: Calls for a legal conclusion.

25 Asked and answered.



1 THE WITNESS: I'm not sure what was new  
2 and original about it.

3 BY MR. KIDMAN:

4 Q. How about the iPad? Can you identify  
5 anything that was new or original about the iPad  
6 when it was brought to market?

7 MS. TAYLOR: Calls for a legal conclusion.

8 THE WITNESS: I don't know about new or  
9 original for the iPad, because I'm not a lawyer.

10 BY MR. KIDMAN:

11 Q. Well, I'm not asking for a legal opinion.  
12 I'm asking your understanding as an industrial  
13 designer. In your understanding as an industrial  
14 designer, was there anything new or original about  
15 the iPad when it was first brought to market?

16 MS. TAYLOR: Calls for a legal conclusion.

17 THE WITNESS: I'm not sure what was new or  
18 original.

19 BY MR. KIDMAN:

20 Q. Did you ever discuss competitors' products  
21 during meetings with the industrial design team?

22 A. Might have done.

23 Q. Do you recall ever having done that?

24 A. Not right now.

25 Q. Are competitive products ever brought into