

EXHIBIT 48

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

APPLE INC., a California corporation,

Plaintiff,

v.

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
**EXPERT REPORT OF HENRY
URBACH**

****CONFIDENTIAL – CONTAINS MATERIAL DESIGNATED AS HIGHLY
CONFIDENTIAL – ATTORNEYS’ EYES ONLY PURSUANT TO A PROTECTIVE
ORDER****

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TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. QUALIFICATIONS	1
III. MATERIALS CONSIDERED	3
IV. DESIGN AND CULTURE	3
V. THE CULTURAL SIGNIFICANCE OF DESIGNS BY APPLE	4
A. Apple’s Commitment to Design	4
B. Apple’s Design Consistency and Integration	10
C. Comparable Levels of Design Achievement	12
D. The iPhone and iPad as Examples of Apple’s Design Excellence	13
E. Recognition by Museums	14

1 **I. INTRODUCTION**

2 1. I, Henry Urbach, submit this Expert Report in connection with claims being
3 asserted by Apple Inc. (Apple) in the above-captioned case. I understand that Apple has alleged
4 that Defendants Samsung Electronics Co. Ltd., Samsung Electronics America, Inc., and Samsung
5 Telecommunications America, LLC (collectively, Samsung) have infringed Apple's patents and
6 trademarks.

7 2. I submit this expert report in compliance with Federal Rule of Civil Procedure
8 26(a)(2). I reserve the right to supplement or amend this report pursuant to Rule 26(e) and as
9 otherwise provided if additional data or other information that affects my opinions becomes
10 available. I expect to testify at trial regarding the matters expressed in this report and any
11 supplemental reports that I may prepare for this litigation. I also may prepare and rely on
12 audiovisual aids to demonstrate various aspects of my testimony at trial. I also expect to testify
13 with respect to any matters addressed by any expert testifying on behalf of Samsung, if asked to
14 do so.

15 **II. QUALIFICATIONS**

16 3. I am a curator, teacher, lecturer, and published writer in the field of design and
17 culture. I have been a specialist in the field of design and culture for more than twenty-five years.
18 I received an undergraduate degree in History and Theory of Architecture (*magna cum laude*,
19 1984) from Princeton University, where my studies focused on how designed objects and spaces
20 reflect cultural values.

21 4. I hold two master's degrees, one in Architecture from Columbia University (1990)
22 and one in History and Theory of Architecture from Princeton University (1995).

23 5. I have taught at many institutions, including the University of California, Los
24 Angeles; the California College of Arts; the University of Southern California; Rensselaer
25 Polytechnic Institute; and Parsons School of Design.

26 6. My scholarship explores design as a form of representation; that is, a way of
27 representing concepts through form. I have published extensively in books, journals, newspapers,
28 and magazines, with writings that encompass theory, criticism, and journalism. As set forth in

1 my curriculum vitae (Exhibit 1), my publications include articles published in *The New York*
2 *Times Magazine*, *Artforum*, *Metropolis*, and *Interior Design*, where I served as contributing editor
3 for several years. My essay on the design of Apple stores, “Gardens of Earthly Delights,” was
4 published in *Apple Design* (Hatje Cantz Verlag, 2011).¹

5 7. I have been a panelist at TEDActive and many other conferences. I have also
6 lectured extensively and participated on design reviews at many universities as well as the *P/A*,
7 *Travel + Leisure*, and SOM Foundation design awards juries.

8 8. In 1997, I founded Henry Urbach Architecture, a gallery that achieved
9 international recognition as a meeting ground for contemporary art and architecture. This gallery
10 operated in New York City until 2005.

11 9. In 2006, I became Curator of Architecture and Design at the San Francisco
12 Museum of Modern Art (“SFMOMA”). As head of the department, I organized exhibitions and
13 acquired works of architecture, art, graphic design, furniture, and product design for the
14 museum’s permanent collection. I was responsible for bringing approximately 500 design objects
15 into the collection. I also developed more than a dozen exhibitions, including:

16 “246 and Counting: Recent Architecture and Design Acquisitions,” a presentation of recently

17 acquired works that revealed little-known aspects of how a museum collects;

18 “Patterns of Speculation: J. MAYER H.,” the first solo museum exhibition of the Berlin-based
19 architecture studio;

20 “Otl Aicher,” focusing on Aicher’s graphic design work for the 1972 Olympics;

21 “Sensate: Bodies and Design,” an exhibition that considered relationships between bodies and
22 designed objects;

23 “ParaDesign,” an exhibition comprising works from the permanent collection that emerge from
24 interdisciplinary concerns among art, architecture, and design;

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26
27 ¹ Henry Urbach, Garden of Earthly Delights in *Apple Design* APLNDC-Y0000151232-
28 241 (Sabine Schulze, Ina Grätz, Frederich von Borries, Museum für Kunst und Gewerbe
Hamburg, et al., Hatje Cantz, Hamburg: Museum für Kunst und Gewerbe Hamburg 2011).

1 “Tobias Wong,” the first solo museum exhibition of work by contemporary design’s “bad boy”;
2 and
3 “How Wine Became Modern: Design + Wine 1976 to Now,” an exhibition co-created with
4 Diller, Scofidio + Renfro that focused on the visual and material culture of wine, with
5 attention to the ways in which design confers value on cultural practices.

6 In May 2011, I left SFMOMA to pursue independent writing and curatorial projects, including a
7 forthcoming book on installation architecture.

8 10. Recently I became Director of The Glass House in New Canaan, Connecticut, a
9 house museum and future center for contemporary culture.

10 11. My qualifications are stated more fully in my curriculum vitae, which is attached
11 as Exhibit 1.

12 12. I have been retained by Apple and have been asked to provide my opinions with
13 respect to the Apple’s achievement of design excellence and the public’s appreciation of that
14 achievement, in particular with regard to the iPhone and iPad lines of devices.

15 13. I expect to testify at trial concerning my opinions, as well as my bases for them,
16 such as my knowledge, experience, and expertise concerning design and culture. I also expect to
17 rebut any opinions I disagree with that are provided by Samsung’s expert(s) with respect to the
18 opinions I express in this report.

19 14. I am being compensated at the rate of \$550 per hour for my work in connection
20 with this action. My compensation is not based in any way on the outcome of the litigation.

21 **III. MATERIALS CONSIDERED**

22 15. In forming the opinions set forth in this report, I considered and relied upon my
23 education, background, and experience. I have also considered and relied upon the documents
24 and other reference materials cited or listed in this report. In addition, I have reviewed and
25 considered the materials listed in Exhibit 2 of this report.

26 **IV. DESIGN AND CULTURE**

27 16. Design is the process of giving form, and necessarily reflects the values, ideas,
28 attitudes, and habits that form a social bond between designers and users. Successful design

1 captures the imagination of the public by offering something people want. Under such
2 conditions, objects enter the realm of desire, where their allure transcends issues of utility and
3 function. Certain exceptionally alluring products may even reach the status of a fetish, standing
4 for something else — a feeling, a state of mind, a way of being —that they promise to secure.

5 17. Well-designed objects may appear to a casual observer to have a form that is
6 inevitable, yet it is the investment of designers' thought, talent, and labor that produces that
7 appearance. A cursory look at electronic devices available today—including tablet computers,
8 cell phones, and media players—displays a tremendous variety of design approaches. Each of
9 these can be seen not only to solve technical problems but also to communicate values and
10 attitudes (as well as differing commitments to design quality). Indeed, the look and feel of an
11 object, and its resulting emotional impact on an observer, is largely determined by those who
12 design the object. Moreover, the design of an object need not be a pure expression of what it is.
13 For example, electronic devices that appear simple often conceal technology that requires
14 extensive training and expertise to fully understand.

15 18. Well-designed objects, even those that fill technical and utilitarian needs, can
16 achieve aesthetic merit. With respect to consumer products, such objects transcend practical and
17 functional concerns to allow, and even demand, aesthetic consideration. In addition to their
18 public success, the design excellence embodied by these objects may be recognized by museums
19 through exhibitions and acquisitions to permanent collections.

20 **V. THE CULTURAL SIGNIFICANCE OF DESIGNS BY APPLE**

21 **A. Apple's Commitment to Design**

22 19. Apple's commercial success is widely known, and Apple is currently recognized
23 as one of the most successful companies worldwide.² Impressively, this commercial success has
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27 ² See *Apple Incorporated: Dividend and Share BuyBack*, N.Y. Times, March 19, 2012,
28 http://topics.nytimes.com/top/news/business/companies/apple_computer_inc/index.html.

1 been accompanied by widespread esteem. According to *Fortune* magazine, Apple has been, for
2 the past four years, the most admired company in the world.³

3 20. Apple has stated that its design strategy encompasses hardware and software
4 elements — in particular the innovative industrial design of its products — in order to provide a
5 first-rate user experience. According to a recent annual report :

6 The Company’s overall business strategy is to control the design
7 and development of the hardware and software for all of its
8 products, including the personal computer, mobile communications
9 and consumer electronics devices. The Company’s business
10 strategy leverages its unique ability to design and develop its own
11 operating system, hardware, application software, and services to
12 provide its customers new products and solutions with superior
13 ease-of-use, seamless integration, and innovative industrial design.⁴

14 21. Design has played, and continues to play, a decisive role in Apple’s success. The
15 design of Apple products and all that surrounds them (including store design and packaging) has
16 secured a strong relationship with its consumers and the public. According to a recent article,
17 “‘Apple realized six or seven years ago that it was the way in which you presented the technology
18 that was going to differentiate you in that market,’ says Darren Meister, an associate professor
19 with the University of Western Ontario’s Richard Ivey School of Business. ‘For a long time it
20 was what you put in the boxes — then Apple realized it was the box itself that consumers are out
21 there looking to buy.’”⁵

22 22. Apple’s design strategy, discussed in greater detail below, imbues its products,
23 including the iPhone and iPad lines of devices, with unique socio-cultural status. They have
24 become objects of desire, things to covet and even to love. The exceptional aesthetic and
25 emotional appeal of Apple products ensures — apart from any technical achievements they
26 embody — their tremendous significance and allure for the public at large.

27 ³ See Shelley Dubois, *World’s Most Admired Companies: Apple*, CNN, March 21, 2012,
28 <http://money.cnn.com/magazines/fortune/mostadmired/2011/snapshots/670.html>.

⁴ Apple INC., Amended Annual Report (Form 10-K/A) (January 25, 2010) at 4.

⁵ Matt Hartley, *The Core of Its Success*, The Globe and Mail, March 31, 2008,
<http://www.theglobeandmail.com/news/technology/the-core-of-its-success/article676629>.

1 23. I have personally observed this phenomenon — desire for Apple —innumerable
2 times. As an example, I was travelling in Spain during the summer the iPhone 3G was introduced
3 there. I was carrying my own iPhone, released by Apple one year earlier in the United States;
4 wherever I went, people stopped to inquire and would sometimes ask if they could hold it. The
5 iPhone was considered, as it is today, a beautiful, alluring object and it held the power to excite
6 the interest of those who had not yet had the opportunity to use it. The same may be said of the
7 iPad and its successive generations.

8 24. Popular esteem for Apple products is also manifest in the extraordinary media
9 attention Apple receives when the company releases, or when it is rumored to be releasing, a new
10 product. Accompanying the 2007 release of the iPhone, for example, were 11,000 print articles
11 and 80 million mentions online.⁶ The release was extensively covered in the national press,
12 including numerous articles in *The New York Times* and *Wall Street Journal*.⁷ Apple sold one
13 million iPhones in 74 days.⁸

14 25. Public excitement about Apple products often reaches extreme proportions. Long
15 lines form, with many people waiting overnight and cheering to countdown, when new Apple
16 stores open or when new products are released.⁹ According to a report on the recent opening of
17 Apple’s Grand Central Terminal store: “Apple’s largest-ever retail venue opened on Friday at the
18 historic Grand Central Terminal in Manhattan, as swarms of fans camped out for hours to be
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20 ⁶ David Pogue, *The iPhone Matches Most of Its Hype*, N.Y. Times, June 27, 2007,
21 http://www.nytimes.com/2007/06/27/technology/circuits/27pogue.html?_r=1&pagewanted=all).

22 ⁷ See, e.g., Joe Nocera, *iPhone Spin Goes Round And Round*, N.Y. Times, June 30, 2007,
23 at C1.; David Pogue, *Matching the Ballyhoo, Mostly*, N.Y. Times, June 27, 2007, at C1.; Paul
24 Kedrosky, *The Jesus Phone*, The Wall Street Journal, June 29, 2007,
25 <http://global.factiva.com/mutex.gmu.edu/hp/printsavews.aspx?pp=Print&hc=Publication>.
(FACTIVA); Scott Patterson, *Ahead of the Tape*, The Wall Street Journal, June 29, 2007,
<http://global.factiva.com/mutex.gmu.edu/hp/printsavews.aspx?pp=Print&hc=Publication>.
(FACTIVA)

26 ⁸ See Apple Press Info, *Apple Sells One Millionth iPhone*, Sept. 10, 2007,
<http://www.apple.com/pr/library/2007/09/10Apple-Sells-One-Millionth-iPhone.html>.

27 ⁹ See, e.g., Rob Kelley, *iPhone Mania Hits Flagship Stores*, CNN, June 29, 2007,
28 <http://money.cnn.com/2007/06/29/technology/iphone/index.html>.

1 among the first to enter. Hundreds of fans — some of which joined the line at the crack of
2 dawn — were finally greeted by a sea of Apple employees.... ‘We’ve been here since 5:00 a.m.,’
3 one customer told Mashable. ‘Seeing a new Apple store is much better than sleeping, and this
4 one is just amazing.’”¹⁰

5 26. When the iPhone 4 was released, according to Apple, more than 1.7 million
6 phones sold within the first three days.¹¹ When the iPad 2 was released, thousands of Britons
7 queued, some for up to three days, to be among the first to acquire the latest version of the device.
8 As reported by the *Canberra Times*, “Many emerged holding their products aloft and punching
9 the air.”¹²

10 27. Excitement for all things Apple is reflected by their visibility as objects preferred
11 by celebrities and other cultural icons. According to a recent article: “It is virtually impossible to
12 watch any popular television show featuring famous folk (or ‘celebrities’) using mobile phones
13 without those handsets being iPhones. Or iPads. As far as the celebrity world goes, you can’t get
14 better than an iBrand device. If there’s a laptop on screen, it’s an Apple (with the Apple logo
15 covered up on many BBC shows). If there’s a desktop featured, it’s got to be iMac.”¹³

16 28. Such media coverage confirms that the allure of Apple products derives in large
17 part from their design — their “look” — rather than their function. Design has made Apple
18 products objects of desire and given them unique socio-cultural status. Passion for Apple
19 products is largely due to their design and the fact that they hold exceptional aesthetic appeal.

22 ¹⁰ See Samantha Murphy, *Apple Opens Stunning Store In Grand Central Terminal* (Dec.
23 9, 2011) <http://mashable.com/2011/12/09/apple-grand-central-store>.

24 ¹¹ See Apple Press Info, *iPhone 4 Sales Top 1.7 Million*, June 28, 2010,
<http://www.apple.com/pr/library/2010/06/28iPhone-4-Sales-Top-1-7-Million.html>.

25 ¹² The Federal Capital Press of Australia PTY Limited, *Apple’s Core Religion*, *The*
26 *Canberra Times*, April 1, 2011, at A11 (LEXIS)

27 ¹³ See Ewan, *TV’s New Rule: Celebrities Only Use iPhones (And iPads)*, *Mobile Ind. Rev.*
28 (Aug. 31, 2010), <http://www.mobileindustryreview.com/2010/08/tvs-new-rule-celebrities-only-use-iphones-and-ipads.html>.

1 29. As set forth above, design is the process of giving form and necessarily reflects the
2 values, ideas, attitudes, and habits that form a social bond among designers and users. Designed
3 objects don't simply *do* things; they also stand for, or represent, ideas and values. Successful
4 design captures the imagination of the public by offering something people want greatly, and
5 design at its best produces objects that rise to the level of totem or fetish.

6 30. Apple products may be the single clearest demonstration of this in contemporary
7 culture. Beautiful, even stunning, Apple products have transcended issues of utility and function
8 to enter the realm of desire, inciting people to wish for something they imagine the object will
9 secure. Popular news outlets often extol Apple products and reflect upon the public's infatuation
10 with them without even mentioning their functional elements. According to USA Today: "Apple
11 isn't just a brand. It's a lifestyle. When you flip on your iPod or iPad, you're making a cultural
12 statement about who you are and what you value. This is something all brands aspire to but only
13 a handful achieve. A few others, such as Starbucks, BMW and perhaps Harley-Davidson, have
14 dabbled in this cosmic realm of brand-as-message. But none have come close to the pop cultural
15 and societal icon status of Apple's stuff."¹⁴

16 31. The "lifestyle" that Apple products represent may be defined as one that is
17 comfortably plugged-in. In other words, Apple products that give individuals access to vast,
18 sprawling networks of information and communication are designed to look and feel gentle,
19 unthreatening, and graceful. According to *The Wall Street Journal* writer Virginia Postrel,
20 writing of the iPad's "magic": "A capable machine makes you feel powerful even if you don't
21 understand it and can't fix it. The perfect tool is invisible, an extension of the user's own will."¹⁵
22 Quoted in the same article, Apple's senior vice president for industrial design, Jonathan Ive,

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25 ¹⁴ Bruce Horowitz, *To Maintain Mystique, Apple Must Keep Innovating*, USA Today, Oct.
26 7, 2011, <http://www.usatoday.com/money/industries/technology/story/2011-10-06/apple-lifestyle/50681928/1>.

27 ¹⁵ See Virginia Postrel, *Why We Prize That Magical Mystery Pad*, *The Wall Street*
28 *Journal*, March 12, 2011, <http://online.wsj.com/article/SB10001424052748704758904576188511633084364.html>.

1 articulates the “magic” of Apple clearly: “I don’t have to change myself to fit the product. It fits
2 me.”¹⁶

3 32. Apple’s attention to design allows people a feeling of symbiosis with their
4 electronic tools, creating a feeling that one’s device is an extension of oneself. These devices —
5 in particular the hand-held iPhone and iPad — stand for a thoroughly modern, plugged-in
6 empowered concept of the self; that, I believe, is what people buy when they purchase and use
7 these objects. The agglutination of “i” to the device names (iPad, iPhone, iMac, etc.) further
8 captures this idea of oneness between a person and the Apple products that provide access, with
9 utter ease, to the world in all its complexity.

10 33. As stated above, the design of an object, even an object that fills technical and
11 utilitarian needs, can also achieve aesthetic merit. With respect to consumer products, such
12 objects transcend practical and functional issues to invite, and even demand, aesthetic
13 consideration. Apple products, namely the various iPhone and iPad designs, are the
14 quintessential example of such products. The public perceives and appreciates the iPhone and
15 iPad as aesthetic objects, prized for their pleasing visual and tactile qualities, not just their
16 functional utility. Their design qualities secure their place as objects that deserve and duly
17 receive aesthetic appreciation. These qualities include: smoothness; thinness; the appearance of
18 lightness; continuous curves; reduced palettes of color, materials, and form; and an overall quality
19 of elegance. These qualities are frequently mentioned in the media and widely, perhaps even
20 universally, recognized.

21 34. This is evidenced in museum culture, addressed in greater detail below. Apple
22 products can be found in exhibitions and permanent collections to a vastly greater degree than
23 comparable contemporary products. Apple’s status as the producer of aesthetically-refined,
24 museum-worthy electronics is unique in the world.

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28 ¹⁶ *Id.*

1 **B. Apple’s Design Consistency and Integration**

2 35. Especially over the past five years, Apple products have been designed with
3 remarkable consistency; that is, products such as the iPhone and iPad make use of similar or
4 related design elements that have come to be associated with an Apple “look.” (See Figure 1.)
5 Apple’s commitment to developing and sustaining a unique, recognizable and refined design
6 language over time is a significant part of why its designs command aesthetic appreciation and
7 consumer loyalty.



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14 **Figure 1**

15 36. Apple’s extreme attention to design permeates every aspect of the user experience,
16 which actually begins well before the consumer sees the actual product. The packaging of the
17 iPad 2, for example, invites attention and aesthetic consideration. (See Figure 2; Exhibit 3.) The
18 user observes the quality of the box itself: thick board with a smooth, slightly lustrous surface.
19 On top of the box, the iPad 2 is depicted in three-quarter view, floating in space, depicting a new
20 and inviting portal to the infinite. Inside the box, the device itself is neatly presented, without
21 distraction. Beneath the device itself, the carefully designed packaging continues to impress; the
22 manual and plug each rest within their own specific space, the manual easy to lift with a small
23 paper tab. The instruction card has rounded corners that mimic the form of the iPad itself. A
24 similar experience attends to unwrapping the iPhone and other Apple products as well.
25 (Exhibits 4, 5.)
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Figure 2



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9 37. For many consumers, the user experience begins even earlier. As discussed in my
10 essay, “Gardens of Earthly Delight,” Apple’s retail stores (known as “Apple Stores”) are spatial
11 extensions of the Apple brand and analogues to the design of Apple products.¹⁷ The process of
12 obtaining Apple products from Apple Stores initiates buyers into an aesthetic, physical, and
13 emotional experience related to that offered by the products themselves.

14 38. Apple’s attention to presentation and packaging signals to buyers that they are
15 obtaining products intended to be, and worthy of being, appreciated for their aesthetic qualities.
16 Even before procuring or using the products, consumers understand that the products are designed
17 to provide a feeling of pleasure, ease, and elegance. People are made aware that they are not
18 unwrapping objects that are merely useful; rather, these objects are special, refined, and beautiful
19 — even exalted.

20 39. At all levels of presentation, simplicity and elegance are the rule and are expressed
21 through countless details. An article published in *the Harvard Business School Review*, “Design
22 Thinking and Innovation at Apple,” states: “Worrying about the smallest detail, which included
23 even the packaging of Apple products, has helped realize co-founder Steve Jobs’ design
24 sensibility: that simplicity is the ultimate sophistication.”¹⁸ The article includes a quotation from

25
26 ¹⁷ Henry Urbach, *Garden of Earthly Delights in Apple Design* APLNDC-Y0000151232-
241 (Sabine Schulze, Ina Grätz, Frederick von Borries, Museum für Kunst und Gewerbe
Hamburg, et al., Hatje Cantz, Hamburg: Museum für Kunst und Gewerbe Hamburg 2011).

27 ¹⁸ Stefan Thomke and Barbara Feinberg, *Design Thinking and Innovation at Apple*, *Harv.*
28 *Bus. Rev.*, March 4, 2010, at 3.

1 Jonathan Ive: “So *much* of what we do is worry about the smallest of details ...[while] I don’t
2 think all the people using the product notice or care in a conscious way about every little detail, I
3 do think in the aggregate it’s really important, and it contributes to why people like the
4 product.”¹⁹ Mr. Ive, in fact, understates the result of Apple’s meticulous approach to design:
5 Apple’s detail-oriented design strategy, with its unwavering commitment to simplicity and
6 elegance, is why people *love* Apple products.

7 **C. Comparable Levels of Design Achievement**

8 40. With the iPhone and iPad, Apple has succeeded in creating objects that are part of
9 a complete and integrated aesthetic experience. A full understanding of how this achievement
10 sets Apple apart may be achieved by reference to contemporary and historical examples of
11 companies that have achieved comparable levels of design recognition.

12 41. Few companies have gone as far as Apple in staking their identity and the meaning
13 of their products on first-rate product design. While some other electronics companies can claim
14 a degree of design commitment, one must look beyond the computer industry to find companies
15 that have developed design languages that approach the significance of Apple’s. Bang & Olufsen
16 is one such example. That company established a meaningful design language and integrated
17 design into the development of its products. Yet even Bang & Olufsen, along with other
18 companies known for excellent design, never achieved the degree of design celebrity and socio-
19 cultural significance that Apple currently enjoys. Though gorgeous, their objects cannot be
20 accurately called — as Apple’s can — totemic.

21 42. Other companies in the recent past have also been identified with design
22 excellence. Olivetti is one example. In the middle of the last century, the company
23 commissioned leading artists and designers of the period to develop its advertising and achieved
24 design excellence with its typewriters and other office machines.

25 43. The most relevant point of comparison, however, is Braun, the German consumer
26 products company, whose work with leading German designers, notably Dieter Rams, produced a

27 ¹⁹ *Id.* at 2-3.
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1 cadre of coveted objects and a brand identity linked to design excellence. In fact, it is widely
2 known that Jonathan Ive cites Dieter Rams and his work for Braun as a formative influence, and
3 numerous design historians have noted the apparent influence of Braun products on some Apple
4 products.²⁰ Yet, even Braun, revered among design aficionados, did not achieve the same degree
5 of consistency and integration that Apple has in recent years.

6 **D. The iPhone and iPad as Examples of Apple's Design Excellence**

7 44. Two products stand out among Apple's many design achievements: the iPhone
8 and the iPad. These are design objects that powerfully express the aesthetic qualities of Apple
9 design: reduced palette of color; precise and rarified selection of materials; thinness, lightness,
10 smoothness, and flatness; continuous curves; dark, enigmatic surfaces; concealed hardware and
11 inviting, non-intimidating points of interface. They are simple and pleasurable to use, gorgeous
12 to look at and hold, elegant, and beloved.

13 45. The original iPhone, released in 2007, was an advanced personal computing device
14 in the form of a small, handheld object. Design precedents for subsequent generations of the
15 iPhone were established in the original iPhone, including screen size and button placement. In
16 the iPhone 3G, released in July 2008, a hard polycarbonate shell and metal buttons replaced the
17 hybrid aluminum and plastic casing and plastic buttons of the original iPhone. The dimensions
18 changed slightly and the back was slightly rounded, minimizing the appearance of mass. The
19 iPhone 3GS, released in June 2009, had the same appearance as the iPhone 3G. The iPhone 4,
20 released in June 2010, maintains the design consistency of the original iPhone through a
21 somewhat modified shape. The front and back portion of the body is made of entirely flat glass,
22 surrounded by a stainless steel band.²¹ The dimensions were slightly reduced from the iPhone
23 3G. The iPhone 4S, released in October 2011, has the same appearance as the iPhone 4.

24 _____
25 ²⁰ Harald Kinke, *Strategic Design: How the New Eclipses the Old in Apple Design*
26 APLNDC-Y0000151170-181 (Sabine Schulze, Ina Grätz, Frederich von Borries, Museum für
27 Kunst und Gewerbe Hamburg, et al., Hatje Cantz, Hamburg: Museum für Kunst und Gewerbe
28 Hamburg 2011).

27 ²¹ See *The Design of iPhone 4. The Future Is In The Details*,
28 <http://www.apple.com/channel/iphone/iphone-4/best-buy/design.html>.

1 46. Although the operating systems and other features have evolved through these five
2 successive generations, aspects of the iPhone’s look have remained consistent. Likewise, the
3 dimensions and visual impact of the device’s face have remained essentially the same, even as the
4 technical and performance aspects of the phone have advanced. This design consistency allows
5 users to upgrade equipment comfortably, gaining new capacities while maintaining continuity and
6 a sense of familiarity with the device itself.

7 47. A similar consistency marks the evolution of the iPad, the iPad 2, and the new
8 iPad. The objects maintain a remarkably consistent appearance that affirms the products’ ability
9 to secure access to information with simplicity, elegance, and grace.

10 **E. Recognition by Museums**

11 48. Apple products are collected by many museums around the world in recognition of
12 their design excellence and in order to preserve these designs for posterity. Some of the
13 American museums to hold Apple products in their collections are: the Museum of Modern Art
14 and the Smithsonian Cooper-Hewitt National Design Museum, both in New York; the
15 Indianapolis Museum of Art; and the San Francisco Museum of Modern Art (SFMOMA) where,
16 as stated above, I served as Curator of Architecture and Design from 2006 – 2011. Apple’s
17 recognition in museum culture reflects widespread appreciation of Apple’s approach to designing
18 products, including the iPad and iPhone, and its overarching commitment to design excellence.

19 49. Apple products have been included in many important exhibitions worldwide,
20 including the recent exhibition *Less and More: The Design Ethos of Dieter Rams* (which travelled
21 to London, Seoul, Osaka, Frankfurt, and San Francisco) and *246 and Counting: Recent*
22 *Architecture and Design Acquisitions*, an exhibition I organized for SFMOMA that included the
23 iPhone, which joins many other Apple products (including the iPad 2 and iPhone 4) brought into
24 SFMOMA’s permanent collection by myself and other curators. Attached as Exhibit 6 is a list of
25 Apple products in SFMOMA’s permanent collection.

1 50. Apple's design excellence was further acknowledged by the recent exhibition
2 "Stylelectrical: On Electro-Design that Makes History" at the Museum für Kunst und Gewerbe in
3 Hamburg, Germany. The exhibition, which ran from August 26, 2011 – January 15, 2012, was
4 accompanied by the "Apple Design" publication previously cited.

5 51. The Smithsonian Cooper-Hewitt National Design Museum has acknowledged
6 Apple's singular commitment to design excellence and the exceptional socio-cultural status of its
7 products. In 2009, the museum issued the following request for donations: "As the Smithsonian's
8 National Design Museum, Cooper-Hewitt seeks to acquire the best examples of industrial design,
9 and much of the permanent collection has been built through the generosity of donors. The
10 Museum would like to invite the public to help expand its holdings of products by Apple, one of
11 the country's most important and influential design firms."²² Following the death of Apple CEO
12 Steve Jobs, the Cooper-Hewitt posted the following statement on its website: "Under the
13 leadership of Steve Jobs and his formidable team of designers, engineers, and business
14 innovators, Apple invented and reinvented itself, becoming the single most influential voice in
15 contemporary design."²³

16 52. I declare under penalty of perjury under the laws of the United States of America
17 that the foregoing is true and correct and that this Declaration was executed on March 22, 2012,
18 in San Francisco, California.

19 Dated: March 22, 2012


HENRY URBACH

24 ²² William Berry, *Wanted: Apple Products For The National Design Museum's*
25 *Collection*, Cooper-Hewitt Blog (June 4, 2009),
26 [http://www.cooperhewitt.org/blog/2009/06/03/wanted-apple-products-national-design-museums-
collection.html](http://www.cooperhewitt.org/blog/2009/06/03/wanted-apple-products-national-design-museums-collection.html).

27 ²³ *Design Innovator: Steve Jobs 1955-2011*, Oct. 5, 2011,
28 <http://www.cooperhewitt.org/apple.html>.