

EXHIBIT 3

1 UNITED STATES INTERNATIONAL TRADE COMMISSION
2 Washington, D.C.

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

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN JOSE DIVISION

12 APPLE INC., a California) CIVIL NO. 11-CV-01846-LHK
13 corporation,)

14 Plaintiff,)

15 vs.)

16 SAMSUNG ELECTRONICS CO.,)
17 LTD., a Korean business)
18 entity; SAMSUNG ELECTRONICS)
19 AMERICA, INC., a New York)
20 corporation; and SAMSUNG)
21 TELECOMMUNICATIONS AMERICA,)
22 LLC, a Delaware limited)
23 liability company,)

24 Defendants.)
25)

26 CONFIDENTIAL BUSINESS INFORMATION
27 HIGHLY CONFIDENTIAL ATTORNEYS' EYES ONLY
28 VIDEOTAPED DEPOSITION OF SHIN NISHIBORI

29 MAY 2, 2012 HONOLULU, HAWAII
30 TSG Job # 49110 Reporter: ADRIANNE IGE KURASAKI

1 AYANO NISHIMURA, 10:04AM

2 called as the official interpreter for 10:04AM

3 the witness, being first duly sworn to interpret 10:04AM

4 the following testimony from English to 10:04AM

5 Japanese and from Japanese to English. 10:04AM

6 SADAANKI MATSUTANI, 10:04AM

7 called as a check interpreter for 10:04AM

8 the witness, being first duly sworn to check 10:04AM

9 the following testimony from English to 10:04AM

10 Japanese and from Japanese to English. 10:04AM

11 SHIN NISHIBORI, 10:05AM

12 called as a witness on behalf of 10:05AM

13 Defendants and Counterclaim Plaintiffs, 10:05AM

14 Samsung Electronics Co., Ltd., Samsung 10:05AM

15 Electronics America, Inc., and Samsung 10:05AM

16 Telecommunications, LLC, being first duly 10:05AM

17 sworn to tell the truth, the whole truth, and 10:05AM

18 nothing but the truth, was examined and 10:05AM

19 testified as follows: 10:05AM

20 EXAMINATION 10:05AM

21 BY MR. ZELLER: 10:05AM

22 Q Good morning. 10:05AM

23 A Good morning. 10:05AM

24 Q If you could please tell us your full 10:05AM

25 name for the record. 10:05AM

1 Q Was that the end of your answer or was 10:20AM
2 there more you were going to add? 10:20AM

3 A Your question was, "Did you design the 10:20AM
4 first iPhone?" 10:20AM

5 And my answer will be: I was involved 10:20AM
6 in the project of making the first iPhone. 10:20AM
7 However, I did not design the actual iPhone that 10:20AM
8 came out. 10:20AM

9 And also, I'd like to add that I was not 10:21AM
10 in the -- I didn't belong to the project team. 10:21AM
11 However, I participated in a meeting or 10:21AM
12 brainstorming that would cast out the ideas and 10:21AM
13 talk about it. I was there. 10:21AM

14 Q What do you mean by "the project team"? 10:21AM

15 A In order to develop a project, there's a 10:21AM
16 leader and then there's some people underneath 10:22AM
17 or something like that, and to create some type 10:22AM
18 of group to do the development. And that will 10:22AM
19 be the core group of the development. So I'd 10:22AM
20 like to say that I was not in that group. 10:22AM

21 THE CHECK INTERPRETER: Proposed 10:22AM
22 correction: "In developing the product, there 10:22AM
23 is a leader and there are several team -- 10:22AM
24 project team members, depending on the project. 10:22AM
25 I don't know how many people would be in the 10:22AM

1 team. However, these people became -- become 10:22AM
2 the main group to work on this. And in such a 10:22AM
3 manner, the product development is conducted. 10:22AM
4 What I'm saying is I was not in that group." 10:22AM

5 BY MR. ZELLER: 10:22AM

6 Q Were you one person who contributed to 10:22AM
7 the look of the hardware or the exterior of the 10:22AM
8 first iPhone? 10:23AM

9 A I do not know. 10:23AM

10 Q Were you one of the Apple designers who 10:23AM
11 contributed to the look of the hardware or the 10:23AM
12 exterior of any generation of iPhone? 10:23AM

13 MS. TAYLOR: Go ahead. 10:23AM

14 (Whereupon, the Interpreter translates.) 10:23AM

15 MS. TAYLOR: Objection. Vague and 10:24AM
16 ambiguous. 10:24AM

17 INTERPRETED ANSWER: So there's an 10:24AM
18 objection and... 10:24AM

19 BY MR. ZELLER: 10:24AM

20 Q You should answer the question. 10:24AM

21 A I do not know. 10:24AM

22 Q Is there any generation of iPhone that 10:24AM
23 you can say you were an Apple designer who 10:24AM
24 contributed to the look of? 10:24AM

25 (The Check Interpreter speaks in Japanese.) 10:25AM

1 MS. TAYLOR: Wait. Objection. Vague 10:25AM
2 and ambiguous. 10:25AM

3 INTERPRETED ANSWER: It was not the 10:25AM
4 product that I was leading, so I do not have the 10:25AM
5 knowledge or -- or I don't understand how my 10:25AM
6 design contributed to the final project. 10:25AM

7 However, in the course of designing the 10:26AM
8 project, I made the model that changed the flow 10:26AM
9 of direction that -- which triggered to change 10:26AM
10 the flow. So, although it was not a final 10:26AM
11 project, I think that I can say that I was 10:26AM
12 involved in the project. 10:26AM

13 THE CHECK INTERPRETER: The lead 10:26AM
14 interpreter said "project" or "final project" 10:26AM
15 twice. 10:26AM

16 THE INTERPRETER: Final -- final 10:26AM
17 product. I'm sorry, let me make the correction. 10:26AM
18 Final product. 10:26AM

19 THE CHECK INTERPRETER: Proposed 10:26AM
20 correction: There were two instances of that. 10:26AM
21 It should be incorporated in -- the correction 10:27AM
22 should be made for the whole answer. 10:27AM

23 "In the course of coming up with the 10:27AM
24 product, I did make a model or models that -- 10:27AM
25 that changed the -- that triggered the change in 10:27AM

1 the course. So it was not in the final product. 10:27AM

2 However, I did -- I can say I did affect the 10:27AM

3 flow of the project as a result." 10:27AM

4 BY MR. ZELLER: 10:27AM

5 Q And the project that you're referring to 10:27AM

6 here is the first iPhone project? 10:27AM

7 A So when you said the word "project," 10:27AM

8 that means that the project that I had my 10:28AM

9 influence on; correct? 10:28AM

10 Q Correct. 10:28AM

11 A That is the first iPhone. 10:28AM

12 MR. ZELLER: Let's please mark as 10:28AM

13 Exhibit 1 a series of images, CAD images along 10:28AM

14 with file path information produced by Apple. 10:28AM

15 And, for the record, this was previously 10:28AM

16 identified as Exhibit 1172. 10:28AM

17 (Exhibit No. 1 marked for identification.) 10:28AM

18 BY MR. ZELLER: 10:29AM

19 Q Do you recognize the images that are 10:29AM

20 shown here on Exhibit 1? 10:29AM

21 A Yes. 10:29AM

22 Q And is this a representation of a design 10:29AM

23 that became a model that you were referring to 10:29AM

24 that changed the flow or course of the first 10:29AM

25 iPhone project? 10:29AM

1 just don't have a clear memory one way or 11:22AM

2 another whether anyone else was on the e-mail? 11:22AM

3 A Yes. But one thing I'd like to point 11:22AM

4 out is that nobody was on this project -- 11:22AM

5 rather, it's not a project. It is a Sony thing. 11:22AM

6 Sony story. 11:23AM

7 Nobody else was involved. So I just 11:23AM

8 assumed that nobody else is involved or heard 11:23AM

9 anything or involved in the e-mail. But I 11:23AM

10 didn't really -- I do not really see the actual 11:23AM

11 e-mail myself, so I don't -- I can't answer 11:23AM

12 hundred percent. 11:23AM

13 Q Did you actually type up the e-mail to 11:23AM

14 Mr. Ive and send it to him or did someone else 11:23AM

15 do that? 11:23AM

16 A Myself. I did it myself. 11:23AM

17 Q Do you recall about how much time passed 11:23AM

18 between the time you got the general direction 11:23AM

19 from Mr. Ive to do this work and then when you 11:23AM

20 came up with these CAD images that are 11:23AM

21 Exhibits 1 and 2? 11:23AM

22 A Yes. Yes, from the idea to the 11:24AM

23 completion of the sketch, it probably took 11:24AM

24 between one week to ten days. I would say less 11:24AM

25 than ten days. 11:24AM

1 And the reason is that -- that I was 11:25AM
2 trying to accelerate the process was that 11:25AM
3 Jonathan Ive was on business trip and I wanted 11:25AM
4 to finish creating the model before he returns. 11:25AM
5 So I was sending him e-mails and then I -- and 11:25AM
6 then I got his confirmations. And then from the 11:25AM
7 very short turnaround time, I sent the model to 11:26AM
8 the outsourcing company to make it and then 11:26AM
9 completed it. 11:26AM

10 Q At the time when Mr. Ive gave you the 11:26AM
11 general direction, were you familiar with Sony 11:26AM
12 designs? 11:26AM

13 A Part of the reason is that I worked for 11:27AM
14 Panasonic for nine years. And my latter half of 11:27AM
15 my employment, for four and a half years, I was 11:27AM
16 involved in the audio division. And a part of 11:27AM
17 me, I have a respect for Sony products. And I 11:27AM
18 had some image in my head about what Sony 11:28AM
19 products are; so, for example, switches or 11:28AM
20 things like that that's specific to Sony. 11:28AM

21 So -- but roughly, what I included in 11:28AM
22 this drawing is what if -- what would Sony would 11:28AM
23 do -- what would Sony do. For example, the jog 11:28AM
24 shuttle or the buttons and layout and how the 11:28AM
25 brand is placed on and so forth. 11:28AM

1 (The Check Interpreter speaks in Japanese.) 11:28AM

2 THE CHECK INTERPRETER: "So based on my 11:28AM

3 recollection, I put in what Sony would do in my 11:29AM

4 image that I had in mind. I put in the 11:29AM

5 details." 11:29AM

6 BY MR. ZELLER: 11:29AM

7 Q When you worked for Panasonic, was that 11:29AM

8 in Japan? 11:29AM

9 A Yes. 11:29AM

10 Q And what years did you work for 11:29AM

11 Panasonic? 11:29AM

12 A From April 1989 to March 1998. 11:29AM

13 Q And then after that, did you work for 11:29AM

14 other companies as a designer? 11:29AM

15 A No, as a freelance designer. I launched 11:30AM

16 my own company. 11:30AM

17 Q So then you were a freelance designer 11:30AM

18 with your own company starting from March of 11:30AM

19 1998? 11:30AM

20 A No. For one year, this is my personal 11:30AM

21 matters. But the reason I resigned from 11:30AM

22 Panasonic is that -- because I wanted to do 11:30AM

23 design or work as a designer. So for one year, 11:31AM

24 I did not do anything, just anything to do with 11:31AM

25 design. 11:31AM

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WITNESS CERTIFICATE

I, SHIN NISHIBORI, do hereby certify that I have read the foregoing pages, inclusive, and corrections, if any, were noted by me; and that same is now a true and correct transcript of my testimony.

Dated _____

SHIN NISHIBORI

Signed before me this _____
day of _____, 20_____.

Certain Electronic Digital Media Devices, Case 337-TA-796/
Apple Inc. v Samsung Electronics Company, Ltd., et al.,
Civil No. 11-CV-01846

Videotaped Deposition of SHIN NISHIBORI

Taken on May 2, 2012

CERTIFICATE

I, ADRIANNE IGE KURASAKI, C.S.R., in and for the State of Hawaii, do hereby certify:

That on Wednesday, May 2, 2012, at 10:03 a.m., appeared before me SHIN NISHIBORI, the witness whose testimony is contained herein; that, prior to being examined, the witness was by me duly sworn or affirmed; that the proceedings were taken down by me in computerized machine shorthand and were thereafter reduced to print under my supervision; that the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings had in the foregoing matter.

I further certify that I am not counsel for any of the parties hereto, nor in any way interested in the outcome of the cause named in the caption.

This 57-page Deposition of SHIN NISHIBORI, dated May 2, 2012, was subscribed and sworn to before me this 2nd day of May, 2012, in the First Circuit of the State of Hawaii, by Adrienne Ige Kurasaki.

Adrienne Ige Kurasaki, CSR 388
State of Hawaii

1 NAME OF CASE:

2 DATE OF DEPOSITION:

3 NAME OF WITNESS:

4 Reason Codes:

- 5 1. To clarify the record.
- 6 2. To conform to the facts.
- 7 3. To correct transcription errors.

8 Page _____ Line _____ Reason _____
9 From _____ to _____

10 Page _____ Line _____ Reason _____
11 From _____ to _____

12 Page _____ Line _____ Reason _____
13 From _____ to _____

14 Page _____ Line _____ Reason _____
15 From _____ to _____

16 Page _____ Line _____ Reason _____
17 From _____ to _____

18 Page _____ Line _____ Reason _____
19 From _____ to _____

20 Page _____ Line _____ Reason _____
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