

EXHIBIT 5

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION
4

5 APPLE INC., a California)
6 Corporation,)
7 Plaintiff,)
8 vs.) No. 11-CV-01846-LHK
9 SAMSUNG ELECTRONICS CO., LTD,)
10 a Korean business entity;)
11 SAMSUNG ELECTRONICS AMERICA,)
12 INC., a New York corporation;)
13 SAMSUNG TELECOMMUNICATIONS)
14 AMERICA, LLC, a Delaware)
15 limited liability company,)
16 Defendants.)
17)
18

19 HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
20 VIDEOTAPED DEPOSITION OF EUGENE WHANG
21 THURSDAY, OCTOBER 27, 2011
22
23

24 REPORTED BY:
25 JANIS JENNINGS, CSR 3942, CLR, CCRR

1 EUGENE ANTONY WHANG,
2 The deponent herein, was sworn and
3 testified as follows:
4

5 EXAMINATION

6 BY MS. NEILL:

7 Q. Good morning.

8 A. Good morning.

9 Q. So can you please state your full name for
10 the record.

11 A. Yep. Eugene Antony Whang.

12 Q. Okay. And can you please spell that.

13 A. Eugene, E-u-g-e-n-e; Antony, A-n-t-o-n-y;
14 and Whang, W-h-a-n-g.

15 Q. And have you ever gone by any other name?

16 A. No.

17 Q. And, Mr. Whang, where do you currently
18 reside?

19 A. In San Francisco.

20 Q. Can you give me address, please.

21 A. Yep. 77 Oakwood Street.

22 Q. And that is San Francisco, California?

23 A. Yes.

24 Q. Okay. And are you currently employed?

25 A. Yes.

1 now.

2 BY MS. NEILL:

3 Q. How is -- how is that one different?

4 A. I've only got one view of the image here,
5 so it's hard to -- it's hard to really comment.
6 Just, you know, it has an Apple logo. It says
7 "iPod." The plastic appears to be a lighter color.
8 I'm not sure if it's plastic or glass or what. But
9 looking at that view, to me, it looks quite a bit
10 different.

11 Q. Would seeing these images in color help
12 your understanding and your recollection?

13 A. They might. Color or high resolution or
14 the actual model.

15 MS. NEILL: Sorry. I'm going to go back
16 to saying what I was entering as an exhibit. 1074
17 is APL NDC-NCC00000208 through 215.

18 BY MS. NEILL:

19 Q. So do these images also reflect the
20 exercise you were referring to using the design
21 language of another company?

22 MR. HUNG: Objection. Vague.

23 THE WITNESS: It seems to be of -- of --
24 of the same exercise.

25 BY MS. NEILL:

1 Q. And based on the images you have in front
2 of you now, is there anything else you see that
3 reflects the Sony design language?

4 A. Well, on 214 near the back, there's, I
5 think, an image of a variation that was maybe in the
6 last document that you showed me, and that seems to
7 have, like, a barrel on the top with a camera and
8 some kind of feature around the circumference of the
9 barrel that shows some kind of grip. That -- that
10 is kind of like a -- that kind of reminds me of,
11 like, a -- of an old Sony, you know, HD camera or
12 digital video recorder.

13 Q. So at the time that these were created,
14 was there anything else that reflected the Sony
15 design language?

16 A. No. And this was -- I kind of remember it
17 happening, but it was mainly -- I think I remember
18 Shin kind of doing this exercise, as being someone
19 who had worked in Japan before and being Japanese.

20 And so I don't recall many conversations
21 about -- about this exercise. I mean, it was
22 somewhat of a -- kind of a -- I mean, not a joke, I
23 would say, but it was -- it was kind of like a
24 playful exercise, which you can see on --
25 represented on page 212. You can see that the

1 "J" -- the "S" in "Sony" has been replaced by a "J"
2 for "Jony," so it was kind of more of a playful kind
3 of thing.

4 Q. So were these designs intended to reflect
5 the Sony design language at the time?

6 MR. HUNG: Objection. Misstates.

7 THE WITNESS: I'm not sure what they were
8 meant to reflect.

9 BY MS. NEILL:

10 Q. Do you know if they were intended as an
11 exercise to see what the Sony design language might
12 become?

13 MR. HUNG: Foundation. Calls for
14 speculation.

15 THE WITNESS: I don't know.

16 BY MS. NEILL:

17 Q. Who would know?

18 A. I'm not sure. Maybe Shin.

19 MS. NEILL: Okay. I think we can take a
20 break, and then I will check my notes, and then --

21 MR. HUNG: Okay.

22 THE VIDEOGRAPHER: We are off the record
23 at 1:34 p.m.

24 (Off the record.)

25 THE VIDEOGRAPHER: We are back on the