

# EXHIBIT

# 1

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

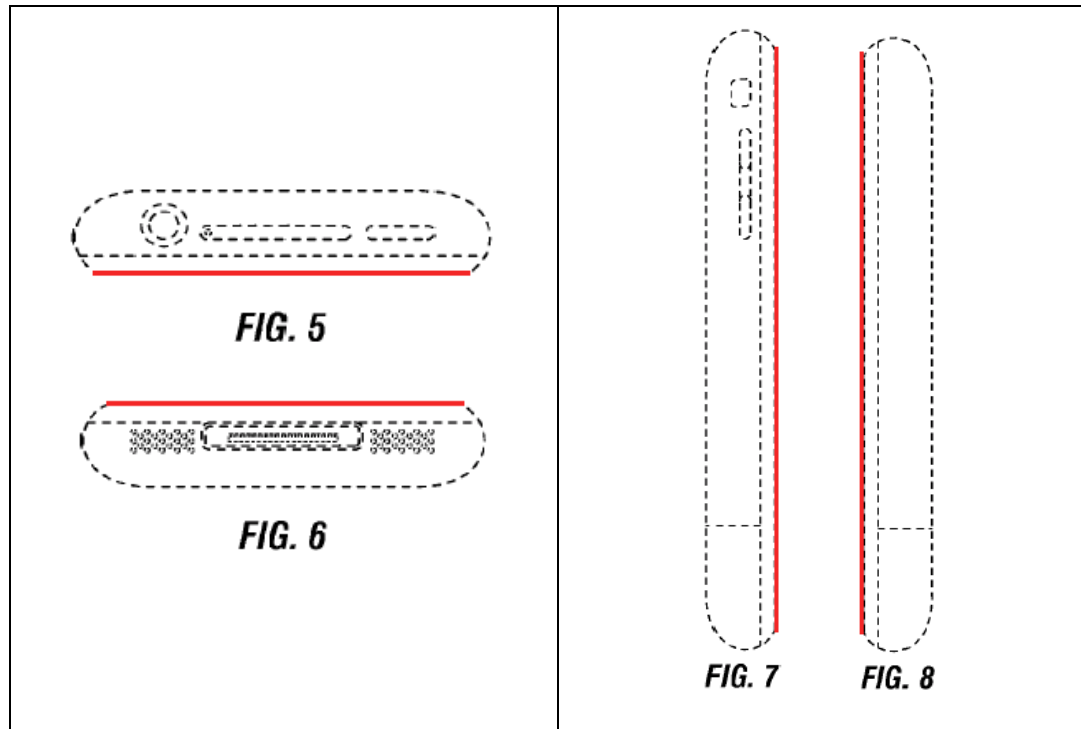
APPLE INC., a California corporation,  
  
Plaintiff,  
  
v.  
  
SAMSUNG ELECTRONICS CO., LTD., A  
Korean business entity; SAMSUNG  
ELECTRONICS AMERICA, INC., a New York  
corporation; SAMSUNG  
TELECOMMUNICATIONS AMERICA, LLC, a  
Delaware limited liability company,  
  
Defendants.

Case No. 11-cv-01846-LHK

**REBUTTAL EXPERT REPORT  
OF PETER W. BRESSLER,  
FIDSA**

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

1 The flatness of the front surface is communicated by additional D'677 patent figures, as shown  
2 below.<sup>3</sup>



3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15 58. In particular, Figures 5-8 show that the D'677 patent depicts a completely flat  
16 front surface—as can be seen by the solid, unbroken line denoting the front surface, reproduced  
17 below with the solid line denoting the front surface in red. Figures 5-8 without the red are shown  
18 elsewhere in my reports.

19 59. Accordingly, in an analysis of alleged prior art, views other than the front view  
20 contain relevant—indeed, necessary—information because they are required to determine  
21 whether the front surfaces of the prior art designs are flat or have surface contour or topography.  
22 Without considering all figures of the D'677 patent and all views of the prior art, Mr. Sherman  
23 has improperly failed to take into account the design as a whole in arriving at his opinion that the  
24 D'677 patent is anticipated.

25  
26  
27 <sup>3</sup> In this report, I have scaled images of the patents, the prior art, and alternative designs so that  
28 they correspond with one another in height. Care has been taken not to change the proportional  
relationship (i.e., aspect ratio) of the images.

1           106. Therefore, even if one of the Fidler designs were considered a primary reference, it  
2 is my opinion that the ordinary designer, at the time the D'889 design was invented, would not  
3 have found it obvious to modify any of the Fidler designs to arrive at the D'889 design.

4           107. **The D'037 Patent.** Due to the same visual differences identified in my foregoing  
5 treatment of the D'037 patent, it is my opinion as a designer of ordinary skill in the art that the  
6 D'037 design does not present basically the same overall visual impression as the D'889 patent.  
7 Notably, the D'037 patent fails to disclose a tablet having a continuous transparent front surface  
8 through which a centered rectangular element is visible. The differences between the D'037  
9 design and the D'889 patent are significant enough that major modifications to the D'037 design  
10 would be required to make it substantially the same as the D'889 design.

11           108. Even if the D'037 patent were considered a primary reference against the D'889  
12 design, the unmodified design would not appear substantially the same to the ordinary observer,  
13 as I opined previously.

14           109. Moreover, Mr. Sherman has not identified any secondary reference that he  
15 proposes to combine with the D'037 design. Mr. Sherman suggests, however, that modifications  
16 “to have the identical profile as the D'889, as well as changes in aspect ratios and width of rims,  
17 would have been trivial to someone skilled in the art to produce the design of the D'889.”  
18 (Sherman Report at 30.) But Mr. Sherman fails to provide any explanation why the proposed  
19 modifications would have been obvious to the ordinary designer at the time the D'889 design was  
20 invented, or any suggestion that would have caused the ordinary designer to make the proposed  
21 modification. Accordingly, Mr. Sherman's statement is unsupported and conclusory in my  
22 opinion.

23           110. As discussed previously, I disagree that the differences between the D'037 design  
24 and the D'889 design are trivial. The D'037 design merely discloses a continuous front surface,  
25 and not a transparent front surface with a viewable rectangular element marking an even border.  
26 Even if one changed the profiles, the aspect ratios, and the width of the rims of the D'037 patent,  
27 as suggested by Mr. Sherman, the resulting design would still not have a continuous transparent  
28 front surface with a viewable rectangular element as in the D'889 Patent. Moreover, the D'037 is

1 also significantly thicker than the D'889 design, and has straight sides that form an angled edge  
2 with the back surface that differs from the D'889 design. It would not have been trivial or  
3 obvious to the ordinary designer at the time the D'889 design was invented to change all these  
4 features of the D'037 design to the exact features claimed in the D'889 patent. This is evidenced  
5 by the fact Mr. Sherman could not identify a single prior art reference having these design  
6 features of the D'889 patent.

7 111. Therefore, even if the D'037 patent were considered a primary reference, it is my  
8 opinion that the ordinary designer, at the time the D'889 design was invented, would not have  
9 found it obvious to modify the D'037 design to arrive at the D'889 design.

10 112. **The D'157 Patent.** Due to the same visual differences identified in my foregoing  
11 treatment of the D'157 patent, it is my opinion as a designer of ordinary skill in the art that the  
12 D'157 design does not present basically the same overall visual impression as the D'889 patent.  
13 Notably, the D'157 patent fails to disclose a tablet having a continuous transparent front surface  
14 through which a centered rectangular element is visible. The differences between the D'157  
15 design and the D'889 patent are such that major modifications to the D'157 design would be  
16 required to make it look like the D'889 design.

17 113. Even if the D'157 patent were considered a primary reference against the D'889  
18 design, the unmodified design would not appear substantially the same to the ordinary observer,  
19 as I opined previously.

20 114. Moreover, Mr. Sherman has not identified any secondary reference that he  
21 proposes to combine with the D'157 design. Mr. Sherman suggests, however, that modifications  
22 “to have the identical profile as the D'889, as well as changes in aspect ratios and width of rims,  
23 would have been trivial to someone skilled in the art to produce the design of the D'889.”  
24 (Sherman Report at 30.) But Mr. Sherman fails to provide any explanation why the proposed  
25 modifications would have been obvious to the ordinary designer at the time the D'889 patent was  
26 invented, or any suggestion that would have caused the ordinary designer to make the proposed  
27 modification. Accordingly, Mr. Sherman's statement is unsupported and conclusory in my  
28 opinion.

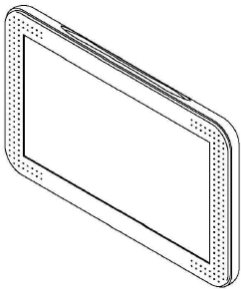
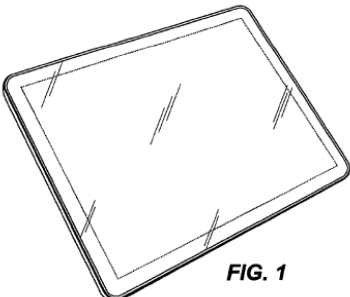
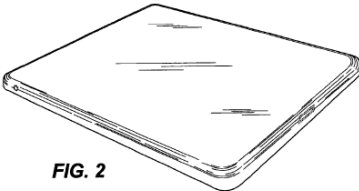

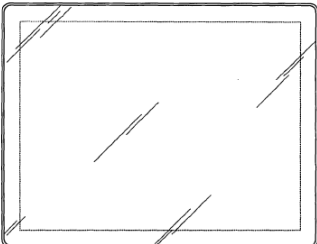
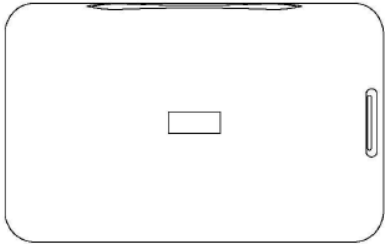
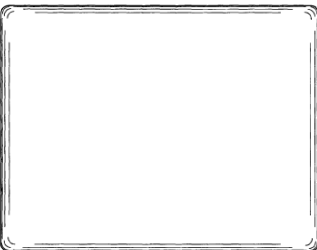








1           115. As discussed previously, I disagree that the differences between the D'157 design  
2 and the D'889 design are trivial. At most, the D'157 design discloses an opaque frame  
3 surrounding a transparent surface. It does not disclose a transparent front surface with a viewable  
4 rectangular element that marks an even border around the element. Even if one changed the  
5 profiles, the aspect ratios, and the width of the rims of the D'157 patent, as suggested by  
6 Mr. Sherman, the resulting design would still not have a continuous transparent front surface with  
7 a viewable rectangular element as in the D'889 Patent. That modification alone would not have  
8 been trivial or obvious to the ordinary designer at the time the D'889 patent was invented, as  
9 evidenced by Mr. Sherman's inability to identify a single prior art reference having this feature of  
10 the D'889 patent.

11           116. Therefore, even if the D'157 patent were considered a primary reference, it is my  
12 opinion that the ordinary designer, at the time the D'889 design was invented, would not have  
13 found it obvious to modify the D'157 design to arrive at the D'889 design.

14           117. **JP D1142127 (“the JP’127 patent”)**. Mr. Sherman appears to assert that the  
15 JP'127 patent is a primary reference against the D'889 patent. I disagree with any such opinion.  
16 The JP'127 design discloses an opaque frame around a center display area. The opaque frame  
17 also includes patterns formed of circular holes on the left and right-hand sides. The opaque frame  
18 is also raised above the front surface, such that it is visible in the profile views. This visual  
19 appearance is distinctly different than that of the D'889 design. Moreover, the JP'127 patent  
20 includes a visible notch on its top surface and various other visual elements on its back surface,  
21 which do not exist in the D'889 patent. Due to these visual differences, it is my opinion as a  
22 designer of ordinary skill in the art that the JP'127 design does not present basically the same  
23 overall visual impression as the D'889 patent. The differences between the JP'127 design and the  
24 D'889 patent are such that major modifications to the JP'127 design would be required to make it  
25 substantially the same as the D'889 design.

<b>JP'127 Patent</b>	<b>D'889 Patent</b>
----------------------	---------------------

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

<b>JP'127 Patent</b>	<b>D'889 Patent</b>
	 <b>FIG. 1</b>
<b>No corresponding view.</b>	 <b>FIG. 2</b>
	 <b>FIG. 3</b>
	 <b>FIG. 4</b>
	 <b>FIG. 5</b>
	 <b>FIG. 6</b>
 	 <b>FIG. 7</b>  <b>FIG. 8</b>

1           118. Even if the JP'127 patent were considered a primary reference against the D'889  
2 design, the unmodified design would not appear substantially the same to the ordinary observer  
3 for reasons set forth above.

4           119. Mr. Sherman suggests that the JP'127 reference can be combined with the D'037  
5 patent, the D'157 patent, or Apple's "brain box" design to render the front face of the device  
6 "completely flush" and produce the design of the D'889 patent. (Sherman Report at 30.)  
7 Mr. Sherman fails to provide any rationale for why the appearance of visual features in the  
8 D'037, D'157, and "brain box" references would have suggested to the ordinary observer their  
9 application to the D'889 patent. Moreover, even the combined references would fail to produce  
10 the D'889 patent, as Mr. Sherman claims, or a design that would appear substantially the same in  
11 the eyes of the ordinary observer.

12           120. In particular, even if the JP'127 reference front surface were made "completely  
13 flush" as suggested by Mr. Sherman, it would still lack a continuous transparent surface with a  
14 viewable rectangular element over the front face. The other differences in the JP'127 reference  
15 would also remain, such as the prominent dotted design elements on the left and right of the  
16 device's front surface. Such a design would not appear substantially the same to the ordinary  
17 observer.

18           121. Furthermore, even if the JP'127 reference were combined with one of the three  
19 references suggested by Mr. Sherman, the resulting design would still lack a continuous  
20 transparent front surface with an underlying rectangular element, because none of these  
21 references discloses that visual feature. Without that feature, none of these hypothetical  
22 combined designs would appear substantially the same to the ordinary observer.

23           122. Accordingly, even if the JP'127 patent were considered a primary reference, it  
24 would not render the D'889 patent obvious, whether alone or in combination with the D'037,  
25 D'157, or "brain box" references.

26           123. **D461,802 ("the D'802 patent")**. Mr. Sherman appears to assert that the D'802  
27 patent is a primary reference against the D'889 patent. I disagree with any such opinion. The  
28 D'802 design discloses an opaque frame with textured patterns surrounding a center area that is



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

127. Even if the D’802 patent were considered a primary reference against the D’889 design, the unmodified design would not appear substantially the same to the ordinary observer for reasons set forth above.

128. Mr. Sherman suggests that the D’802 patent can be combined with the D’037 patent or the D’157 patent to render its patterned borders flat and its overall shape completely rectangular so as to produce the D’889 design. (Sherman Report at 30.) Mr. Sherman fails to provide any rationale for why the appearance of visual features in the D’037 or D’157 patents would have suggested to the designer of ordinary skill in the art their application to the D’889 patent. Moreover, even the combined references would fail to produce the D’889 patent, as Mr. Sherman claims, or a design that would appear substantially the same in the eyes of the ordinary observer.

129. In particular, even if the D’802 design were combined with the D’037 patent or D’157 patent, the resulting design would still lack a continuous transparent front surface with a viewable rectangular element, which is not disclosed in either the D’037 or D’157 patents. Moreover, the resulting design would not come any closer to the D’889 patent in profile shape, as the D’157 patent profile is more similar to the D’802 patent than to the D’889 patent, and the D’037 has a thick, angled side profile, which looks nothing like the D’889 side profile. None of the resultant designs from Mr. Sherman’s proposed combinations would appear substantially the same to the ordinary observer.

130. Accordingly, even if the D’802 patent were considered a primary reference, it would not render the D’889 patent obvious, whether alone or in combination with the D’037 or D’157 patents.

131. **Unapplied References.** Mr. Sherman lists a number of alleged prior art references in his report that he does not assert as anticipatory references or references that render the D’889 patent obvious. In particular, Mr. Sherman generally describes the alleged designs for the 1998 University of Illinois tablet, D’337,569, KR30-0304216, JP0921403, JP0887388, U.S.

1 Patent No. 6,919,678,<sup>8</sup> CDR 000048061-0001, HP Compaq TC1000, D464,344, D463,797,  
2 pictures from the movie Space Odyssey 2001, and pictures from the TV series “Tomorrow  
3 People.” I disagree with a number of Mr. Sherman’s assertions regarding the visual appearance  
4 of these references. But as Mr. Sherman has not provided any specific opinions as to how these  
5 references invalidate the D’889 patent, I am unable to rebut them. I reserve the right, however, to  
6 offer such rebuttals if Mr. Sherman later provides specific opinions on how these references  
7 invalidate the D’889 patent.

8 **11. Mr. Sherman Cannot Identify a Proper Primary Design Reference for**  
9 **the D’677 Patent**

10 132. Given the importance of the flat, continuous, and edge-to-edge transparent front  
11 surface for the overall appearance of the D’677 design, it is my opinion that any prior art design  
12 without such a front surface cannot present basically the same visual impression as the D’677  
13 design and thus cannot serve as a primary reference. The few prior art designs identified by  
14 Mr. Sherman as allegedly having this feature are so visually dissimilar from the D’677 design that  
15 they cannot serve as primary references.

16 133. **The JP’221 Patent.** To the extent Mr. Sherman implies that the JP’221 patent  
17 could be considered a primary reference against the D’677 patent, I disagree. As discussed in  
18 detail above, the overall appearance of the JP’221 design is significantly different from that of the  
19 D’677 patent. In particular, the JP’221 design lacks a flat, continuous, and edge-to-edge  
20 transparent front surface, which is an integral visual element of the D’677 design. The JP’221  
21 design cannot be used as a primary reference, because in my opinion, it does not create basically  
22 the same visual impression as the D’677 design to the designer of ordinary skill in the art.

---

23  
24 <sup>8</sup> Although Mr. Sherman does not provide any specific explanation for why U.S. 6,919,678  
25 anticipates or renders obvious the D’889 patent, I concluded that U.S. Patent Application Publication No.  
26 2004/0041504, which gave rise to U.S. 6,919,678, does not disclose a design that is substantially the same  
27 as the D’889 patent in my opening Expert Report at ¶¶ 109-117. My analysis therein applies to U.S.  
28 6,919,678, and I incorporate such analysis by reference. Moreover, for the reasons that U.S. 6,919,678  
does not invalidate the D’889 patent, it also does not invalidate the D’677 patent. Mr. Sherman does not  
provide any explanation for why U.S. 6,919,678 does not invalidate the D’677 patent, and I reserve the  
right to rebut such opinions if he comes forward with them.

1           134. Even if the JP'221 design were considered a primary reference for the D'677  
2 patent, for the reasons discussed above, the JP'221 design would not appear substantially the  
3 same as the D'677 design to an ordinary observer and therefore would not render the D'677  
4 patent obvious on its own. Mr. Sherman does not suggest any modifications to the JP'221 design  
5 or identify any secondary references for combination with the JP'221 design, so I cannot further  
6 rebut his opinion that the JP'221 patent renders the D'677 patent obvious.

7           135. **The D'889 Patent.** To the extent Mr. Sherman implies that the D'889 patent  
8 could be considered a primary reference against the D'677 patent, I disagree. As discussed in  
9 detail above, the overall appearance of the D'889 design is significantly different from that of the  
10 D'677 patent. In particular, the D'889 patent has a different form factor, different proportions,  
11 lacks the unique border configuration of the D'677 design, and is missing a lozenge-shaped slot  
12 feature. The D'889 design also lacks the D'677 patent's black color. The D'889 design cannot  
13 be used as a primary reference, because in my opinion, it does not create basically the same visual  
14 impression as the D'677 design to the designer of ordinary skill in the art.

15           136. Even if the D'889 design were considered a primary reference for the D'677  
16 patent, for the reasons discussed above, the D'889 design would not appear substantially the same  
17 as the D'677 design to an ordinary observer and therefore would not render the D'677 patent  
18 obvious on its own. Mr. Sherman does not suggest any modifications to the D'889 design or  
19 identify any secondary references for combination with the D'889 design, so I cannot further  
20 rebut his opinion that the JP'221 patent renders the D'677 patent obvious.

21           137. **The JP'638 Patent.** To the extent Mr. Sherman implies that the JP'638 patent  
22 could be considered a primary reference against the D'677 patent, I disagree. As discussed in  
23 detail above, the overall appearance of the JP'638 design is significantly different from that of the  
24 D'677 patent. In particular, the JP'638 design lacks a flat, continuous, and edge-to-edge  
25 transparent front surface, which is an integral visual element of the D'677 design. The JP'638  
26 design cannot be used as a primary reference, because in my opinion, it does not create basically  
27 the same visual impression as the D'677 design to the designer of ordinary skill in the art. Major  
28 modifications are required to make the JP'638 design look like the D'677 patent.

- 1 • A *New York Times* review of the iPhone dated January 11, 2007, entitled “Apple  
2 Waves Its Wand at the Phone.” The article notes that “[a]s you’d expect of Apple,  
3 the iPhone is gorgeous.” It likens Apple’s creation of the iPhone to the work of  
4 “the fairy godmother in ‘Cinderella’”: transformation of a “homely and utilitarian  
5 object, like a pumpkin or a mouse, into something glamorous and amazing . . .”<sup>35</sup>
- 6 • A *New York Times* article dated June 27, 2007, describes the iPhone as “a tiny,  
7 gorgeous hand-held computer,” and notes that “[t]he phone is so sleek and thin, it  
8 makes Treos and Blackberrys look obese.”<sup>36</sup>
- 9 • A *Korea JoonsAng Daily* Internet article dated February 18, 2008, entitled “Apple  
10 iPhone Tops List of Innovative Inventions,” reporting the results of a survey of  
11 599 Korean CEOs by Samsung Economic Research Institute, in which the CEOs  
12 indicated that the “iPhone’s sleek design caught their eye.”<sup>37</sup>
- 13 • A *Wall Street Journal* article, dated June 27, 2007, entitled “Testing Out the  
14 iPhone,” which states that smartphone “designers have struggled to balance screen  
15 size, keyboard usability and battery life . . . . [T]he iPhone is, on balance, a  
16 beautiful and breakthrough handheld computer.”<sup>38</sup>

17 255. The iPhone is not merely an example of excellence in design. The purity of design  
18 expression pushes the iPhone into the realm of art. In recognition of the iPhone’s aesthetic  
19 beauty, iPhones have been added to the permanent collections of museums including the Museum  
20 of Modern Art, the San Francisco Museum of Modern Art, and the Museum for Kunst und  
21 Gewerbe (Arts & Crafts) in Hamburg, Germany. The iPhone has been displayed in exhibitions  
22 including:

- 23 • *Less and More: The Design Ethos of Dieter Rams*, San Francisco Museum of  
24 Modern Art, August 27, 2011, through February 20, 2012 and
- 25 • *Stylelectrical*, Museum for Kunst und Gewerbe (Arts & Crafts), August 26, 2011,  
26 through January 15, 2012.

---

27 <sup>35</sup> David Pogue, “Apple Waves Its Wand at the Phone,” NY Times, Jan. 11, 2007  
28 <http://www.nytimes.com/2007/01/11/technology/11pogue.html?sq=pogue>.

<sup>36</sup> David Pogue, “The iPhone Matches Most of Its Hype,” NY Times, June 27, 2007,  
[http://www.nytimes.com/2007/06/27/technology/circuits/27pogue.html?pagewanted=1&\\_r=1&ref=iphone](http://www.nytimes.com/2007/06/27/technology/circuits/27pogue.html?pagewanted=1&_r=1&ref=iphone).

<sup>37</sup> Korea JoongAng Daily, “Apple’s iPhone Tops List of Innovative Inventions,” Feb. 18, 2008,  
<http://joongangdaily.joins.com/article/view.asp?aid=2886322>.

<sup>38</sup> Walter Mossberg & Katherine Boehret, “Testing Out the iPhone, The Wall Street Journal, June  
27, 2007, <http://online.wsj.com/articles/SB118289311361649057.html>.

1           256.   Additionally, the United States Patent and Trademark office featured iPhone  
2 shaped displays in an exhibit showcasing Steve Jobs’ numerous patents and trademarks.<sup>39</sup>

3           257.   **iPod touch.** The iPod touch’s design as embodied in the D’270 patent has also  
4 received much acclaim. The iPod touch received a gold design award at the iF Product Design  
5 Awards at the CeBit 2008 show in Hanover, Germany.<sup>40</sup> The iPod touch also received a “Yellow  
6 Pencil” design award in a 2008 Design and Art Direction design competition.<sup>41</sup> Similarly, in part  
7 due to its distinctive design, Apple’s iPod touch was named “Gadget of the Year” by T3, in a  
8 British awards competition.<sup>42</sup> The iPod touch was also named one of the “Best Inventions of  
9 2008” by *Time* magazine.<sup>43</sup>

10          258.   The distinctive design of the iPod touch has also received widespread praise from  
11 various media outlets. For example, a *PC Magazine* article dated September 12, 2007, entitled  
12 “Apple iPod touch,” calls the iPod touch a “thing of beauty” and explains that as an “elegant  
13 design, the iPod touch is simply the best portable media player ever made.”<sup>44</sup> Likewise, a  
14 *Guardian* (London) article notes “[w]ith its eye catching design, the iPod [touch] has become a  
15 landmark of 21<sup>st</sup> century living in just a few years.”<sup>45</sup>

---

19                   <sup>39</sup> Brian Chen, “Patent Office Highlights Jobs’s Innovations,” *New York Times*, Nov. 23, 2011,  
20 <http://bits.blogs.nytimes.com/2011/11/23/patent-office-highlights-jobss-innovations>; APL-ITC796-  
X0000003306 - APL-ITC796-X0000003666.

21                   <sup>40</sup> MacNN, “Apple Wins Eight iF Design Awards at CeBIT,” Mar. 8, 2008,  
22 <http://www.macnn.com/articles/08/03/08/apple.wins.8.if.awards/>.

23                   <sup>41</sup> Palmer, Robert, “Apple Wins Two D&AD ‘Black Pencil’ Awards,” TUAW, May 16, 2008,  
24 <http://www.tuaw.com/2008/05/16/apple-wins-two-dandad-black-pencil-awards/>.

25                   <sup>42</sup> iPodNN, “iPod touch Voted Gadget of the Year,” Oct. 10, 2008,  
26 <http://www.ipodnn.com/articles/08/10/10/gadget.of.the.year.ipod/>.

27                   <sup>43</sup> Jeremy Caplan, “Gadget of the Year: iPod touch,” *Time*, Oct. 29, 2008,  
28 [http://www.time.com/time/specials/packages/article/0,28804,1852747\\_1852746\\_1852745,00.html](http://www.time.com/time/specials/packages/article/0,28804,1852747_1852746_1852745,00.html).

<sup>44</sup> Tim Gideon, “Apple iPod touch,” *PC Mag*, Sep. 12, 2007,  
<http://www.pcmag.com/article2/0,2817,2179699,00.asp>.

<sup>45</sup> Bobbie Johnson, “Farewell to a classic design as Jobs unveils the iPod touch: Apple ditches  
emblematic look with media player based on iPhone,” *Guardian*, Sep. 6, 2007 at 13.



1 available to Apple and that a variety of design factors were to be considered. Other witnesses  
2 testified that the design of the iPhone was ultimately determined based on aesthetic  
3 considerations.

4 386. Indeed, based on testimony of Apple product designers, it is my understanding  
5 that there were manufacturing challenges associated with the splined (i.e., curved) surfaces of the  
6 iPhone design. (*See, e.g., T. Tan Dep. at 56:10-61:18 (Mar. 2, 2012).*) This further undermines  
7 Mr. Sherman’s claim that the rounded corners of the D’677, D’087 or D’270 patents are purely  
8 functional.

9 387. Accordingly, it is my opinion that the rounded corners of a smartphone or media  
10 player are not dictated by function.

11 **c. The Display Screen on a Smartphone or Media Player  
12 Need Not Be an Elongated Rectangle**

13 388. Mr. Sherman asserts that “[a]vailable display screen options [that might exist]  
14 other than an elongated rectangle would be less efficient for use in a modern mobile electronic  
15 device and would be considerably more expensive.” (Sherman Report at 98.) However,  
16 Mr. Sherman offers no factual basis for this assertion and, in fact, many commercialized  
17 smartphones have screens that are more square than rectangular. For example, the display  
18 screens of the Nokia X5-01 and the Palm Centro (shown below) are more square than  
19 rectangular.




1 **XXI. SUPPLEMENTATION**

2 370. I reserve the right to supplement or amend this report if additional facts and  
3 information that affect my opinion become available. In particular, I understand that Samsung  
4 may serve an expert report concerning one or more of the issues addressed by this report. I may  
5 therefore supplement or amend my report or opinions in response to additional discovery or other  
6 events and may rebut the expert report submitted by Samsung.

7 **XXII. EXHIBITS TO BE USED**

8 371. I anticipate using as Exhibits during trial certain documents and things referenced  
9 or cited in this report or accompanying this report. I also anticipate using other demonstrative  
10 Exhibits or things at trial.

11  
12  
13 Dated: March 22, 2012

  
\_\_\_\_\_  
PETER BRESSLER