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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

APPLE INC., a California  
corporation,

Plaintiff,

vs.

CASE NO. 11-cv-01846-LHK

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.

\_\_\_\_\_ /

H I G H L Y   C O N F I D E N T I A L  
O U T S I D E   C O U N S E L   O N L Y

VIDEOTAPED DEPOSITION OF SCOTT FORSTALL  
REDWOOD SHORES, CALIFORNIA  
THURSDAY, OCTOBER 27, 2011

BY: ANDREA M. IGNACIO HOWARD, CSR, RPR, CCRR, CLR  
CSR LICENSE NO. 9830  
JOB NO. 43002

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1 THURSDAY, OCTOBER 27, 2011  
 2 9:10 a.m.  
 3  
 4  
 5  
 6 VIDEOTAPED DEPOSITION OF SCOTT FORSTALL,  
 7 taken at QUINN EMANUEL URQUHART &  
 8 SULLIVAN, LLP, 555 Twin Dolphin Drive,  
 9 Suite 560, Redwood Shores, California,  
 10 Pursuant to Notice, before me,  
 11 ANDREA M. IGNACIO HOWARD, CLR, CCRR, RPR,  
 12 CSR License No. 9830.  
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Page 3

1 APPEARANCES:  
 2  
 3 FOR APPLE INC.:  
 4 MORRISON & FOERSTER LLP  
 5 By: MICHAEL A. JACOBS, Esq.  
 6 425 Market Street  
 7 San Francisco, California 94105-2482  
 8 Phone: (415) 268-7455 Fax: (415) 276-7455  
 9 mjacobs@mof.com;  
 10  
 11  
 12 FOR SAMSUNG ELECTRONICS CO. LTD:  
 13 QUINN EMANUEL URQUHART & SULLIVAN, LLP  
 14 By: KEVIN P. B. JOHNSON, Esq.  
 15 BRIAN E. MACK, Esq.  
 16 555 Twin Dolphin Drive, 5th Floor  
 17 Redwood Shores, California 94065  
 18 Phone: (650) 801-5000 Fax: (650) 801-5100  
 19 kevinjohnson@quinnemanuel.com  
 20  
 21 ALSO PRESENT: Pete Sais, Videographer  
 22 Cyndi Wheeler, Apple, Inc.  
 23  
 24 ---oOo---  
 25

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1 REDWOOD SHORES, CALIFORNIA  
 2 THURSDAY, OCTOBER 27, 2011  
 3 9:10 a.m.  
 4  
 5  
 6 THE VIDEOGRAPHER: Good morning. This is the  
 7 start of disc labeled No. 1 in the videotaped  
 8 deposition of Scott Forstall in the matter of Apple,  
 9 Inc., versus Samsung Electronics Company, Ltd., et al.  
 10 In the United States District Court, Northern  
 11 District of California, San Jose Division. Case  
 12 No. 11-cv-01846-LHK.  
 13 This deposition is being held at 555 Twin  
 14 Dolphin Drive in Redwood Shores, California on  
 15 October 27th, 2011, at approximately 9:10 a.m.  
 16 My name is Pete Sais from TSG Reporting,  
 17 Inc., and I'm the legal video specialist.  
 18 The court reporter is Andrea Ignacio in  
 19 association with TSG Reporting.  
 20 Will counsel please introduce yourselves, and  
 21 the court reporter could swear in the witness.  
 22 MR. JOHNSON: I'm Kevin Johnson. With me is  
 23 Brian Mack, here on behalf of Samsung.  
 24 MR. JACOBS: I'm Michael Jacobs, Morrison &  
 25 Foerster, for Apple. With me is Cyndi Wheeler from

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1 Apple legal.  
 2  
 3 SCOTT FORSTALL,  
 4 having been sworn as a witness,  
 5 by the Certified Shorthand Reporter,  
 6 testified as follows:  
 7  
 8  
 9 EXAMINATION BY MR. JOHNSON  
 10 MR. JOHNSON: Q. Good morning, Mr. Forstall.  
 11 A Good morning.  
 12 [REDACTED]  
 13 [REDACTED]  
 14 [REDACTED]  
 15 [REDACTED]  
 16 [REDACTED]  
 17 [REDACTED]  
 18 [REDACTED]  
 19 [REDACTED]  
 20 [REDACTED]  
 21 [REDACTED]  
 22 [REDACTED]  
 23 [REDACTED]  
 24 [REDACTED]  
 25 [REDACTED]

Page 26

1 [REDACTED]

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Page 28

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 Q Right.

10 A Okay. So when we were working on the iPhone,

11 we added double tap to zoom just sort of in general.

12 And so you can zoom in to, you know, photos. We had

13 it in Safari. You could double tap and zoom in to the

14 page, which is exceptionally useful when you have one

15 of these small devices where you can't see all the

16 text. You can't read it, with my eyesight, on some

17 sites, depending on how small the text is, and so you

18 need to zoom in.

19 And so we had things like pinch to zoom, and

20 so you could put two fingers down and -- and I guess

21 we call this a depinch. You know, pinch together

22 actually shrinks it down, but a depinch zooms in.

23 And so this was all very useful and helpful,

24 and you could sort of zoom in, read a web page, scan

25 between different parts of a story.

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1 But the onus is on the user at that point to

2 pick the right portion of the page, zoom in, get it

3 correct. And -- and so you might zoom in, and you

4 might accidentally zoom off the first character of

5 every word on the left-hand line because you zoomed a

6 little too much or you translated to the left by

7 accident while you're doing the zoom.

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10 Q Okay. And rubber-banding, what do -- what do  
11 you mean by rubber-banding?

12 A It's when you -- say, you're scrolling  
13 something, and you get to the end of it, and you -- as  
14 your finger descends down, you pull it farther away  
15 from the edge, and then when you let go, it bounces  
16 back.

17 Q Okay. You're not an inventor on that patent?

18 A I don't think so. I think --

19 Q Right.

20 A -- Bas Ording is the inventor of that patent.

21 Q Right, right.

22 And are you aware that that patent is also  
23 asserted in this case?

24 A Asserted in the current case that we're --  
25 I've heard that.

1 Q Right.

2 And you're aware that Apple has moved for a  
3 preliminary injunction against Samsung on that  
4 particular patent; right?

5 A I -- I have not actually been following  
6 exactly the legal maneuvers that are being done.

7 Q The -- what was specifically discussed about  
8 the rubber-banding patent that you remember?

9 A I don't remember specifics. I think it was  
10 just one of the things that Steve said. Here's  
11 something we invented. Don't -- don't copy it. Don't  
12 steal it.

13 Q And do you remember, did that -- had that  
14 patent issued at the time of these meetings?

15 A I don't know.

[REDACTED]

[REDACTED]

5 Q Was the rubber banding patent ever discussed  
6 after that first meeting?

7 A Rubber banding is one of the sort of key  
8 things for the fluidity of the iPhone and -- and all  
9 of iOS, and so I know it was one of the ones that  
10 Steve really cared about.

11 I actually think that Android had not done  
12 rubber banding at some point and it was actually added  
13 later. So they actually went from sort of, you know,  
14 not yet copying and infringing to -- to choosing to  
15 copy, which is sad and distasteful.

16 But I can't give you a specific recollection  
17 of -- of Steve, you know, going over rubber banding  
18 with -- with them in those meetings or not. I --

19 Q Okay.

20 A -- I expect it came up, because it's one of  
21 the key things we talked -- you know, he and I talked  
22 about, but I don't know if it came up there.

[REDACTED]

1

So --

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

2 [REDACTED]

3 How about the design of the phone? By that,

4 I mean, you know, the appearance of the icons and the

5 overall appearance of the phone. Not necessarily

6 the -- the hardware aspect, but the look and feel of

7 the actual phone.

8 A Right.

9 Well, so I -- I think, in general, what --

10 what Steve did in these meetings was just talk

11 through. There's a set of things we've done, which

12 you're copying, and those -- those things, you know,

13 are -- and I think a lot of different things were

14 discussed.

15 Now, I can't give you specific recollections

16 of -- of what -- you know, I can't precisely say this

17 is -- was what was discussed at this meeting and

18 guarantee it. I know like the design of icons with

19 the rounded recs was something that we cared about

20 because it -- it -- it looked uniquely ours, and --

21 and we didn't want other people to go and copy that,

22 that design, because it would confuse users as to

23 what's, you know, an iPhone versus what's one of these

24 copy phones.

25 So -- but I don't remember specifically even

if in one of these things if -- if the icon appearance

1 was discussed, icon design was discussed.

2 I do know that there were specific icons that

3 were discussed where they absolutely ripped us off,

4 and these were -- some of those were extreme. One was

5 in merging calls.

6 So if you're on a call and you want to do --

7 to make a conference call out of it, we created some

8 icon, and it -- it's these -- it's like this merging

9 thing. Two -- you have a line coming from one side, a

10 line coming from the other, and then one goes up the

11 middle, and --

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

And it's funny, because when you ask -- designing an icon is very difficult, and by the time you get to something that is good, you've gone through many iterations. But when you see it, it seems -- you know, people think it's obvious. Of course that's what the icon would look like, but it's not obvious until you're done with it and you've created it.

So then when someone else is -- is building something, when they're building Android, and they had seen and used the iPhone, they were informed by how we'd done it; and in some cases they -- they were copying us and they didn't even realize, I think, maybe, I don't know if they realized it or not -- but I think they were copying things that -- that they looked back and say, oh, well, of course, you know, a star would be favorites, but a star is an odd thing to be favorites.

A star is like, you know -- I don't know. You have someone, an actor or someone with a room and there's a star, and so you star something that you like, but -- but the actual concept of these icons is not trivial to get to but, you know, the voice mail

1 here looks like an old reel-to-reel tape which is  
 2 completely esoteric for most people today.  
 3 And I think that's the kind of thing. There  
 4 were a set of several things that we saw them copy to  
 5 the iPhones.

[REDACTED]

24 And I think at some point they even like --  
 25 our photo is a flower, and I think they put a flower



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1 on to be their photos icon. It's a photo. It could  
 2 be a photo of anything in the whole world, and it was  
 3 stunning that a flower was chosen, because we went  
 4 through all kinds of different photos to pick that  
 5 one.  
 6 But anyway, I mean, there was a whole set. I  
 7 don't remember exactly right now, but if we look back,  
 8 I think it would be easier to see even in an existing  
 9 Android phone. Some of those were changed though.  
 10 MR. JACOBS: Would this be an okay time for a  
 11 break?  
 12 MR. JOHNSON: Actually I'm done. I have no  
 13 further questions.  
 14 MR. JACOBS: Then it's a great time for a  
 15 break.  
 16 I have no questions.  
 17 MR. JOHNSON: Thank you.  
 18 MR. JACOBS: Just confirm the 30-day and  
 19 outside counsel only, "Highly Confidential"  
 20 designation.  
 21 THE VIDEOGRAPHER: This marks the end of  
 22 Volume I, Disc 3, and concludes today's deposition of  
 23 Scott Forstall.  
 24 The time is 3:28 p.m., and we are off the  
 25 (Continued on next page to include jurat

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1 JURAT  
 2  
 3  
 4 I, SCOTT FORSTALL, do hereby certify under  
 5 Penalty of perjury that I have read the  
 6 foregoing transcript of my deposition taken  
 7 on October 27, 2011; that I have made such  
 8 corrections as appear noted herein in ink,  
 9 initialed by me; that my testimony as  
 10 contained herein, as corrected, is true and  
 11 correct.  
 12  
 13  
 14 DATED this \_\_\_\_ day of \_\_\_\_\_, 2011,  
 15 at \_\_\_\_\_, California.  
 16  
 17  
 18  
 19 \_\_\_\_\_  
 20 SIGNATURE OF WITNESS  
 21  
 22  
 23  
 24  
 25

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1 record.  
 2 (WHEREUPON, the deposition ended at 3:28 p.m.)  
 3 ---oOo---  
 4  
 5  
 6 \_\_\_\_\_  
 7 Scott Forstall  
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1 CERTIFICATE OF REPORTER  
 2  
 3  
 4 I, ANDREA M. IGNACIO HOWARD, hereby certify  
 5 that the witness in the foregoing deposition was by me  
 6 duly sworn to tell the truth, the whole truth, and  
 7 nothing but the truth in the within-entitled cause;  
 8  
 9 That said deposition was taken in shorthand  
 10 by me, a Certified Shorthand Reporter of the State of  
 11 California, and was thereafter transcribed into  
 12 typewriting, and that the foregoing transcript  
 13 constitutes a full, true and correct report of said  
 14 deposition and of the proceedings which took place;  
 15  
 16 That I am a disinterested person to the said  
 17 action.  
 18  
 19 IN WITNESS WHEREOF, I have hereunto set my  
 20 hand this 27th day of October, 2011.  
 21  
 22 \_\_\_\_\_  
 23 ANDREA M. IGNACIO HOWARD, RPR, CRR, CLR, CSR No. 9830  
 24  
 25

