

1 QUINN EMANUEL URQUHART & SULLIVAN, LLP
Charles K. Verhoeven (Cal. Bar No. 170151)
2 charlesverhoeven@quinnemanuel.com
50 California Street, 22nd Floor
3 San Francisco, California 94111
Telephone: (415) 875-6600
4 Facsimile: (415) 875-6700

5 Kevin P.B. Johnson (Cal. Bar No. 177129)
kevinjohnson@quinnemanuel.com
6 Victoria F. Maroulis (Cal. Bar No. 202603)
victoriamaroulis@quinnemanuel.com
7 555 Twin Dolphin Drive 5th Floor
Redwood Shores, California 94065
8 Telephone: (650) 801-5000
Facsimile: (650) 801-5100

9 Michael T. Zeller (Cal. Bar No. 196417)
10 michaelzeller@quinnemanuel.com
865 S. Figueroa St., 10th Floor
11 Los Angeles, California 90017
Telephone: (213) 443-3000
12 Facsimile: (213) 443-3100

13 Attorneys for SAMSUNG ELECTRONICS
CO., LTD., SAMSUNG ELECTRONICS
14 AMERICA, INC. and SAMSUNG
TELECOMMUNICATIONS AMERICA, LLC
15

16 UNITED STATES DISTRICT COURT

17 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

18 APPLE INC., a California corporation,

19 Plaintiff,

20 vs.

21 SAMSUNG ELECTRONICS CO., LTD., a
Korean business entity; SAMSUNG
22 ELECTRONICS AMERICA, INC., a New
York corporation; SAMSUNG
23 TELECOMMUNICATIONS AMERICA,
LLC, a Delaware limited liability company,

24 Defendants.
25

CASE NO. 11-cv-01846-LHK

**DECLARATION OF ROGER FIDLER IN
SUPPORT OF SAMSUNG'S OPPOSITION
TO APPLE'S MOTION FOR
PRELIMINARY INJUNCTION**

Date: October 13, 2011

Time: 1:30 pm

Place: Courtroom 8, 4th Floor

Judge: Hon. Lucy H. Koh

1 I, Roger Fidler, declare:

2 1. I make this declaration to bring to the Court's attention certain facts relating to the
3 designs of tablet devices I have worked on since 1981 and also the interactions I had with Apple
4 relating to tablet devices. I have personal knowledge of the facts set forth in this declaration and,
5 if called upon as a witness, I could and would testify to such facts under oath.

6 **Personal Background**

7 2. I am currently the Program Director for Digital Publishing and Director of the
8 Digital Publishing Alliance at the Donald W. Reynolds Journalism Institute at the University of
9 Missouri in Columbia, Missouri.

10 3. I attended the University of Oregon from 1962-1966 and earned a Master's Degree
11 in Journalism and Mass Communication from Kent State University in 1999. I was a professor
12 of Journalism and Information Design at Kent State from 1996 until joining the Reynolds
13 Journalism Institute in 2004. I was inducted into the University of Oregon School of
14 Journalism's Hall of Achievement in 2004. I am a founding member of the Society of News
15 Design, fellow of the World Technology Network, and member of the Gutenberg Society.

16 4. I began working in the newspaper industry in 1961, and worked as a science writer,
17 reporter, copy editor, graphics editor, designer and computer systems manager. I joined Knight-
18 Ridder Newspapers in 1974 as graphics editor for The Detroit Free Press. I moved to Knight-
19 Ridder corporate offices in 1979. In 1992, I founded the Knight-Ridder Information Design Lab
20 ("IDL") in Boulder, Colorado, and served as the Knight-Ridder Director of New Media until IDL
21 closed and I resigned in 1995. From 1979 until 1983, I was a key member in the development of
22 Knight-Ridder's videotex online service that was eventually known as Viewtron, a centralized
23 system for providing and displaying interactive content to end-users. During my time at Knight-
24 Ridder, I conceived and directed two successful companies: the Knight-Ridder Graphics Network
25 in 1983, the first computer-based news graphics service, and PressLink in 1985, the first global
26 intranet for the newspaper industry.

27
28

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

Tablet Publications and Prototypes

5. I have long been interested in the future of newspapers and the development of interactive, easy to read, portable electronic tablets. I first wrote about the idea of a tablet device in 1981, when I wrote an essay entitled "Videotex services will become mature businesses" for the Associated Press Managing Editors (APME) which solicited ideas for how newspapers might look in the year 2000. APME published these ideas in a Special Report titled "The Changing Newspaper: Year 2000." In that essay, I suggested:

One solution for newspapers may be the development of portable, flat-screen displays. . . . [G]iven another 10 or 15 years, flat screens may have high-resolution displays and probably will be as ubiquitous as video tubes are today. . . . As an added enhancement, these units could have tactile controls. If they did, front pages for all sections could be summary capsules. When readers wanted to read the whole story, they would simply press the capsule or tease headline and the complete story would instantly appear on the screen.

The essay included photographs of prototypes of a digital newspaper displayed on a tablet that I anticipated. A copy of that essay, including the prototype images, is attached as Exhibit A.

6. Since the 1981 article, I have discussed and displayed my tablet designs and vision for the future of digital publishing at media conferences worldwide and on various television and radio programs, including CNN, the MacNeil-Lehrer NewsHour, NPR Morning Edition, Beyond 2000, Monitor Radio, and other programs in Canada, Australia, Germany, Japan, Spain, Singapore, Malaysia, and Brazil. Articles about my work have appeared in dozens of newspapers and magazines around the world, including *The New York Times*, *The Wall Street Journal*, *USA Today*, *Los Angeles Times*, *Scientific American*, *Business Week*, *U.S. News & World Report*, *Business 2.0*, *Playboy*, *MacWorld*, *MacWeek*, *Economist* (England), *Focus* (Germany), *Gente* and *Noticias*

1 (Argentina), *i-Magazine* (The Netherlands), *Suomen Lehdistö* (Finland), *Aera and Asahi Shimbun*
2 (Japan), *El Mundo*, *El Periódico* and *El País* (Spain).

3 The 1981 Tablet

4 7. In 1981, I learned about the invention of active matrix liquid crystal displays,
5 which led me to design and create a mockup within a year of the 1981 essay's publication, of a
6 tablet device. ("the 1981 Tablet"). Photographs of this prototype are attached as Exhibits B-D.
7 From my first conception of a tablet device, I have always envisioned it with a touch screen and
8 instant-on/instant-off functionality. I displayed the 1981 Tablet during speaking engagements at
9 newspaper conferences in the United States, Asia, Australia, and Europe. The 1981 Tablet was
10 shown in a *New York Times Sunday Business Edition* article by John Markoff, published on June
11 28, 1992, titled "A Media Pioneer's Quest: Portable Electronic Newspapers," a copy of which is
12 attached as Exhibit E. The 1981 Tablet also was shown in an article titled "Enter the E-Paper" in
13 the August 1993 issue of the magazine *Presstime*, a copy of which is attached as Exhibit F. I
14 also brought the 1981 Tablet with me when I appeared on the MacNeil-Lehrer NewsHour on
15 December 27, 1991, and displayed it on that program. Since creating the 1981 Tablet, I have
16 displayed it in my office, except when I am traveling with it.

17 The 1990 Tablet

18 8. For years after my 1981 essay was published, I continued to pursue the idea of the
19 tablet for reading of newspapers in the electronic form. In 1990, in collaboration with Raychem
20 Corporation, I produced an animated video featuring a tablet device to demonstrate how a tablet
21 newspaper might function ("the 1990 Tablet"). This tablet included a touch screen and instant-
22 on/instant-off functionality. In the video, a person uses the 1990 Tablet to read a news article
23 and checks the weather and airplane fares by touching the headings for news, weather, and travel.
24 A digital copy of the 1990 Video is attached as Exhibit G.

25 9. In the Fall 1990, I presented the 1990 Video to a group of executives at Knight-
26 Ridder and to Alan Kay, who was an Apple Fellow at Apple Computer at the time.

27 Apple's Direct Exposure to My Work With Tablets

28

1 10. In 1992 Knight-Ridder established its Information Design Lab in Boulder,
2 Colorado. From 1992 until 1995, I was both Corporate Director of New Media for Knight-
3 Ridder and the Director of the IDL. Apple Computer had a laboratory in the same building and
4 on the same floor. The IDL worked with Apple on news content for Apple's Newton product,
5 until IDL shut down in 1995.

6 11. During the time IDL and Apple collaborated, Apple personnel were exposed to my
7 tablet ideas and prototypes. Additionally, IDL employed Dr. Curt Stevens as its lead software
8 engineer. Dr. Stevens designed and developed prototype software for Knight-Ridder's
9 Newspaper of the Future, intended for a high resolution, full-color, flat panel tablet. Following
10 IDL's closure, Dr. Stevens moved to Cupertino and started working for Apple.

11 12. In its October 25, 1993 issue, the magazine *Forbes ASAP* published a photograph
12 of me with the 1981 Tablet in an article titled "Digital Darkhorse—Newspapers" by George Gilder
13 ("the 1993 Forbes ASAP Article"). The article states that "the new world of converging
14 technologies" will be "served à la carte on a flat-panel screen" and refers to me as "king of the flat
15 panel." The article discusses my work at the IDL and notes that "an Apple Computer media
16 center" was "[d]own the hall." A copy of the 1993 Forbes ASAP Article is attached as Exhibit H.

17 The 1994 Tablet and Video

18 13. In 1994, while at the IDL, I designed and produced another tablet mockup ("the
19 1994 Tablet"), photographs of which are attached as Exhibits I-K. Although I had always
20 envisioned the tablet to have touch screen functionality, the technology available at the time let us
21 to believe that a stylus might be required in the short term. So we showed the 1994 Tablet as
22 operating with the help of a stylus. Members of the Apple lab viewed this tablet shortly after its
23 creation.

24 14. Also in 1994, a videographer under my supervision made a video for the IDL titled
25 "The Tablet Newspaper, A Vision for the Future" ("the 1994 Video"). The 1994 Video
26 prominently features the 1994 Tablet. Although the 1994 Tablet was not a working device,
27
28

1 through editing, the 1994 Video shows how I envisioned the tablet would eventually function. A
2 digital copy of the 1994 Video is attached as Exhibit L.

3 15. More than 200 copies of the 1994 Video were distributed to various newspaper
4 organizations and media outlets. Members of the Apple lab viewed the 1994 Video shortly after
5 its creation.

6 **The 1996 Toshiba Tablet**

7 16. Starting in 1994, I provided Toshiba with specifications that they could use to
8 create a working electronic tablet. Two Toshiba executives presented me with an operational
9 prototype in 1996 at Kent State. A photograph of this presentation is attached as Exhibit M.
10 Also in the photograph are then-Kent State University president Carol Cartwright, and then-Dean
11 of the Kent State Journalism School, Pam Creedon. Additional photographs of that Toshiba
12 tablet are attached as Exhibits N-P.


13 **Mediamorphosis**

14 17. In 1997 I authored the book Mediamorphosis: Understanding New Media. This
15 book describes my work with the tablets and my efforts to promote the electronic newspaper
16 reading devices. In this book, I predicted the future use of iPad-like devices and described a
17 scenario in Chapter 9 of a newspaper reader using a touch screen interactive device. An excerpt
18 of that chapter is attached as Exhibit Q.

19 I declare under penalty of perjury that the foregoing is true and correct.

20 Executed in Columbia, Missouri on August 16 2011.

21
22
23
24
25
26
27
28

By: 
Roger Fidler