

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

APPLE, INC., a California corporation,)	Case No.: 11-CV-01846-LHK
)	
Plaintiff,)	ORDER RE: OBJECTIONS TO HAUSER
v.)	
)	
SAMSUNG ELECTRONICS CO., LTD., A Korean corporation; SAMSUNG ELECTRONICS AMERICA, INC., a New York corporation; SAMSUNG TELECOMMUNICATIONS AMERICA, LLC, a Delaware limited liability company,)	
)	
Defendants.)	
)	

After reviewing the parties’ briefing, considering the record in the case, and balancing the considerations set forth in Federal Rule of Evidence 403, the Court rules on Samsung’s objections as follows:

A. Dr. John Hauser
1. Samsung’s Objections

WITNESS AND EXHIBIT NO.	COURT’S RULING ON OBJECTION
Hauser: PX30.	Overruled. Samsung objects specifically to the second slide of PX30, which includes a list of file names in which “statistical calculations for [Dr. Hauser’s] smartphone and tablet surveys were produced.” Samsung argues that Dr. Hauser did not perform the calculations himself and cannot read the software code that his associates wrote to perform the calculations, making any testimony by Dr. Hauser hearsay under FRE 801. Under FRE 703, an expert may testify as to

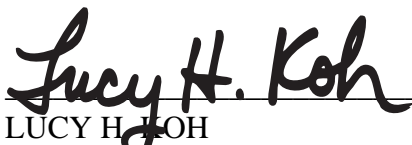
	inadmissible data “[i]f of a type reasonably relied upon by experts in the particular field in forming opinions.” Dr. Hauser reasonably relied on his associates’ statistical calculations which were performed per Dr. Hauser’s “instructions on how to analyze . . . the data.” Hutnyan Decl. Exh. I, Hauser 4/27/12 Dep. at 269:1-11. Accordingly, the files listed would be admissible under FRE 703 and slide 2 of PX30 is an admissible summary under FRE 1006.
Hauser: PDX33.4	Sustained. PDX33.4 presents four descriptions of touchscreen attributes that were used in the Hauser consumer survey. The description of “touchscreen reliability” was included in the Hauser survey, even though the “touchscreen reliability” patent (the ’607 Patent) has been dropped from the case. As currently depicted, however, the slide is confusing because it references “touchscreen reliability” under the title “Survey Descriptions of Patented Features.” The jury will likely be confused about this additional description which is no longer at issue. Accordingly, Apple must either omit the “touchscreen reliability” description if it wishes to introduce an amended version of PDX33.4 or clarify that “touchscreen reliability” is not claimed by any patent at issue in the case.

2. Apple’s Objections

WITNESS AND EXHIBIT NO.	COURT’S RULING ON OBJECTION
Hauser: SDX3920.001 or .002	Sustained. Apple objects that SDX3920.001 is misleading. The Court finds that the heading “Importance of Attributes in the Smartphone Purchase Decision,” accurately represents the contents of the slide and is not misleading. The Court finds that the ranked list of features on the left is not misleading. However, the Court finds that the list of touchscreen features on the right of SDX3920.001 is not included in the cited report, a January 2011 United States Smartphone Market Study commissioned by Apple. Samsung has not cited to any other location in the Hauser Report and Exhibits where the list of touchscreen features is discussed. Accordingly, the Court sustains Apple’s objection. However, Samsung may use SDX3920.002, which omits the list of touchscreen features.
Hauser: SDX3920.010	Overruled. SDX3920.010 shows the dollar values that consumers place on specific smartphone features (“partworths”). Apple objects that the partworths in the slide were not included in Dr. Hauser’s expert report, and must have been calculated by a Samsung expert. Samsung responds that these values were actually calculated by Dr. Hauser, and provided to Samsung in computer files to which the Hauser Report cites.

IT IS SO ORDERED.

Dated: August 10, 2012


 LUCY H. KOH
 United States District Judge