

EXHIBIT C

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November 10, 2011

Jason R. Bartlett
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Re: *Apple v. Samsung Elecs. Co. et al.*, Case No. 11-cv-1846 LHK (N.D. Cal.)
Supplemental Invalidity Contentions Based on Recent Inventor Depositions

Dear Jason:

In the past month, Samsung has uncovered several prior art references that further demonstrate Apple's patents are invalid. A number of these references were only revealed through the recent depositions of Apple's inventors. Patent Local Rule 3-6 provides that amendments of the Invalidity Contentions may be made upon a timely showing of good cause. The following prior art references meet this requirement:

Prior Art for US 7,853,891 – Mac OS X, version 10.0

In its interrogatory responses, Apple first indicated that the '891 patent was conceived during 2000 and reduced to practice no later than March 2001. *See* Apple's Objections and Responses to Samsung's First Set of Interrogatories, Objections and Response to Interrogatory No. 1. During their depositions, Messrs. Chaundri and Ording then testified that they had worked on the development of Mac OS X and that they had conceived of the idea for their patent as early as 2000. *See, e.g.* Deposition of Imran Chaundri, October 14, 2011, at 22:18-25. They further testified that translucent windows, which read on the '891 patent, were implemented in an early version of the Mac OS X operating system. *See, e.g., id.* at 99:2-21.

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Subsequently, we acquired an Apple computer running Mac OS X, v.10.0, which was released on March 24, 2001, more than a year prior to the '891 filing date of July 10, 2002. We have discovered that Mac OS X contains a brightness window that appears when the user presses a hardware button near the monitor. The window displays for approximately two seconds, then disappears automatically. Furthermore, the window is briefly translucent while it fades away and closes. The next version, Mac OS X v.10.1, updated the brightness window with new images, and this version appears to be depicted in the '891 patent, in Figs. 19 and 20.

Based on these facts, Samsung has good cause to amend its Invalidity Contentions to include Mac OS X v.10.0. This early version of Apple's operating system unequivocally practices the claimed invention and was sold more than a year before the filing of the claims. Moreover, Apple itself released the operating system that is prior art for the '891 patent, and Apple itself identified the early conception and reduction to practice dates for the '891 patent; thus, it will not be unduly prejudiced by Samsung's proposed amendment.

Prior Art for US 6,493,002 – SuperClock!

The evening before the deposition of Steven Christensen, the inventor of the '002 patent, Apple produced a document – an exhibit from a deposition by Motorola – indicating that Mr. Christensen had previously developed a program known as SuperClock, which modifies the Mac System 6 and System 7 operating systems to include a clock and battery meter on the menu bar. At his deposition, Mr. Christensen acknowledged that SuperClock performs these functions; however, he indicated that SuperClock only had a single display area. *See* Deposition of Steven Christensen, October 26, 2011, at 164:24-165:13. As a result of this information, Samsung procured a Mac computer running System 7 and installed SuperClock. We discovered that SuperClock displays both a clock and a battery simultaneously on the menu bar. These displays rest on a menu bar that is visible above all application window layers. Both the battery and clock icons are sensitive to user input and they provide status functions (such as displaying the time) and control functions (such as putting the computer to sleep). These features were implemented on or before April 1993, more than a year prior to the September 1994 filing of the '002 patent, and meet all limitations of asserted claims in the '002 patent.

Therefore, Samsung has good cause to amend its Invalidity Contentions to include SuperClock. Moreover, Apple was aware of SuperClock through the evidence that Apple ultimately provided during discovery. Apple even licensed SuperClock from Mr. Christensen to incorporate it into its own programs. *See* Deposition of Steven Christensen, *supra* at 191:17-20. Thus, Apple will not be unduly prejudiced by this amendment.

Prior art for US 7,812,828

Apple recently produced notebooks for the deposition of Wayne Westerman indicating that Mr. Westerman derived his equations for fitting an ellipse to a scatter plot of points from two textbooks that were not cited in either his thesis or in information disclosures to the PTO. Upon questioning during his deposition of October 31, Mr. Westerman agreed that certain equations cited within the patent may have been drawn from these texts: DISCRETE RANDOM SIGNALS AND STATISTICAL SIGNAL PROCESSING, by Charles Therrien, and LINEAR ALGEBRA AND

ITS APPLICATIONS, by Gilbert Strang. *See* Deposition of Wayne Westerman, October 31, 2011, at 86:19-87:15 . Mr. Westerman further stated that he made Apple aware of these textbooks at least as early as the summer of this year. *Id.* at 180:14-24. Samsung is in the process of acquiring these textbooks. Based on this recent disclosure, Samsung has good cause to amend its Invalidity Contentions to include these two references. Moreover, Apple will not be unduly prejudiced by any amendment, because Apple was provided a full opportunity to review these references during the summer of this year, if not earlier.

Additional Prior Art

Samsung has recently found additional prior art references that, despite a diligent search, were not uncovered until recently. These references raise serious questions about the validity of the '163 and '129 references. US 6,075,520 is a patent on touchpad technology, which anticipates later developments in touch-screens. US 2005/0012723 discloses touch "patterns," including tapping and sliding, that control zoom and movement of a touch screen display. Apple is not unduly prejudiced by these disclosures, which are being provided well in advance of the claim construction ruling.

Finally, Samsung would like to make two additional amendments regarding the '129 patent. First, the Hal Philipp article elaborates on to the prior art already disclosed regarding the Whirlpool Velos. Apple already has notice of the Velos. Second, a chart for WO 2005/114369 was already provided to Apple in the original invalidity contentions; however, it was inadvertently omitted from the list of exhibits on the cover pleading.

Below is a chart summarizing the proposed amendments.

U.S. Patent No.	Prior Art Reference	Basis
7,853,891	Mac OS X, version 10.0	Depositions of Bas Ording & Imran Chaundri
6,493,002	SuperClock!	Deposition of Steven Christensen
7,812,828	DISCRETE RANDOM SIGNALS AND STATISTICAL SIGNAL PROCESSING, by Charles Therrien	Deposition of Wayne Westerman
	LINEAR ALGEBRA AND ITS APPLICATIONS, by Gilbert Strang	Deposition of Wayne Westerman
7,864,163	US 2005/0012723	Recent discovery
7,920,129	WO 2005/114369	Previously disclosed
	US 6,075,520	Recent discovery
	Hal Philipp, Controls and Sensors: Tough Touch Screens, 2006	Recent discovery – additional information on the Whirlpool Velos

In light of the foregoing, Samsung has good cause to supplement its Invalidity Contentions under Patent Local Rule 3-6. Please let us know by the close of business on Friday, November 11 if Apple will stipulate to allowing Samsung to serve supplemental invalidity contentions that include the prior art referenced above.

Best regards,

/s/ Marissa Ducca

Marissa Ducca

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