

Exhibit 5

EXHIBIT 43

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION
4

5 APPLE INC., a California)
corporation,)

6)
Plaintiff,)

7 vs.) NO. 11 CV 01846 LHK
)

8 SAMSUNG ELECTRONICS CO.,)
LTD., a Korean business)
9 entity; SAMSUNG ELECTRONICS)
AMERICA, INC., a New York)

10 corporation; SAMSUNG)
TELECOMMUNICATIONS AMERICA,)
11 LLC, a Delaware limited)
liability company,)

12)
Defendants.)
13

14
15 ***

16 CONFIDENTIAL ATTORNEYS' EYES ONLY

17
18 VIDEOTAPED DEPOSITION OF MATTHEW ROHRBACH
19 SAN FRANCISCO, CALIFORNIA
20 MONDAY, OCTOBER 24, 2011
21

22
23
24 Reported By:
Yvonne Fennelly, CCRR, CSR No. 5495
25 JOB NO. 43006

1 A. A project code number.

2 Q. For what?

3 A. An Apple product.

4 Q. What Apple product?

5 A. I can't say that.

6 Q. Why?

7 MS. TAYLOR: Just a moment.

8 Let me tell the witness, if it
9 pertains to a released product, you can answer
10 that question. I don't know if it does.

11 THE WITNESS: I'm not sure that it's
12 released.

13 BY MR. ZELLER:

14 Q. You just don't know one way or
15 another?

16 A. That's right.

17 Q. So you can't say for sure it's not
18 released; correct?

19 A. Correct.

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 Q. Is it something you're working on?

24 MS. TAYLOR: I'm not going to let him
25 answer if it's an unreleased product.

1 MR. ZELLER: Well, I'm entitled to
2 know whether he has personal knowledge of this
3 or not.

4 BY MR. ZELLER:

5 Q. I'm asking simply: Is this a
6 project, whatever it is, since you won't tell me
7 what it is, you're being instructed, but do you
8 have personal knowledge of this project in the
9 sense that you're someone working on it?

10 A. Yes, I'm working on it.

11 Q. Let me show you what's previously
12 marked as Exhibit 8, which is United States
13 Design Patent 504,889.

14 I take it, at some point, you became
15 aware that there was a dispute between Samsung
16 and Apple?

17 MS. TAYLOR: It's a yes or no
18 question.

19 THE WITNESS: Yes.

20 BY MR. ZELLER:

21 Q. At any time prior to the time you
22 became aware that there was a dispute between
23 Apple and Samsung, in other words, litigation in
24 court that was going on, had you seen the '889
25 design patent?

1 A. I don't recall.

2 Q. You are listed as a named inventor
3 here.

4 You see that?

5 A. Yes.

6 Q. What about the design that's shown
7 here in Exhibit 889 was new or original or
8 different from the prior art?

9 MS. TAYLOR: Objection; lacks
10 foundation, calls for speculation, also appears
11 to be seeking a legal conclusion, and it's vague
12 and ambiguous.

13 THE WITNESS: I don't know.

14 BY MR. ZELLER:

15 Q. Was this design that is shown here in
16 Exhibit 8 different from tablet designs that
17 were already in existence?

18 MS. TAYLOR: Lacks foundation, calls
19 for speculation, it's vague and ambiguous.

20 THE WITNESS: I don't know.

21 BY MR. ZELLER:

22 Q. Well, you're named as an inventor;
23 right?

24 A. Yes.

25 Q. Well, what did you and the other

1 inventors named here invent that's shown here in
2 Exhibit 8, the '889 patent?

3 MS. TAYLOR: Objection; it calls for
4 a legal conclusion and lacks foundation.

5 THE WITNESS: We did the industrial
6 design.

7 BY MR. ZELLER:

8 Q. Well, what was inventive about it?

9 MS. TAYLOR: Objection; that calls
10 for a legal conclusion, and lacks foundation.

11 THE WITNESS: The shape. I don't
12 know exactly. Design elements.

13 BY MR. ZELLER:

14 Q. Do you know generally?

15 MS. TAYLOR: Asked and answered.

16 THE WITNESS: I don't recall. I
17 don't know.

18 BY MR. ZELLER:

19 Q. What about the shape of the design
20 that's shown here in the '889 design patent, in
21 your view, was inventive?

22 MS. TAYLOR: Objection; it calls for
23 a legal conclusion, it's vague and ambiguous,
24 and it lacks foundation, calls for speculation.

25 THE WITNESS: I don't know what the

1 document is trying to get across.

2 BY MR. ZELLER:

3 Q. And when you say "the document,"
4 you're talking about the drawings and the other
5 information here in the '889 design patent?

6 A. Correct.

7 Q. Is that saying because you don't have
8 an understanding of what's being shown here?

9 A. I was familiar with the design at the
10 time, but I don't know what the document is
11 trying to communicate.

12 Q. Well, as you sit here now, based on
13 everything that you know, do you have any
14 knowledge or understanding as to what, if
15 anything, was inventive about the design shown
16 here in the '889 design patent?

17 MS. TAYLOR: Calls for a legal
18 conclusion, and lacks foundation, and it calls
19 for speculation.

20 THE WITNESS: No, I don't know what
21 the document is trying to communicate.

22 BY MR. ZELLER:

23 Q. Based on all the information that you
24 have available to you, was there anything about
25 the shape that you consider to be new or

1 inventive as of the time that this invention was
2 created?

3 MS. TAYLOR: Objection; it calls for
4 a legal conclusion, and lacks foundation.

5 THE WITNESS: I don't know.

6 BY MR. ZELLER:

7 Q. Directing your attention to Figure 1
8 of the '889 design patent, you'll see that this
9 is an angled front view of the design.

10 Do you see that?

11 A. I think so. Figure 1.

12 Q. And you'll see that there is an
13 interior rectangular shape on the front surface.

14 Do you see that?

15 A. Yes.

16 Q. Are those dotted lines or dash lines?

17 MS. TAYLOR: The document speaks for
18 itself, and it lacks foundation.

19 THE WITNESS: I don't know.

20 BY MR. ZELLER:

21 Q. Does that set of rectangular lines
22 that runs on the interior of the front depict
23 anything?

24 MS. TAYLOR: Calls for speculation,
25 and calls for a legal conclusion.

1 THE WITNESS: I don't know.

2 BY MR. ZELLER:

3 Q. Does that interior rectangular line
4 indicate the difference between the active area
5 of the display screen and the nonactive area?

6 MS. TAYLOR: Calls for speculation,
7 and it calls for a legal conclusion.

8 THE WITNESS: I don't know.

9 BY MR. ZELLER:

10 Q. Do you have any knowledge or
11 information as to what that interior rectangular
12 line depicts?

13 MS. TAYLOR: Same objections.

14 THE WITNESS: I would be guessing.

15 BY MR. ZELLER:

16 Q. And why is it you can't ascertain
17 that? Is there not enough information in the
18 drawings here to tell you?

19 A. I don't understand the language of
20 the patent drawing.

21 Q. Well, I'm not asking you to
22 understand I'm not asking about the language
23 of patent drawings. I'm asking you as an
24 inventor, your understanding of this design
25 patent.

1 Do you understand that?

2 A. Do I understand that you're asking me
3 as an inventor listed on this document?

4 Q. Right.

5 A. Yes.

6 Q. Directing your attention to Figure 1,
7 you'll see that in certain parts of the
8 perimeter, of the front, there is a darker line
9 that runs on that perimeter.

10 Do you see that?

11 A. I think so.

12 Q. And so that there's no doubt about
13 this, you can see it most clearly as it runs on
14 this bottom portion of the drawing.

15 Do you see that part right there?

16 A. Okay.

17 Q. And this is Figure 1 we're talking
18 about.

19 A. Yes.

20 Q. Do you know what that darker line
21 depicts?

22 A. No.

23 Q. Do you have any knowledge or
24 information as to what that darker line depicts?

25 MS. TAYLOR: Calls for speculation,

1 lacks foundation.

2 THE WITNESS: No.

3 BY MR. ZELLER:

4 Q. Does that darker area depict the
5 ventilation area that we talked about earlier
6 for the tablet?

7 MS. TAYLOR: Same objections.

8 THE WITNESS: I don't know.

9 BY MR. ZELLER:

10 Q. It might, might not, you don't know
11 one way or another?

12 MS. TAYLOR: Mischaracterizes his
13 testimony.

14 THE WITNESS: I don't know what that
15 line depicts.

16 BY MR. ZELLER:

17 Q. Right.

18 So it might depict the ventilation
19 area, it might not, you don't know, you don't
20 have an understanding; right?

21 MS. TAYLOR: Mischaracterizes his
22 testimony, asked and answered.

23 THE WITNESS: Yeah, I don't know what
24 that line depicts.

25 ///

1 BY MR. ZELLER:

2 Q. Well, is it the ventilation area?

3 MS. TAYLOR: Asked and answered,
4 calls for speculation.

5 THE WITNESS: I don't know.

6 BY MR. ZELLER:

7 Q. Are you denying that that's the
8 ventilation area?

9 MS. TAYLOR: Mischaracterizes his
10 testimony, and unduly argumentative. Also calls
11 for a legal conclusion.

12 THE WITNESS: I don't know what that
13 line depicts.

14 BY MR. ZELLER:

15 Q. You don't know one way or another;
16 right?

17 MS. TAYLOR: Asked and answered, and
18 now you're harassing the witness.

19 THE WITNESS: I don't know what it
20 depicts.

21 BY MR. ZELLER:

22 Q. Can you tell me one way or another
23 whether it depicts the ventilation area? Yes or
24 no?

25 MS. TAYLOR: Asked and answered,

1 calls for speculation, and you're being
2 harassing.

3 THE WITNESS: I don't know what that
4 line depicts.

5 MR. ZELLER: All right.

6 Can you read back my question?

7 I ask that you focus on the
8 particular question I have asked you and answer
9 that question, please.

10 (Record read.)

11 MS. TAYLOR: Can you read the
12 objections, too, please?

13 (Record read.)

14 BY MR. ZELLER:

15 Q. So please answer my question.

16 MS. TAYLOR: Which question?

17 THE WITNESS: Can you read the
18 question one more time, please?

19 (Record read.)

20 MS. TAYLOR: Asked and answered,
21 calls for speculation, calls for a legal
22 conclusion.

23 THE WITNESS: No, I can't say one way
24 or the other.

25 ///

1 BY MR. ZELLER:

2 Q. Directing your attention to Figure 2.
3 You'll see on the interior of the drawing there,
4 there are those three sets of diagonal lines.

5 Do you see that?

6 A. Yes.

7 Q. What do those represent or depict?

8 MS. TAYLOR: Calls for a legal
9 conclusion, and speculation, lacks foundation.

10 THE WITNESS: I don't know.

11 BY MR. ZELLER:

12 Q. Do you have any understanding?

13 MS. TAYLOR: Same objections.

14 THE WITNESS: No.

15 BY MR. ZELLER:

16 Q. All right.

17 Directing your attention to Figure 4
18 of the '889 design patent, you'll see that the
19 diagonal lines don't appear on the interior of
20 Figure 4.

21 Do you see that?

22 A. Yes.

23 Q. All right.

24 And do you have any explanation or
25 understanding as to why those diagonal lines

1 appear on Figure 2 but not on Figure 4?

2 MS. TAYLOR: Calls for a legal
3 conclusion, and speculation, lacks foundation.

4 THE WITNESS: No.

5 BY MR. ZELLER:

6 Q. Is the back surface of the tablet
7 design that's being depicted here on the '889
8 design patent showing a substantially flat back?

9 MS. TAYLOR: Calls for speculation,
10 calls for a legal conclusion, and lacks
11 foundation.

12 THE WITNESS: I don't know.

13 BY MR. ZELLER:

14 Q. Does the design that's being depicted
15 here in the '889 design patent show a flat,
16 clear front surface?

17 MS. TAYLOR: Calls for a legal
18 conclusion, speculation, and lacks foundation.

19 THE WITNESS: I don't know.

20 BY MR. ZELLER:

21 Q. Directing your attention to Figure 9
22 of the '889 design patent, you'll see that the
23 portion of the device that is the top of the
24 device as being held by the person in the
25 outline here and is to the furthest right of the

1 drawing, when you look at it, you'll see there
2 is kind of a wedge shape there on the side.

3 MS. TAYLOR: A web shape, what?

4 MR. ZELLER: A wedge shape,
5 W E D G E.

6 MS. TAYLOR: I couldn't hear the
7 word. Thank you.

8 THE WITNESS: Okay.

9 BY MR. ZELLER:

10 Q. Do you know if that's the design for
11 the tablet that is being depicted here on the
12 '889 design patent has a side that is wedged
13 shaped?

14 MS. TAYLOR: Lacks foundation, calls
15 for a legal conclusion, and speculation.

16 THE WITNESS: I don't know.

17 BY MR. ZELLER:

18 Q. You don't have any understanding in
19 that regard?

20 A. No.

21 Q. Directing your attention to Figure 6.
22 You'll see that there is what's generally
23 depicted as a hole there on the right side.

24 A. Okay.

25 I see I think what you're indicating.

1 Q. What is that?

2 MS. TAYLOR: Calls for a legal
3 conclusion, and speculation, lacks foundation.

4 THE WITNESS: I don't know.

5 BY MR. ZELLER:

6 Q. All right.

7 Is that part of the design that is
8 depicted here in the '889 design patent?

9 MS. TAYLOR: Legal conclusion, calls
10 for speculation, and lacks foundation.

11 THE WITNESS: I don't know.

12 BY MR. ZELLER:

13 Q. Do you know why that, that hole
14 doesn't show up in Figure 9?

15 MS. TAYLOR: Calls for speculation.

16 THE WITNESS: No.

17 BY MR. ZELLER:

18 Q. Do you have any understanding or
19 explanation?

20 MS. TAYLOR: Calls for speculation,
21 asked and answered.

22 THE WITNESS: No.

23 BY MR. ZELLER:

24 Q. You'll see, generally speaking, that
25 these figures depict what we roughly call a

1 connector port, sometimes people call it a
2 30 pin connector if you specifically look at
3 Figure 8?

4 MS. TAYLOR: Which figure?

5 BY MR. ZELLER:

6 Q. Do you see that?

7 A. The rectangles in Figure 8?

8 Q. Right.

9 Do you see that?

10 A. I see those rectangles, yeah.

11 Q. Do you know what they are?

12 MS. TAYLOR: Calls for a legal
13 conclusion.

14 THE WITNESS: No.

15 BY MR. ZELLER:

16 Q. Do you have any knowledge or
17 understanding as to what they are?

18 MS. TAYLOR: Same, and lacks
19 foundation.

20 THE WITNESS: No.

21 BY MR. ZELLER:

22 Q. If we could go back for a moment to
23 Exhibit 841.

24 You'll agree with me that the mockup
25 that's depicted here shows a port on one side,

1 it's in the shape, generally, of a hole as well
2 as something people call a connector or 30 pin
3 connector; right?

4 MS. TAYLOR: Are you directing him to
5 a particular page?

6 BY MR. ZELLER:

7 Q. Well, it is shown in various
8 perspectives, but you could look at 18780 and
9 18781.

10 Do you see what I'm referring to?

11 A. I see those pages.

12 Q. Well, let's break it down, then.

13 Do you see here on 18780 there is
14 that darker smaller rectangular region?

15 A. Yes.

16 Q. Is it your understanding, generally
17 speaking, that that is a connector, something
18 sometimes people call a 30 pin connector?

19 MS. TAYLOR: Objection; it's vague
20 and ambiguous, lacks foundation.

21 THE WITNESS: As best as I can tell
22 in this photograph, that's what I would guess
23 that it is.

24 BY MR. ZELLER:

25 Q. It's your best understanding based on

1 THE WITNESS: I don't recall.

2 BY MR. ZELLER:

3 Q. If you don't recall, then how do you
4 recall if you contributed anything?

5 MS. TAYLOR: Objection; that's overly
6 argumentative.

7 You can answer, if you can.

8 Calls for a legal conclusion as well.

9 THE WITNESS: I was there through the
10 process.

11 BY MR. ZELLER:

12 Q. Well, you participated in the
13 process, but my question is: Is did you
14 contribute something to this design?

15 MS. TAYLOR: Asked and answered,
16 calls for a legal conclusion, lacks foundation.

17 THE WITNESS: I don't recall exactly
18 what.

19 BY MR. ZELLER:

20 Q. What, generally, did you contribute?

21 MS. TAYLOR: Asked and answered,
22 calls for a legal conclusion, asked lacks
23 foundation.

24 THE WITNESS: I don't know.

25 ///

1 BY MR. ZELLER:

2 Q. Is there anything you can point to
3 whether it in the most general terms, that
4 you, yourself, contributed to this design that's
5 shown here in the '889 design patent?

6 MS. TAYLOR: Calls for a legal
7 conclusion, lacks foundation.

8 THE WITNESS: No.

9 BY MR. ZELLER:

10 Q. Can you tell me what any of the other
11 named inventors contributed to this design
12 that's shown here in the '889 patent?

13 MS. TAYLOR: Calls for a legal
14 conclusion, lacks foundation, calls for
15 speculation.

16 THE WITNESS: No.

17 BY MR. ZELLER:

18 Q. Is the design that's shown here in
19 the '889 design patent the design of the iPad?

20 MS. TAYLOR: Calls for a legal
21 conclusion, also lacks foundation, calls for
22 speculation, it's vague and ambiguous.

23 THE WITNESS: I don't know.

24 BY MR. ZELLER:

25 Q. Is the design that's shown here in

1 the '889 design patent the iPad 2 design?

2 MS. TAYLOR: Same objections; legal
3 conclusion, speculation, lacks foundation, vague
4 and ambiguous.

5 THE WITNESS: I don't know.

6 BY MR. ZELLER:

7 Q. Did Apple ever manufacture or produce
8 a product that looks like the design that's
9 shown here in the '889 design patent?

10 MS. TAYLOR: It's vague and
11 ambiguous, calls for speculation, lacks
12 foundation.

13 THE WITNESS: I don't know.

14 BY MR. ZELLER:

15 Q. I'm going to show you what was
16 previously marked as Exhibit 6, which is a copy
17 of United States Design Patent 593,087.

18 And please let me know when you've
19 had a chance to look at the '087 design patent.

20 A. Okay.

21 Okay.

22 Q. Prior to the time that you became
23 aware that there was a dispute between Samsung
24 and Apple, did you see the '087 design patent?

25 A. Don't recall.

1 Q. You'll see that you're named as an
2 inventor on the '087 design patent.

3 A. Yes.

4 Q. Please tell me, as an inventor on the
5 '087 design patent, what was new or original
6 about the design that's shown here on this
7 patent --

8 MS. TAYLOR: Calls for --

9 BY MR. ZELLER:

10 Q. -- as of the time that it was
11 invented?

12 MS. TAYLOR: Calls for a legal
13 conclusion, calls for speculation, lacks
14 foundation, it's vague and ambiguous.

15 THE WITNESS: I don't know.

16 BY MR. ZELLER:

17 Q. How was the design shown in the '087
18 design patent different, in any way, from
19 designs that were already in existence for
20 electronic devices as of the time that the '087
21 design was invented?

22 MS. TAYLOR: Calls for a legal
23 conclusion, calls for speculation, lacks
24 foundation, vague and ambiguous, and compound.

25 THE WITNESS: I don't know.