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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

APPLE INC., A CALIFORNIA CORPORATION,	)	C-11-01846 LHK
	)	
	)	SAN JOSE, CALIFORNIA
PLAINTIFF,	)	
	)	JULY 30, 2012
VS.	)	
	)	VOLUME 1
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,	)	PAGES 1-282
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DEFENDANTS.	)	

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE LUCY H. KOH  
UNITED STATES DISTRICT JUDGE

APPEARANCES ON NEXT PAGE

OFFICIAL COURT REPORTER: LEE-ANNE SHORTRIDGE, CSR, CRR  
CERTIFICATE NUMBER 9595

1 (WHEREUPON, A RECESS WAS TAKEN.)

2 THE COURT: OKAY. LET'S JUST GO BACK ON  
3 THE RECORD A MINUTE.

4 WITH REGARD TO SAMSUNG'S SLIDE 51, WE  
5 HAVE CONFIRMED THAT IT WAS DISCLOSED, SO APPLE'S  
6 OBJECTION IS OVERRULED WITH REGARD TO SLIDE 51.

7 WITH THE INDEPENDENT DERIVATION, THAT I'M  
8 DENYING THE MOTION FOR RECONSIDERATION. IT WASN'T  
9 TIMELY DISCLOSED. IT IS ESSENTIALLY INVALIDITY  
10 THAT YOU INVENTED IT FIRST.

11 NOW, WITH REGARD TO THIS SLIDE 29 -- WITH  
12 REGARD TO SLIDE 29, I'M GOING TO -- WELL, I GUESS I  
13 WOULD LIKE A LITTLE BIT OF INFORMATION ON IF IT  
14 REALLY IS REBUTTAL OR NOT.

15 AND THEN CAN YOU ALL HAVE JUST SOMEONE IN  
16 OUR TEAMS DO JUST LIKE A ONE PARAGRAPH  
17 EXPLAINING -- I MEAN, I MIGHT MAKE AN EXCEPTION  
18 BECAUSE THIS IS AN APPLE DOCUMENT.

19 IS THERE A JUROR OUT THERE? CAN WE KEEP  
20 THAT DOOR CLOSED? ARE THEY OUT THERE IN THE  
21 HALLWAY? CAN THEY HEAR WHAT I'M SAYING?

22 THE MARSHAL: I DON'T BELIEVE SO, YOUR  
23 HONOR.

24 THE COURT: OKAY. IT'S AN APPLE  
25 DOCUMENT. IT'S A PUBLIC DOCUMENT. SO CAN YOU JUST

1 HAVE SOMEONE PREPARE, LIKE, A ONE PARAGRAPH --

2 MR. JACOBS: WILL DO, YOUR HONOR.

3 THE COURT: -- ON SLIDE 29?

4 BUT SLIDE 51 IS IN. THE OBJECTION IS  
5 OVERRULED.

6 INDEPENDENT DERIVATION THEORY, MOTION FOR  
7 RECONSIDERATION IS DENIED.

8 AND I'LL WAIT TO GET THE NISHIBORI ORDER  
9 FROM YOU.

10 MR. VERHOEVEN: YOUR HONOR, I THOUGHT YOU  
11 SAID THAT YOU WOULD GIVE US AN OPPORTUNITY TO MAKE  
12 A SHOWING THAT THESE DOCUMENTS, THE INDEPENDENT --  
13 YOU'RE REFERRING TO AN INDEPENDENT DERIVATION  
14 BECAUSE THAT ALSO GOES TO REBUT WILLFULNESS.

15 THIS IS VERY IMPORTANT TO US FOR OUR  
16 CASE. WE'D LIKE THE OPPORTUNITY TO SHOW YOU THAT  
17 THERE WAS NO -- THAT THERE -- THAT AN EXCLUSION IS  
18 IMPROPER HERE, YOUR HONOR. THAT'S VERY IMPORTANT  
19 TO US IN THIS CASE.

20 WHAT WE'VE GOT HERE IS AN OBJECTION --

21 THE COURT: GIVE ME ONE PARAGRAPH. OKAY?  
22 BOTH SIDES GIVE ME ONE PARAGRAPH ON SLIDE 59.

23 ALL RIGHT. ARE WE READY TO GO?

24 THE CLERK: ALMOST.

25 DO YOU WANT ME TO GIVE COUNSEL COPIES OF

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

APPLE INC., A CALIFORNIA	)	C-11-01846 LHK
CORPORATION,	)	
	)	SAN JOSE, CALIFORNIA
PLAINTIFF,	)	
	)	JULY 31, 2012
VS.	)	
	)	VOLUME 2
SAMSUNG ELECTRONICS CO.,	)	
LTD., A KOREAN BUSINESS	)	PAGES 283-555
ENTITY; SAMSUNG	)	
ELECTRONICS AMERICA,	)	
INC., A NEW YORK	)	
CORPORATION; SAMSUNG	)	
TELECOMMUNICATIONS	)	
AMERICA, LLC, A DELAWARE	)	
LIMITED LIABILITY	)	
COMPANY,	)	
	)	
DEFENDANTS.	)	

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE LUCY H. KOH  
UNITED STATES DISTRICT JUDGE

APPEARANCES ON NEXT PAGE

OFFICIAL COURT REPORTER: LEE-ANNE SHORTRIDGE, CSR, CRR  
CERTIFICATE NUMBER 9595

1 MR. QUINN: YOUR HONOR, I'VE BEEN  
2 PRACTICING 36 YEARS. I'VE NEVER BEGGED THE COURT  
3 LIKE I'M BEGGING THE COURT NOW TO HEAR ARGUMENT ON  
4 THIS ISSUE.

5 THIS RELATES TO A CENTRAL ISSUE THAT HAS  
6 BEEN IN THE CASE FROM THE VERY BEGINNING. THERE  
7 WAS NO -- THEY SAY, IN THEIR PAPERS THEY FILED LAST  
8 NIGHT, WE DIDN'T DISCLOSE IT IN THE CONTENTION  
9 INTERROGATORIES.

10 YOUR HONOR, THERE IS NO INTERROGATORY  
11 THAT REQUIRED US TO DISCLOSE THAT, AND WE DID. ALL  
12 OF THAT WAS SERVED -- ALL THOSE IMAGES IN THOSE  
13 SLIDES WERE SERVED IN FEBRUARY --

14 THE COURT: I'VE GIVEN YOU --

15 MR. QUINN: -- IN THE PRELIMINARY  
16 INJUNCTION --

17 THE COURT: -- AN ADDITIONAL OPPORTUNITY  
18 TO BRIEF THIS ISSUE YESTERDAY, OKAY? I REVIEWED  
19 WHAT YOU FILED YESTERDAY. I HEARD ARGUMENT ON THIS  
20 YESTERDAY.

21 MR. QUINN: ALL RIGHT. YOUR HONOR,  
22 WHAT'S THE POINT --

23 THE COURT: I'VE GIVEN YOU THREE MOTIONS  
24 FOR RECONSIDERATION.

25 MR. QUINN: -- OF HAVING THE TRIAL?

1 WHAT'S THE POINT?

2 THEY WANT TO CREATE THE COMPLETELY FALSE  
3 IMPRESSION, YOUR HONOR, THAT WE CAME UP WITH THIS  
4 DESIGN AFTER JANUARY OF 2007 AND, YOUR HONOR, WHAT  
5 THIS SUGGESTS, WHAT THEY'RE SEEKING IS TO EXCLUDE  
6 INDISPUTABLE EVIDENCE THAT WE HAD THAT DESIGN  
7 PATENT IN 2006.

8 AND WE CAME OUT WITH THAT PRODUCT IN  
9 FEBRUARY OF 2007.

10 THE COURT: MR. QUINN, PLEASE. PLEASE.  
11 WE'VE DONE THREE RECONSIDERATIONS ON THIS AND WE  
12 NEED TO MOVE FORWARD. WE HAVE A JURY WAITING.

13 YOU'VE MADE YOUR RECORD. YOU'VE MADE  
14 YOUR RECORD FOR APPEAL. OKAY?

15 MR. QUINN: ALL RIGHT. CAN I ASK THE  
16 COURT FOR SOME EXPLANATION, YOUR HONOR? THERE IS  
17 NO INTERROGATORY THAT REQUIRED IT. WE DID DISCLOSE  
18 IT IN THE PRELIMINARY INJUNCTION PAPERS. WE GAVE  
19 THEM THE DOCUMENTS --

20 THE COURT: MR. QUINN, PLEASE, DON'T MAKE  
21 ME SANCTION YOU. PLEASE. PLEASE.

22 MR. QUINN: SO I WON'T GET --

23 THE COURT: YOU'VE HAD THREE  
24 RECONSIDERATIONS MOTIONS. YOU'VE HAD AT LEAST TWO,  
25 IF NOT THREE, IF NOT FOUR OPPORTUNITIES TO BRIEF

1 THIS. OKAY? PLEASE, TAKE A SEAT.

2 MR. QUINN: ALL RIGHT.

3 THE COURT: ALL RIGHT. WOULD YOU BRING  
4 OUT MS. FRIESEN?

5 MR. QUINN: YOUR HONOR, AS A MATTER OF  
6 PERSONAL PRIVILEGE, MAY I CHANGE THE SUBJECT?

7 THE COURT: NO.

8 MR. QUINN: ABOUT --

9 THE COURT: NO. I WANT YOU TO SIT DOWN,  
10 PLEASE.

11 (WHEREUPON, THE FOLLOWING PROCEEDINGS  
12 WERE HELD IN OF THE PRESENCE JUROR FRIESEN.)

13 THE COURT: OKAY. MS. FRIESEN, WE  
14 UNDERSTAND THAT YOUR SERVICE WOULD BE A SEVERE  
15 ECONOMIC HARDSHIP ON YOU, AS WELL AS PSYCHOLOGICAL.  
16 IT'S JUST VERY STRESSFUL; CORRECT?

17 JUROR: I'M HAVING ANXIETY ATTACKS DUE TO  
18 THE COMMUTE. I'M NOT A VERY GOOD DRIVER.

19 THE COURT: NO PROBLEM. YOU DON'T NEED  
20 TO EXPLAIN ANY FURTHER.

21 WE WANT TO THANK YOU FOR YOUR SERVICE AND  
22 TO APOLOGIZE FOR THE ANXIETY AND THE STRESS THAT  
23 THIS HAS ALREADY CAUSED YOU.

24 JUROR: I'M SORRY FOR THE INCONVENIENCE.  
25 I'M -- I DIDN'T REALLY THINK THAT IT WOULD AFFECT

1 YOUR HONOR, IS THAT THE F700 -- THAT SAMSUNG COPIED  
2 THE IPHONE WITH THE F700.

3 THAT WAS MADE -- THAT WAS STATED TO THE  
4 JURY, I READ IT, YOUR HONOR.

5 AND THE F700 IS THE PHONE THAT WAS  
6 RELEASED BASED ON THE DEVELOPMENT DOCUMENTS YOUR  
7 HONOR EXCLUDED US FROM USING.

8 SO I SUBMIT HE'S OPENED THE DOOR NOW.  
9 HE'S ACCUSED THIS PHONE OF COPYING THE IPHONE IN  
10 THIS SLIDE, YOUR HONOR.

11 AND THE DOCUMENTS THAT, THAT SHOW THE  
12 DEVELOPMENT OF THIS VERY PHONE, THE F700, ARE THOSE  
13 DOCUMENTS THAT PREDATE THE IPHONE THAT SHOW THAT  
14 EXACT SAME FRONT FACE, YOUR HONOR.

15 SO I WOULD SUBMIT HE'S OPENED THIS DOOR  
16 AND WE HAVE TO BE ABLE TO REBUT IT.

17 MR. MCELHINNY: MAY I?

18 THAT'S A NICE TRY, BUT WHAT I SAID WAS  
19 THESE WERE THE PHONES THAT WERE RELEASED AFTER THE  
20 IPHONE.

21 I DIDN'T ACCUSE ANY OF THOSE BECAUSE I  
22 SAID THEN WE GOT THE ONE, THE S900, THE NEXT SLIDE,  
23 WHICH I SAID WAS THE IPHONE CLONE.

24 THAT'S WHERE WE STARTED ACCUSING THEM OF  
25 INFRINGEMENT.

1 IF YOU GO BACK AGAIN -- WE HAVEN'T  
2 ACCUSED -- IF YOU GO BACK ONE, PLEASE.

3 NONE OF THOSE ARE INFRINGING. WE SAID  
4 THEY CAME OUT AFTER AND THEN WE GOT TO THE  
5 INFRINGING PHONES.

6 MR. VERHOEVEN: THE CLEAR IMPLICATION TO  
7 THE JURY, IF WE GO BACK TO SLIDE -- GO BACK,  
8 PLEASE, TO THE PREVIOUS SLIDE, 23.

9 THE TIMELINE OF SAMSUNG PHONES BEFORE THE  
10 SMARTPHONE. THEY SHOW A BUNCH OF DIFFERENT LOOKING  
11 PHONES.

12 NEXT SLIDE, PLEASE, 24.

13 TIMELINE AFTER, THEY ALL HAVE THESE BIG  
14 SCREENS.

15 THE F700, YOUR HONOR, WAS DEVELOPED --  
16 THE ONE THAT LOOKS THE MOST LIKE THIS PHONE, YOUR  
17 HONOR, WAS DEVELOPED BEFORE THE IPHONE WAS EVER  
18 ANNOUNCED AND WE SHOULD BE ABLE -- IN FAIRNESS --

19 THE COURT: ALL RIGHT. I'VE ALREADY  
20 RULED ON THIS OBJECTION.

21 MR. VERHOEVEN: OKAY.

22 THE COURT: YOU'VE MADE YOUR RECORD AND  
23 THE OBJECTION IS OVERRULED.

24 MR. JACOBS: QUICK HOUSEKEEPING MATTER,  
25 YOUR HONOR.

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

APPLE INC., A CALIFORNIA CORPORATION,	)	C-11-01846 LHK
	)	
	)	SAN JOSE, CALIFORNIA
PLAINTIFF,	)	
	)	AUGUST 3, 2012
VS.	)	
	)	VOLUME
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,	)	PAGES 556-930
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DEFENDANTS.	)	

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TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE LUCY H. KOH  
UNITED STATES DISTRICT JUDGE

APPEARANCES ON NEXT PAGE

OFFICIAL COURT REPORTER: LEE-ANNE SHORTRIDGE, CSR, CRR  
CERTIFICATE NUMBER 9595

1 IS REAL. OF OUR 34 POTENTIAL JURORS WHO WERE VOIR  
2 DIRED ON MONDAY, 18 ADMITTED SOME EXPOSURE TO  
3 PRETRIAL PUBLICITY.

4 OF OUR NINE SEATED JURORS, FOUR ADMITTED  
5 TO EXPOSURE TO SOME PRETRIAL PUBLICITY.

6 SO THIS WAS A REAL AND POSSIBLE DANGER  
7 THAT SAMSUNG AND QUINN, EMANUEL MADE THE DECISION  
8 TO TAKE THE RISK OF TAINTING THE JURY.

9 AT THE TIME THAT MR. QUINN REQUESTED YET  
10 ANOTHER RECONSIDERATION OF THE MULTIPLE RULINGS OF  
11 THE COURT, THE PARTIES HAD BRIEFED AT LEAST THE  
12 SONY-STYLE ISSUE NO LESS THAN SIX TIMES, SIX TIMES,  
13 AND ON TUESDAY MORNING, I MADE IT ABSOLUTELY CLEAR  
14 THAT I WAS NOT GOING TO RECONSIDER THAT RULING.

15 YET MR. QUINN LEFT THIS COURTROOM AND  
16 DELIBERATELY AND WILLFULLY, WITH SAMSUNG, ISSUED A  
17 PRESS RELEASE TO HIGHLIGHT EVIDENCE THAT THEY BOTH  
18 KNEW WAS EXCLUDED AND WAS INADMISSIBLE IN THIS  
19 TRIAL.

20 AND THE LINK TO THE EXCLUDED  
21 DEMONSTRATIVES IN THE PRESS RELEASE WAS A WILLFUL  
22 AND DELIBERATE ATTEMPT TO FURTHER PROPAGATE THAT  
23 EXCLUDED EVIDENCE THE DAY AFTER A JURY HAD BEEN  
24 IMPANELED.

25 THIS IS AN UNFORTUNATE SITUATION, BUT I

1 DON'T WANT ANYONE TO LOSE SIGHT OF THE FACT THAT  
2 THIS IS A SITUATION OF SAMSUNG AND QUINN, EMANUEL'S  
3 OWN MAKING.

4 HAD SAMSUNG TIMELY COMPLIED WITH ITS  
5 DISCOVERY OBLIGATIONS, THERE WOULD BE NO EXCLUSION.

6 BOTH JUDGE GREWAL AND I HAVE HELD BOTH  
7 PARTIES TO THE SAME STANDARD. APPLE'S UNTIMELY  
8 DISCOVERY AND THEORIES HAVE EQUALLY BEEN EXCLUDED  
9 FROM THIS TRIAL.

10 I WILL NOT LET ANY THEATRICALS OR ANY SIDE  
11 SHOW DISTRACT US FROM WHAT WE ARE HERE TO DO, WHICH  
12 IS TO FAIRLY AND EFFICIENTLY TRY THIS CASE.

13 WHEN THE JURY IS HERE, WE'RE GOING TO DO  
14 OUR BEST TO MAKE THE MOST OF THEIR TIME, WHETHER  
15 THAT MEANS READING JURY INSTRUCTIONS AT 4:30 ON  
16 MONDAY AFTERNOON OR CALLING A WITNESS DURING THE  
17 LAST FEW MINUTES OF THE DAY ON TUESDAY.

18 NOW, I HOPE THAT ALL PARTIES AND LAWYERS  
19 IN THIS CASE WHO ARE SUPPOSED TO BE OFFICERS OF THE  
20 COURT WILL RESPECT THE UNITED STATES JUSTICE SYSTEM  
21 AND OUR JURY TRIAL PROCESS.

22 NOW, WOULD YOU PLEASE BRING IN THE JURY,  
23 AND WHATEVER RECONSIDERATIONS AND OBJECTIONS TO  
24 EVIDENCE, WE'RE GOING TO DO IT ON YOUR TIME.

25 MR. LEE: YOUR HONOR, BEFORE THE JURY IS

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

APPLE INC., A CALIFORNIA CORPORATION,	)	C-11-01846 LHK
	)	
	)	SAN JOSE, CALIFORNIA
PLAINTIFF,	)	
	)	AUGUST 6, 2012
VS.	)	
	)	VOLUME 4
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,	)	PAGES 931-1296
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DEFENDANTS.	)	

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE LUCY H. KOH  
UNITED STATES DISTRICT JUDGE

APPEARANCES ON NEXT PAGE

OFFICIAL COURT REPORTER: LEE-ANNE SHORTRIDGE, CSR, CRR  
CERTIFICATE NUMBER 9595  
IRENE RODRIGUEZ, CSR, CRR  
CERTIFICATE NUMBER 8074

1 DIDN'T GET REMOVED FROM THE BINDER, YOUR HONOR.

2 THE COURT: OKAY, FINE.

3 MR. VERHOEVEN: BUT -- OKAY.

4 THE COURT: OKAY. SO THAT TAKES CARE OF  
5 THOSE TWO. I JUST WANT TO MAKE SURE WE DON'T HAVE  
6 ANY OF THESE ISSUES OUTSTANDING.

7 SO I WILL GO BACK AND LOOK AT THE F700.

8 WHAT ELSE? IS THERE ANYTHING ELSE AS  
9 TO --

10 MR. VERHOEVEN: I JUST WANTED TO SAY ONE  
11 THING REALLY BRIEFLY ON THE F700, YOUR HONOR.

12 THE COURT: YES.

13 MR. VERHOEVEN: BECAUSE IF YOU LOOK AT  
14 JUDGE GREWAL'S ORDER, I THINK IT MIGHT BE HELPFUL  
15 TO ALSO LOOK AT THE PROPOSED ORDER THAT WAS  
16 SUBMITTED BY APPLE. IT DOES LIST THE F700, YOUR  
17 HONOR, SO YOU SHOULD KNOW THAT, ALTHOUGH THAT IS  
18 NOT IN THE GREWAL ORDER. I JUST THOUGHT THAT MIGHT  
19 BE HELPFUL FOR YOUR HONOR.

20 THE COURT: OKAY.

21 MR. VERHOEVEN: BUT, SECONDLY, THE  
22 PROPOSED ORDER, WHICH I THINK JUDGE GREWAL INTENDED  
23 TO ADOPT, IS TALKING ABOUT EXCLUSION FOR PURPOSES  
24 OF ARGUMENT THAT THE '087 IS ANTICIPATED OR  
25 RENDERED OBVIOUS.

1           AND MY -- I JUST WANT TO CLARIFY FOR YOUR  
2 HONOR, MY CROSS ON THIS SUBJECT WOULD NOT DEAL WITH  
3 THAT SUBJECT AT ALL. IT WOULD BE THAT THIS WITNESS  
4 HAS SAID THE F700 IS A DESIGN ALTERNATIVE. IT'S A  
5 NON-INFRINGEMENT, IT DOES NOT -- IT IS NOT  
6 SUBSTANTIALLY SIMILAR AND I INTEND TO SAY -- TO THE  
7 OPPOSITE OF WHAT THIS IS TALKING ABOUT AND SAY THIS  
8 IS A NON-INFRINGEMENT DESIGN. IT'S NOT GOING TO BE  
9 THE ARGUMENT THAT THIS IS A PIECE OF PRIOR ART THAT  
10 INVALIDATES OR IS OBVIOUS.

11           SO THE PURPOSE FOR WHICH I WOULD INTEND  
12 TO USE THIS ON CROSS WOULD BE TO SHOW, TO CONTRAST  
13 WHAT THIS WITNESS HAS SAID IS A NON-INFRINGEMENT  
14 DESIGN AGAINST WHAT HE HAS SAID ARE INFRINGEMENT  
15 DESIGNS FOR PURPOSES OF IMPEACHMENT.

16           THE COURT: ALL RIGHT. I UNDERSTAND.

17           MR. VERHOEVEN: THANK YOU, YOUR HONOR.

18           THE COURT: AND YOUR POSITION IS THAT IT  
19 WAS EXCLUDED FOR EVERYTHING, NOT JUST INVALIDITY?

20           MS. KREVANS: YES, YOUR HONOR. AND THE  
21 REASON FOR THAT POSITION IS THE BASIS FOR  
22 JUDGE GREWAL'S ORDER WAS -- NOT THAT THERE WAS  
23 SOMETHING WRONG WITH WHAT WAS IN THE EXPERT REPORT  
24 NECESSARILY, ABOUT YOU THAT WHAT WAS IN THE EXPERT  
25 REPORT RELATED TO THINGS THAT HAD NEVER BEEN

1 DISCLOSED IN RESPONSE TO CONTENTION  
2 INTERROGATORIES. AND BECAUSE THAT WAS A BASIS FOR  
3 EXCLUSION, IT APPLIES TO TRYING TO GET THE SAME  
4 THING IN THROUGH OTHER WAYS.

5 THERE IS NO OTHER RELEVANCE TO THIS PHONE  
6 BECAUSE IT'S NOT AN ACCUSED PRODUCT, AND IT'S NOT  
7 SOMETHING THAT WAS IN THE DEVELOPMENT OF ANY  
8 ACCUSED PRODUCT AND THE INDEPENDENT DEVELOPMENT  
9 THEORY HAS BEEN STRUCK.

10 I DO WANT TO RAISE WITH YOUR HONOR --  
11 THE COURT: YEAH.

12 MS. KREVANS: THESE ARE NOT THE ONLY  
13 ISSUES THAT MAY COME UP DURING CROSS-EXAMINATION.  
14 IF I CAN FIND IT IN THIS BIG STACK OF PAPER, AMONG  
15 THE EXHIBITS THAT WERE GIVEN TO US AS POTENTIAL  
16 CROSS EXHIBITS FOR MR. BRESSLER BY SAMSUNG, THERE  
17 IS A LONG LIST OF EXHIBITS WHICH WE THINK ARE  
18 OBJECTIONABLE BECAUSE THEY ARE DOCUMENTS AND  
19 DEMONSTRATIVES DESIGNED TO INTRODUCE INTO THE CASE,  
20 THROUGH CROSS, NON-INFRINGEMENT THEORIES THAT HAVE  
21 BEEN STRUCK BY JUDGE GREWAL AND THAT ORDER IS  
22 FINAL.

23 THE -- AND BECAUSE YOUR HONOR DENIED THE  
24 MOTION FOR RECONSIDERATION, YOUR HONOR MAY RECALL  
25 IN THEIR RESPONSES TO THE CONTENTION

1 INTERROGATORIES ABOUT THE BASIS FOR  
2 NON-INFRINGEMENT IN THIS CASE, SAMSUNG GAVE A  
3 BOILERPLATE ANSWER TO EVERY -- WITH RESPECT TO  
4 EVERY DEVICE.

5 THE COURT: JUST GIVE ME THE NUMBER.  
6 WHAT'S THE NUMBER? ARE YOU REFERRING TO A  
7 DEMONSTRATIVE NUMBER?

8 MS. KREVANS: IT'S MANY, MANY NUMBERS.  
9 DO YOU HAVE THE LIST OF WHICH DEMONSTRATIVES IT  
10 APPLIES TO?

11 IT IS -- IT'S UNFORTUNATELY A LONG LIST.  
12 IN PART IT'S PHOTOS, SO IT IS SDX 3756, 3757, 3760,  
13 3761 --

14 THE COURT: SO THAT WAS NEVER IN YOUR  
15 OBJECTIONS?

16 MS. KREVANS: WE JUST GOT THESE AND WE  
17 HAVE OBJECTED ON THIS BASIS.

18 BUT THESE ARE NOT OBJECTIONS THAT WE'VE  
19 AGREED TO --

20 MR. VERHOEVEN: YOUR HONOR, THEY HAD  
21 THESE SLIDES AND THIS IS, AGAIN, THE FIRST TIME  
22 WE'RE HEARING ABOUT THIS. THIS IS  
23 CROSS-EXAMINATION OF A WITNESS AND, YOU KNOW,  
24 THERE'S A DIFFERENCE BETWEEN CROSS-EXAMINING A  
25 WITNESS ON HIS OPINIONS AND OFFERING AN EXPERT AND

1 THE DISCLOSURE REQUIREMENTS FOR AN EXPERT. I'M  
2 ENTITLED TO CROSS-EXAMINE THIS WITNESS AS TO HIS  
3 OPINIONS AND TO CHALLENGE HIS CONTENTIONS WITH  
4 RESPECT TO INFRINGEMENT AND POINT OUT TO THE JURY  
5 DIFFERENCES.

6 MS. KREVANS: YOUR HONOR, THIS IS --

7 MR. VERHOEVEN: THAT --

8 THE COURT: I DON'T EVEN SEE THE NUMBERS  
9 IN THE CROSS-EXAMINATION BINDER THAT YOU'VE JUST  
10 LISTED.

11 MR. VERHOEVEN: WE WENT THROUGH THIS  
12 WHOLE PROCESS, YOUR HONOR, SO WE WOULDN'T HAVE TO  
13 HAVE, YOU KNOW, JUMBLING AROUND WITH ALL THESE  
14 OBJECTIONS. WE'VE BEEN THROUGH THIS PROCESS. THEY  
15 HAVEN'T OBJECTED. YOUR HONOR HAS ALREADY RULED ON  
16 THE OBJECTIONS THEY'VE RAISED.

17 YOU KNOW, WE'LL NEVER GET DONE WITH THIS  
18 TRIAL IF WE HAVE TO DO THIS FOR EVERY SINGLE SLIDE.

19 MS. KREVANS: YOUR HONOR, THIS LIST  
20 CONTINUES. IT'S THE SAME OBJECTION FOR MANY OF THE  
21 SLIDES AND THIS IS NOT ABOUT SOME ISSUE ABOUT  
22 EXPERT REPORTS.

23 THIS IS ABOUT CONTENTIONS. JUDGE GREWAL  
24 HAS ALREADY RULED, AND YOUR HONOR HAS ALREADY  
25 AFFIRMED --

1 THE COURT: WELL, I JUST WANT THE NUMBER,  
2 AND THE NUMBER THAT YOU GAVE ME, I'M NOT SEEING IT  
3 IF IN THE BINDERS.

4 MS. KREVANS: 1545 IS YOUR HONOR'S RULING  
5 DENYING --

6 THE COURT: NO, NO. I WANT THE EXHIBITS  
7 THAT YOU ARE OBJECTING TO.

8 MS. KREVANS: OH. THESE ARE THEIR --

9 THE COURT: I JUST WANT THE NUMBERS. I  
10 DON'T SEE THEM IN YOUR MULTIPLE BRIEFINGS ON THESE  
11 EXHIBITS. I DON'T SEE THEM.

12 MS. KREVANS: THESE HAVE NOT BEEN IN THAT  
13 SERIES OF MULTIPLE BRIEFINGS, YOUR HONOR. THE  
14 OBJECTIONS ON THE CROSS-EXHIBITS WERE NEVER RULED  
15 UPON BECAUSE THEY CAME LATER THAN THE LEST. SO  
16 THERE'S A LONG LIST OF SLIDES HERE IN WHICH -- AND  
17 I HAVE A COPY OF THE SLIDES.

18 THE COURT: I HAVE THE DEFENSE  
19 CROSS-EXHIBITS. JUST GIVE ME THE NUMBER.

20 MS. KREVANS: OKAY. IT'S, THEY'RE ALL,  
21 THESE ARE ALL IN THE SDX, SO I SHOULD SAY THEY ARE  
22 DEMONSTRATIVES, AND THEY ARE THE NUMBERS I READ,  
23 AND IN ADDITION, 3764 THROUGH --

24 THE COURT: I JUST DON'T HAVE ANY OF  
25 THOSE NUMBERS IN MY BINDER. THAT'S WHY I'M

1 COMPLETELY CONFUSED. THE ONLY DEMONSTRATIVES I  
2 HAVE FOR MR. BRESSLER ARE 511, 591, 628, WHICH  
3 MR. VERHOEVEN SAID THEY'RE NOT GOING TO USE, 688,  
4 740, 741, 743, THAT'S WHY I DON'T KNOW WHAT YOU'RE  
5 TALKING ABOUT.

6 MS. KREVANS: I'M NOT SURE WHAT THEY PUT  
7 IN YOUR BINDER, YOUR HONOR, BUT I HAVE A FULL SET  
8 OF THE DEMONSTRATIVES THAT INCLUDES THE ONES THAT  
9 I'M REFERRING TO.

10 THE COURT: WELL, IT SOUNDS LIKE -- I  
11 DON'T HAVE THESE. I'M ASSUMING WHAT I WAS GIVEN IS  
12 WHAT YOU'RE GOING TO USE, RIGHT?

13 MR. VERHOEVEN: I HAVEN'T LOOKED THROUGH  
14 YOUR BINDER. I CAN TAKE A LOOK AT IT, YOUR HONOR.

15 THE COURT: IF YOU WOULD, PLEASE. I HAVE  
16 THREE BINDERS. ONE OF THEM CONSISTS OF, YOU KNOW,  
17 WITNESS STATEMENTS AND DEPOSITIONS AND THE EXPERT  
18 REPORTS, AND I JUST DON'T HAVE THOSE EXHIBITS THAT  
19 YOU'RE OBJECTING TO.

20 MS. KREVANS: OKAY. AND -- I'M NOT SURE  
21 WHAT IS IN HIS BINDERS, YOUR HONOR.

22 IF I MAY, THERE HAS BEEN A RULING IN THIS  
23 CASE BY JUDGE GREWAL AND YOURSELF THAT SAMSUNG MAY  
24 NOT OFFER NON-INFRINGEMENT THEORIES EXCEPT FOR TWO  
25 PHONES. THE ONLY TWO PHONES ON WHICH THEY CAN

1 OFFER NON-INFRINGEMENT THEORIES ARE THE INFUSE 4G  
2 AND THE GALAXY S 4G. AND THAT WAS NOT --

3 MR. VERHOEVEN: YOUR HONOR, WE OBVIOUSLY  
4 DISPUTE THAT.

5 BUT THERE'S A MORE FUNDAMENTAL POINT  
6 HERE. WE EXCHANGED THESE DEMONSTRATIVES WITH THE  
7 OTHER SIDE. THEY'VE HAD THEM FOR DAYS. THEY NEVER  
8 ONCE SAID THEY OBJECTED TO THESE. NOW ON THE VERY  
9 DAY THAT THIS WITNESS IS ABOUT TO APPEAR FOR  
10 CROSS-EXAMINATION, THEY WANT TO WHOLESALE OBJECTION  
11 TO CROSS-EXAMINATION DEMONSTRATIVE SLIDES. THESE  
12 ARE JUST DEMONSTRATIVE SLIDES USED -- THEY'RE  
13 PICTURES OF, YOUR HONOR, IF I CAN JUST -- THEY'RE  
14 PICTURES --

15 THE COURT: LET ME ASK, ARE THE BINDERS  
16 THAT I WAS GIVEN BEFORE MR. BRESSLER STARTED  
17 TESTIFYING, ARE THOSE COMPLETE OR IS THERE --

18 MR. VERHOEVEN: WE'RE CHECKING THAT RIGHT  
19 NOW, YOUR HONOR.

20 THE COURT: OH, OKAY.

21 MR. VERHOEVEN: BUT THE POINT I WANT TO  
22 MAKE, YOUR HONOR, IS WE WENT THROUGH A PROCESS THAT  
23 YOUR HONOR SPECIFIED AND THERE WAS NO OBJECTION  
24 THAT WAS LODGED TO THESE SLIDES. THEY WAIVED THEIR  
25 OBJECTIONS. WE NEED TO GET THIS TRIAL GOING. THE



1 THAT'S THE ONE THAT YOU'RE --

2 MR. VERHOEVEN: YOUR HONOR HAS ALREADY  
3 RULED ON THEIR OBJECTION TO THE LG PRADA IN  
4 CONNECTION WITH MR. DENISON'S TESTIMONY AND YOU  
5 OVERRULED THE OBJECTION.

6 THE COURT: I DISAGREE WITH THAT.

7 MS. KREVANS: OKAY. THIS EXHIBIT IS THE  
8 LG KE850.

9 THE COURT: RIGHT. I DISAGREE WITH THAT.  
10 I'M GOING TO SUSTAIN THAT OBJECTION. OKAY? I'LL  
11 GET BACK TO YOU ON THE F700.

12 THE LG KE850, THE OBJECTION IS SUSTAINED.

13 AND --

14 MR. VERHOEVEN: YOUR HONOR, JUST SO I  
15 CAN -- YOU HAVE AN ORDER ON APPLE'S MOTION IN  
16 LIMINE NUMBER 3 ON THIS ISSUE, AND I CAN HAND THIS  
17 UP IF YOU'D LIKE, YOU GRANTED THE MOTION -- APPLE'S  
18 MOTION ON MOTION IN LIMINE NUMBER 3 IN PART AND  
19 DENIED IT IN OTHER RESPECTS, AND IT SAYS, QUOTE,  
20 "THE MOTION IS DENIED IN ALL OTHER RESPECTS. IN  
21 OTHER WORDS, THE LG KE 750 MAY BE ADMISSIBLE AS A  
22 PRIOR ART REFERENCE UNDER 35 U.S.C. SECTION 102."

23 THE COURT: THIS IS THE LG KE 850. IT'S  
24 A DIFFERENT PRODUCT.

25 MS. KREVANS: AND, YOUR HONOR, THE

1 (PAUSE IN PROCEEDINGS.)

2 MR. VERHOEVEN: I'LL JUST REASK THE  
3 QUESTION, YOUR HONOR, IN THE INTEREST OF TIME.

4 Q MR. BRESSLER, IT'S YOUR TESTIMONY TO THIS JURY  
5 THAT THE F700 IS NOT SUBSTANTIALLY SIMILAR TO THE  
6 INITIAL IPHONE DESIGN. YES?

7 A WITHIN THE BOUNDS OF THE DESIGNS -- THAT THE  
8 DESIGNS DEFINE, YES.

9 Q OKAY. NOW, RYAN, CAN WE ALSO PUT UP AN IMAGE  
10 OF THE ACCUSED INFUSE 4G, JX 1027.

11 MS. KREVANS: YOUR HONOR, NOW THEY'RE  
12 MAKING A NON-INFRINGEMENT ARGUMENT WHICH YOUR HONOR  
13 HAS ALREADY SAID IS BEYOND THE LINE OF WHAT THEY  
14 CAN DO WITH THE F700.

15 THE COURT: SUSTAINED.

16 MR. VERHOEVEN: YOUR HONOR, I'M TRYING TO  
17 SHOW --

18 THE COURT: SUSTAINED. PLEASE TAKE IT  
19 DOWN. TAKE IT DOWN.

20 MR. VERHOEVEN: YOUR HONOR, I'M  
21 ATTEMPTING TO SHOW, THROUGH IMPEACHMENT, THAT THE  
22 PHONES THAT THIS WITNESS IS ACCUSING OF BEING  
23 SUBSTANTIALLY SIMILAR LOOK DIFFERENT FROM A PHONE  
24 THAT'S NOT ACCUSED THAT THE WITNESS SAYS IS NOT  
25 SUBSTANTIALLY SIMILAR. IT'S IMPEACHMENT. IT'S

1 CROSS-EXAMINATION, YOUR HONOR.

2 THE COURT: OVERRULED.

3 GO AHEAD. GO TO YOUR NEXT LINE OF  
4 QUESTIONING, PLEASE.

5 MR. VERHOEVEN: ALL RIGHT.

6 Q LET'S SWITCH TO THE '889 DESIGN PATENT, JX  
7 1061 IN YOUR BINDER. IF WE CAN GO TO THAT, RYAN,  
8 AND PUT UP FIGURES 1A AND 1B.

9 A I'M SORRY. WHAT WAS IT AGAIN?

10 Q IT'S THE '889 DESIGN PATENT, WHICH IS EXHIBIT  
11 JX 1061. GO AHEAD AND PUT THIS UP. THERE'S NO  
12 OBJECTION TO PUTTING THE DESIGN PATENT UP ON THE  
13 SCREEN, I ASSUME. IT'S IN EVIDENCE.

14 DO YOU SEE IT ON THE SCREEN, SIR?

15 A I'M SORRY. WHAT WAS THE NUMBER AGAIN?

16 Q IT'S JX 1061. GOT IT?

17 A I DO. THANK YOU.

18 Q OKAY. MR. BRESSLER, I'M HOLDING IN MY HAND A  
19 PHYSICAL MODEL. IT'S CALLED THE 035 MODEL  
20 (INDICATING).

21 IT'S BEEN ADMITTED INTO EVIDENCE AS DX  
22 741.

23 DO YOU RECOGNIZE THIS AS THE PHYSICAL  
24 MODEL CALLED THE 035 MODEL?

25 MS. KREVANS: YOUR HONOR, I HAVE TWO