

Exhibit 23

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

5 APPLE, INC., a California)
corporation,)
6)
Plaintiff,)
7)

8 VS.) NO. 11-cv-01846-LHK

9 SAMSUNG ELECTRONICS CO.,)
LTD., a Korean business)
entity; SAMSUNG ELECTRONICS)
10 AMERICA, INC., a New York)
corporation; SAMSUNG)
11 TELECOMMUNICATIONS AMERICA,)
LLC, a Delaware limited)
12 liability company,)
13 Defendants.)

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16
17 ORAL AND VIDEOTAPED DEPOSITION OF
18 BRIAN ROSENBERG
19 JANUARY 27, 2012
20 HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
21
22
23

24 Reporter: Therese Casterline
25 Job Number: 45460

1	P R O C E E D I N G S	08:59
2	THE VIDEOGRAPHER: This is tape 1 in the	08:59
3	video deposition of Brian Rosenberg. Today is Friday,	08:59
4	January 27th, 2012. We are now on record at	08:59
5	approximately 8:59 a.m. in the matter of Apple versus	08:59
6	Samsung.	08:59
7	Will all attorneys present please	08:59
8	introduce themselves for the record.	08:59
9	MR. McELHINNY: Harold McElhinny and Julia	08:59
10	Kripke from Morrison & Foerster representing Apple.	08:59
11	MR. BRINKMAN: Paul Brinkman from Quinn	08:59
12	Emanuel for Samsung.	08:59
13	MR. MYUNG: This is Jeff Myung, in-house	08:59
14	counsel at Samsung.	08:59
15	THE VIDEOGRAPHER: The witness may now be	08:59
16	sworn in.	08:59
17	BRIAN ROSENBERG,	08:59
18	having been first duly sworn, testified as follows:	08:59
19	EXAMINATION	08:59
20	BY MR. McELHINNY:	08:59
21	Q. Good morning, Mr. Rosenberg. I introduced	08:59
22	myself to you before we started. My name is Harold	08:59
23	McElhinny. I'm an attorney for Apple.	08:59
24	You may not know this, but there is	08:59
25	litigation pending between Apple and Samsung, and we're	08:59

1 making sure that our -- that our displays in a store 10:56

2 comply with what was agreed with the carrier -- 10:56

3 Q. Who -- 10:56

4 A. -- in retail. 10:56

5 Q. Who's in charge of the field marketing 10:57

6 organization? 10:57

7 A. So it's in the marketing organization. It 10:57

8 rolls up eventually to Todd Pendleton. 10:57

9 Q. Okay. And is 1H 2011, is that first half of 10:57

10 2011? 10:57

11 A. That's my assumption, yeah. 10:57

12 Q. Okay. Can you tell me, to the best of your 10:57

13 knowledge, what iPhones are currently being marketed in 10:57

14 the marketplace? 10:57

15 A. Today or -- 10:57

16 Q. Today. 10:57

17 A. Yes. There's an iPhone 4S, there's an 10:57

18 iPhone 4 and there's an iPhone 3GS. 10:57

19 Q. Can you tell me which Samsung products compete 10:57

20 against the iPhone 3GS? 10:58

21 MR. BRINKMAN: Objection, foundation. 10:58

22 A. So I'm not sure I understand what you mean by 10:58

23 compete. 10:58

24 Q. Sure. Are -- does the -- does the -- are 10:58

25 there products that, in your view, are matched up 10:58

1 against the iPhone 3GS as consumer options? 10:58

2 A. From a price point standpoint? 10:58

3 Q. From -- from all of the factors that would go 10:58

4 into a consumer's decision. 10:58

5 A. I would say every phone competes. 10:58

6 Q. Every Samsung phone competes? 10:58

7 A. Sure. 10:58

8 Q. Okay. Are there specific phones that compete 10:58

9 against the iPhone 3GS at a -- at a price point? 10:58

10 A. Yes. 10:58

11 Q. And -- and what are those? 10:58

12 A. So today -- so -- so the iPhone 3GS today is 10:58

13 free. 10:58

14 Q. Uh-huh. 10:58

15 A. So the phones that we have at A- -- and 3GS is 10:58

16 only at AT&T. So we're talking about AT&T phones that 10:58

17 have a retail price of free today at AT&T. I would say 10:58

18 the Focus Flash is in that category. 10:59

19 I'm trying to picture the roadmap. In 10:59

20 some cases -- I'd say that's -- that's probably the one 10:59

21 that competes there the most directly today. 10:59

22 Q. Okay. Is the Focus Flash a smartphone? 10:59

23 A. Yes. 10:59

24 Q. Okay. Are there, in your view, other Samsung 10:59

25 phones whose sales are being impacted by the fact that 10:59

1 the iPhone -- that AT&T is offering the 3GS for free? 10:59

2 A. Yes, I would say in a lot of cases. 10:59

3 Q. And -- and which phones would those be? 10:59

4 A. So I think any number of the smartphones. So 10:59

5 that one. I think Infuse. Those would probably be the 10:59

6 two that are most directly impacted. 10:59

7 Q. Okay. Is there a Samsung phone that -- that 10:59

8 competes at a similar price point to the iPhone 4? 11:00

9 A. Yes. So the Infuse is one of those. 11:00

10 Q. Are there others? 11:00

11 A. Yeah. I would say the Galaxy S II is -- is -- 11:00

12 are right -- right around that price point now, too. 11:00

13 Q. Others? 11:00

14 A. Yeah, there's Captivate Glide, and probably 11:00

15 more in the 3GS territory would be the DoubleTime. 11:00

16 Q. Is the DoubleTime a smartphone? 11:00

17 A. Yes. 11:00

18 Q. Any -- any others at the iPhone 4 level? 11:00

19 A. No, I'd say those are the ones. 11:00

20 Q. Okay. Are there -- is there a Samsung product 11:00

21 that -- that competes at a similar price point to the 11:00

22 iPhone 4S? 11:00

23 A. Yes, the Galaxy S II Skyrocket. 11:00

24 Q. Any others? 11:00

25 A. No. I'd say that's the one that's at that 11:00

1 price point. 11:01

2 Q. Okay. 11:01

3 MR. McELHINNY: Five minutes? Why don't 11:01

4 we take a break. 11:01

5 MR. BRINKMAN: Okay. 11:01

6 THE VIDEOGRAPHER: We're off the record at 11:01

7 11:01 a.m., the end of tape 1. 11:01

8 (Recess 11:01-11:17 a.m.) 11:01

9 THE VIDEOGRAPHER: We're back on record at 11:17

10 11:17 a.m., the beginning of tape 2. 11:17

11 Q. Before we go back to Exhibit 1284, I have a 11:17

12 couple of other questions. 11:17

13 A. Actually, can I clarify one thing real quick? 11:17

14 Q. Certainly. 11:17

15 A. So when -- the products I was giving you 11:17

16 before, that only covered AT&T, so it did not cover the 11:17

17 products that are in competitive price points with 11:17

18 Sprint and with Verizon. 11:17

19 Q. Okay. Thank you. Let's do that first, then. 11:17

20 A. Okay. 11:17

21 Q. Are there any competitive products that -- at 11:17

22 other carriers that, in your view, compete against the 11:17

23 iPhone 3GS? 11:17

24 A. Yeah, I'd reiterate all of them. 11:17

25 Q. Okay. 11:17

1 A. So -- so iPhone 3GS, I would say -- iPhone 3GS 11:17

2 is in AT&T, so once you're in an AT&T -- once you're in 11:18

3 a Verizon or a Sprint shop, you can't buy 3GS. 11:18

4 Q. Right. Okay. What other -- what other 11:18

5 Samsung models compete against the iPhone 4? 11:18

6 A. So if you're asking about other products at 11:18

7 the \$99 price point -- 11:18

8 Q. Okay. 11:18

9 A. -- I would say at Verizon the Stratosphere. 11:18

10 Q. All right. 11:18

11 A. At Sprint I would say the Nexus S 4G, Epic 4G, 11:18

12 Conquer, and I think those would be the ones I would 11:18

13 say at that price point right now. 11:18

14 Q. Okay. And, again, just because you -- you may 11:18

15 not have said it, and I think you will say it, so let 11:18

16 me try it on you. If we're not specifically focusing 11:18

17 on price point, you would say that all of the Samsung 11:19

18 phones compete against the iPhone 4? 11:19

19 A. Yeah. And I think it's -- in my view, it's 11:19

20 bigger than that. 11:19

21 Q. Okay. 11:19

22 A. I mean, it's -- it's not -- I mean, when you 11:19

23 walk into any retail shop that sells phones -- let's 11:19

24 say it's a -- a Verizon store. You've got five or six 11:19

25 vendors with phones and four or five different price 11:19

1 points. I would argue that every single one of those 11:19
2 phones is competing for that consumer who's probably 11:19
3 going to leave the store with one. So it's -- it's not 11:19
4 just a Samsung portfolio competing with an Apple 11:19
5 portfolio; it's a -- it's a multivendor thing. 11:19

6 Q. Okay. What Samsung products compete against 11:19
7 the iPhone 4S at its price point? 11:19

8 A. At its price point? So I would say the Galaxy 11:19
9 S II with -- so we talked about Skyrocket, but there's 11:19
10 also a Galaxy S II at Sprint and one at T-Mobile, so -- 11:19
11 and then I would say the Galaxy Nexus at Verizon. 11:20

12 Q. Okay. Have you completed your answer on that 11:20
13 point? 11:20

14 A. I think so. 11:20

15 Q. Okay. What Samsung products compete against 11:20
16 the iPad 2? 11:20

17 A. So I would say the products we have in the 11:20
18 market today on the tablet are the 8.9-inch tablet and 11:20
19 the 10.1-inch tablet. 11:20

20 Q. Okay. And -- and you just phrased your 11:20
21 answer -- those -- you think both of those compete 11:20
22 against the iPad 2? 11:20

23 A. Yes. 11:20

24 Q. Okay. I asked you this morning a series of 11:20
25 questions about what products STA sells. 11:20

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15 REPORTER'S CERTIFICATION
16 ORAL AND VIDEOTAPED DEPOSITION OF BRIAN ROSENBERG
17 JANUARY 27, 2012

18 I, Therese J. Casterline, Registered Merit
19 Reporter, Certified Realtime Reporter, Certified
20 Shorthand Reporter in and for the State of Texas, do
21 hereby certify that there came before me on the 27th
22 day of January, 2012, at the offices of Regus, located
23 at 4514 Cole Avenue, Suite 600, Dallas, Texas, the
24 following named person, to wit: BRIAN ROSENBERG, who
25 was duly sworn to testify the truth, the whole truth,

1 and nothing but the truth of knowledge touching and
2 concerning the matters in controversy in this cause;
3 and that he was thereupon examined upon his oath and
4 his examination reduced to typewriting under my
5 supervision; that the deposition is a true record of
6 the testimony given by the witness, that review by the
7 witness was requested on the record, and signature of
8 the witness is to be signed before any notary public.

9 I further certify that I am neither attorney
10 nor counsel for nor related to any of the parties to
11 the action in which this deposition is taken, and
12 further that I am not a relative or employee of any
13 attorney or counsel employed by the parties hereto, or
14 financially interested in this action.

15 Given under my hand on this the 27th day of
16 January, 2012.

17
18
19 _____
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