

Exhibit 41

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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 13, 2012
VS.)	
)	VOLUME 7
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 1989-2320
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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

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A P P E A R A N C E S :

FOR PLAINTIFF MORRISON & FOERSTER
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TIMOTHY SHEPPARD

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TERRY MUSIKA

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DEFENDANT'S**BENJAMIN BEDERSON**

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ADAM BOGUE

DIRECT EXAM BY MR. JOHNSON P. 2274
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1 PROPERTY, SHOULD GO BACK TO APPLE, AND THAT'S WHY
2 THAT MONEY SLIDES BACK ACROSS.

3 Q OKAY. FOR PURPOSES OF FORMING YOUR OPINIONS
4 IN THIS CASE, HAVE YOU DONE ANYTHING TO EVALUATE
5 SAMSUNG'S ACCUSED SMARTPHONE SALES AND SAMSUNG'S
6 ACCUSED TABLET SALES?

7 A I HAVE.

8 Q OKAY. CAN WE SEE SLIDE 34B.6.

9 WHAT WAS YOUR OVERALL CONCLUSION ABOUT
10 THE VOLUME OF SAMSUNG'S ACCUSED SMARTPHONE AND
11 TABLET SALES AND THE REVENUES ASSOCIATED WITH THAT?

12 A WELL, THE DAMAGE NUMBERS I'VE JUST GIVEN YOU
13 ARE VERY LARGE, AND THEY'RE VERY LARGE BECAUSE
14 WE'RE DEALING WITH A VERY LARGE QUANTITY OF SALES.

15 WHAT'S DEPICTED HERE IS THAT THE
16 COMBINATION OF SMARTPHONES AND TABLETS, OVER THE
17 TWO YEARS THAT'S AT ISSUE IN THIS CASE, SAMSUNG HAS
18 SOLD 22.7 MILLION INDIVIDUAL SMARTPHONES AND/OR
19 TABLETS.

20 THE AMOUNT THAT'S ASSOCIATED WITH THOSE
21 SALES IS \$8,160,000,000. THAT'S SAMSUNG'S NUMBER.
22 THAT'S JUST -- THAT'S THAT MONEY THAT SLID ACROSS.
23 IT WAS EQUAL TO \$8,160,000,000.

24 Q WHERE DID YOU GET THE INFORMATION THAT YOU
25 USED TO DERIVE THE 22 MILLION INFRINGING SALES AND

1 THE \$8 BILLION OF REVENUE?

2 A THAT'S AN IMPORTANT POINT. THESE AREN'T MY
3 NUMBERS. THESE ARE SAMSUNG'S NUMBERS. THIS IS
4 ACTUALLY TAKEN DIRECTLY FROM SAMSUNG'S RECORDS.

5 Q OKAY. COULD WE LOOK AT JOINT EXHIBIT 1500,
6 PLEASE. JUST LOOK AT THAT IN YOUR BINDER FOR A
7 MOMENT, MR. MUSIKA.

8 DO YOU HAVE -- IT SHOULD BE RIGHT AT THE
9 FRONT.

10 A I'VE GOT IT.

11 Q OKAY. WHAT IS JOINT EXHIBIT 1500?

12 A JOINT EXHIBIT 1500 IS AN EXHIBIT THAT HAS BEEN
13 JOINTLY SUBMITTED BY BOTH APPLE AND SAMSUNG AND
14 AGREED TO BY BOTH PARTIES, AND IT LISTS THOSE TOTAL
15 8 BILLION OF SALES --

16 Q LET ME STOP YOU FOR A MOMENT BEFORE YOU TELL
17 US THE NUMBERS.

18 YOUR HONOR, WE WOULD MOVE THE ADMISSION
19 OF JOINT EXHIBIT 1500.

20 THE COURT: ANY OBJECTION?

21 MR. PRICE: NO OBJECTION.

22 THE COURT: OKAY. IT'S ADMITTED.

23 (WHEREUPON, JOINT EXHIBIT NUMBER 1500,
24 HAVING BEEN PREVIOUSLY MARKED FOR
25 IDENTIFICATION, WAS ADMITTED INTO

1 EVIDENCE.)

2 MS. KREVANS: COULD WE SHOW THE JURY,
3 MR. LEE, JOINT EXHIBIT 1500.

4 Q CAN YOU -- IN EXHIBIT 1500, CAN YOU SHOW US
5 WHERE YOU GOT THE 22 MILLION PHONE AND TABLET SALES
6 AND THE 8 BILLION REVENUE NUMBERS.

7 A RIGHT. I'D LIKE TO APOLOGIZE, FIRST, FOR THE
8 SMALL NUMBERS; AND SECONDLY, I'M GOING TO BE
9 ABBREVIATING A LOT OF NUMBERS FROM TIME TO TIME, SO
10 THAT COULD GET A LITTLE CONFUSING. I WANT TO MAKE
11 SURE THAT I TRY TO POINT OUT WHEN I'M SAYING 2.4
12 BILLION OR MILLION SO I DON'T CONFUSE THE COURT.

13 SO YOUR PENDING QUESTION, IF WE WOULD GO
14 DOWN TO THE -- IN MOST SCHEDULES, IT ADDS ACROSS.
15 THESE ARE CALENDAR QUARTERS, AND THEN THAT FINAL
16 COLUMN ON THE RIGHT TOTALS DOWN.

17 SO THIS IS THE PORTION OF THE SALES THAT
18 RELATE TO THE SMARTPHONES, AND IF WE GO TO THE
19 BOTTOM THERE, SO THIS IS -- THIS IS A TRUNCATED --
20 OR IT'S A NUMBER THAT'S CUT OFF, SO THAT 21 IS
21 21,251,000 SMARTPHONE UNITS, AND THE NUMBER BELOW
22 IT WITH THE DOLLAR SIGN IS 7,516,000,000.

23 AND TO GET BACK TO OUR 22 MILLION AND OUR
24 \$8 BILLION NUMBER, WE HAVE TO ADD PAGE 2, WHICH IS
25 THE TABLETS.

1 WE GO TO THE SAME SPOT, AND THERE'S THE
2 1,438 TABLETS, WE ADD THAT TO THE SMARTPHONE TO GET
3 TO THE \$22 MILLION -- OR 22 MILLION UNITS, AND
4 THERE'S 644,000, WHICH WE ADD THAT BACK TO THE
5 SMARTPHONES, WE GET TO THE \$8.1 BILLION.

6 Q NOW, MR. MUSIKA, YOU SAID 644,000, THAT NUMBER
7 THERE IS -- BECAUSE IT'S MISSING ZEROS, IT'S
8 ACTUALLY WHAT?

9 A MILLIONS. SORRY. I DID IT MYSELF. I
10 APOLOGIZE.

11 Q ALL RIGHT. DOES THIS REPRESENT SALES JUST IN
12 THE UNITED STATES?

13 A SALES OF TABLETS AND SMARTPHONES ONLY IN THE
14 UNITED STATES BY THE DEFENDANT SAMSUNG.

15 Q OKAY. HAVE YOU LOOKED AT INFORMATION ABOUT
16 HOW SAMSUNG'S SALES OF THE ACCUSED PRODUCTS IN THIS
17 CASE -- LET ME START OVER.

18 HAVE YOU LOOKED AT INFORMATION ABOUT HOW
19 SAMSUNG SALES OF SMARTPHONES AND TABLETS BEFORE THE
20 INTRODUCTION OF THE ACCUSED PRODUCTS IN THIS CASE
21 COMPARED TO SAMSUNG SALES OF SMARTPHONES AND
22 TABLETS AFTER THE INTRODUCTION OF THE ACCUSED
23 PRODUCTS?

24 A YES.

25 Q OKAY. COULD WE SEE SLIDE 34B.9. WHAT

1 INFORMATION IS SHOWN ON 34B.9, MR. MUSIKA?

2 A THIS IS A GRAPH, AND ON THE VERTICAL AXIS,
3 IT'S THE MARKET SHARE PERCENT. SO IT'S HOW MUCH OF
4 THE OVERALL SMARTPHONE MARKET DID SAMSUNG HAVE OVER
5 TIME, WHICH IS OUR HORIZONTAL X AXIS THERE.

6 AND THE SLIDE IS DIVIDED UP, AS YOU JUST
7 INDICATED, INTO TWO SEGMENTS. ON THE LEFT-HAND
8 SIDE WITH THE BLUE IS THE TIME PERIOD FOR SAMSUNG
9 PRIOR TO THE INTRODUCTION OF THEIR FIRST ACCUSED
10 PHONE, AND WHAT WE CAN SEE THEN WITH THE
11 INTRODUCTION OF THE FIRST ACCUSED PHONE, THE RED
12 LINE, ON THE RIGHT-HAND SIDE IS THE PERIOD OF TIME
13 AFTERWARDS.

14 Q AND HOW DO THE TWO PERIODS, THAT IS, BEFORE
15 AND AFTER, COMPARE TO ONE ANOTHER?

16 A YES. IT'S A RATHER DRAMATIC DEMONSTRATION OF
17 SAMSUNG WAS LOSING MARKET SHARE DURING THE PERIOD
18 PRIOR TO 2010, APPROXIMATELY JUNE OF 2010 WHEN THEY
19 INTRODUCED THE FIRST ACCUSED PHONE.

20 AFTER THEY INTRODUCED THE FIRST ACCUSED
21 PHONE, SAMSUNG'S MARKET SHARE TOOK AN ABRUPT UPWARD
22 SWING AND HAS CONTINUED TODAY TO ADVANCE
23 DRAMATICALLY IN INCREASES IN MARKET SHARE.

24 Q WHERE DID THE INFORMATION THAT FORMS THIS
25 CHART COME FROM?

1 A ONCE AGAIN, THIS ISN'T MY INFORMATION. THIS
2 IS TAKEN NOT FROM APPLE OR FROM SAMSUNG IN THIS
3 CASE. THIS IS TAKEN -- YOU CAN SEE PERHAPS RIGHT
4 DOWN THERE ON THE BOTTOM, SOURCE IDC WORLDWIDE
5 QUARTERLY.

6 IDC IS AN INDEPENDENT MARKETING
7 ORGANIZATION THAT BOTH APPLE AND SAMSUNG USE TO
8 HELP THEM IN DOING THEIR OWN MARKET RESEARCH. SO
9 THIS IS AN INDEPENDENT STUDY AND ANALYSIS THAT WAS
10 DONE BY IDC.

11 Q OKAY. LET'S TURN TO THE SPECIFIC DAMAGES
12 REMEDIES THAT YOU EVALUATED IN THIS CASE.

13 WHAT KINDS OF REMEDIES DID YOU APPLY WITH
14 RESPECT TO THE VARIOUS INTELLECTUAL PROPERTY RIGHTS
15 THAT APPLE HAS ASSERTED IN THE CASE?

16 A I CONSIDERED THREE DIFFERENT FORMS OF REMEDY
17 IN TOTAL AS IT RELATES TO THE DESIGN, AND THAT
18 WOULD BE THE DESIGN PATENT AND THE TRADE DRESS. I
19 CONSIDERED TWO FORMS OF DAMAGE.

20 Q WHAT WERE THOSE TWO FORMS?

21 A ONE, ONE IS CALLED SAMSUNG'S PROFITS, AND THE
22 OTHER IS CALLED APPLE'S LOST PROFITS.

23 TO PUT IT IN REAL STRAIGHT TERMS, IT'S
24 EITHER WHAT SAMSUNG HAS GAINED OR IT'S WHAT APPLE
25 HAS LOST.

1 IN THE CASE OF SAMSUNG'S GAIN, THAT'S
2 SOMETIMES REFERRED TO AS AN UNJUST ENRICHMENT
3 BECAUSE THE PRESUMPTION IS THEY'VE MADE THAT GAIN,
4 THAT MONEY HAS SLID ACROSS THE SLIDE BECAUSE THEY
5 VIOLATED APPLE'S INTELLECTUAL PROPERTY.

6 Q OKAY. AND REMIND US AGAIN, WHICH TYPES OF
7 INTELLECTUAL PROPERTY RIGHTS DID YOU USE THIS KIND
8 OF ANALYSIS, THE SAMSUNG PROFIT OR APPLE'S LOST
9 PROFITS FOR?

10 A I USED THEM BOTH, AND WE'RE GOING TO SEE THE
11 SITUATION -- THIS ISN'T DOUBLE COUNTING. I USED
12 THEM BOTH FOR THE DESIGN PATENTS AND TRADE DRESS.

13 Q OKAY. WHAT KIND OF REMEDY DID YOU LOOK AT FOR
14 VIOLATIONS OF APPLE'S UTILITY PATENT RIGHTS?

15 A DIFFERENT COMBINATION THERE. LOST PROFITS
16 AGAIN, WHICH I'VE ALREADY DESCRIBED, THAT'S APPLE'S
17 LOSS.

18 BUT HERE I'VE CONSIDERED IN THE
19 ALTERNATIVE WHAT'S CALLED A REASONABLE ROYALTY.

20 Q OKAY. HOW DID YOU -- WHAT WAS YOUR BASIS FOR
21 APPLYING A DIFFERENT KIND OF REMEDY FOR SOME KINDS
22 OF PATENT RIGHTS THAN OTHERS?

23 A IT'S MY UNDERSTANDING OF WHAT IS THE ACCEPTED
24 DAMAGE METHODOLOGY TO BE USED, DEPENDING ON THE
25 TYPE OF INTELLECTUAL PROPERTY. SO THAT'S WHY WE

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CERTIFICATE OF REPORTER

I, THE UNDERSIGNED OFFICIAL COURT
REPORTER OF THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH
FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY
CERTIFY:

THAT THE FOREGOING TRANSCRIPT,
CERTIFICATE INCLUSIVE, CONSTITUTES A TRUE, FULL AND
CORRECT TRANSCRIPT OF MY SHORTHAND NOTES TAKEN AS
SUCH OFFICIAL COURT REPORTER OF THE PROCEEDINGS
HEREINBEFORE ENTITLED AND REDUCED BY COMPUTER-AIDED
TRANSCRIPTION TO THE BEST OF MY ABILITY.

/S/

LEE-ANNE SHORTRIDGE, CSR, CRR
CERTIFICATE NUMBER 9595

DATED: AUGUST 14, 2012