

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

APPLE, INC., a California corporation,) Case No.: 11-CV-01846-LHK
Plaintiff,)
v.) ORDER ON APPLE'S OBJECTIONS TO
SAMSUNG ELECTRONICS CO., LTD., A) TRIAL EXHIBITS OF CHRISTOPHER
Korean corporation; SAMSUNG) STRINGER
ELECTRONICS AMERICA, INC., a New York)
corporation; SAMSUNG)
TELECOMMUNICATIONS AMERICA, LLC,)
a Delaware limited liability company,)
Defendants.)

I. APPLE'S OBJECTIONS TO SAMSUNG'S PROPOSED CROSS EXAMINATION EXHIBITS FOR CHRISTOPHER STRINGER

Apple has filed objections to many of Samsung's exhibits to be used during the cross examination of Christopher Stringer. After reviewing the parties' briefing, considering the record in the case, and balancing the considerations set forth in Federal Rule of Evidence 403, the Court rules on Apple's objections as follows:

SAMSUNG EXHIBIT NUMBER	COURT'S RULING ON OBJECTION
DX0504	Sustained. Judge Grewal's order excluded the D'037 based on untimely disclosed invalidity theories. This document cannot be admitted to impeach Christopher Stringer without being used for the purposes which were barred by Judge Grewal.

1	DX0511	Overruled. The Court will reserve ruling until the Court learns how Samsung intends to use the document. The Federal Circuit found this reference was not anticipatory, but did not rule on whether this reference can be a primary reference for obviousness.
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3	DX0562	Overruled. The Howarth e-mail and the photo were not stricken by Judge Grewal and are admissible to show functionality.
4	DX0623	Sustained. Judge Grewal struck Samsung's theory of invalidity based on the Sony style designs, as well as Samsung's theory regarding Sony's influence on the Apple design. This document cannot be admitted to impeach Christopher Stringer without being used for the purposes which were barred by Judge Grewal.
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7	DX0624	Sustained. Samsung has not established that it disclosed DX624 in a timely manner. The only date provided is the April 25, 2012 Deposition of Christopher Mount.
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9	DX0628	Sustained. Samsung has not established that it disclosed DX628 in a timely manner. The only date provided is the April 27, 2012 Deposition of Russell Winer.
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11	DX0649	Sustained. Judge Grewal struck Samsung's theory of invalidity, as well as its theory regarding Sony's influence of the Apple design. This document cannot be admitted to impeach Christopher Stringer without being used for the purposes which were barred by Judge Grewal.
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13	DX0678	Sustained. Judge Grewal's order excluded the D'678 based on untimely disclosed invalidity theories. The '504 Application cannot be admitted to impeach Christopher Stringer without being used for purposes which were barred by Judge Grewal.
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15	DX0690	Sustained. Judge Grewal struck Samsung's theory of invalidity, as well as its theory regarding Sony's influence of the Apple design. This document cannot be used to impeach Christopher Stringer without being used for the purposes which were barred by Judge Grewal.
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18	DX0691	Overruled. Samsung may be able to lay a foundation during cross-examination. This is an admission of a party opponent.
19	DX0708	Overruled. Samsung may be able to lay a foundation during cross-examination.
20	DX0740	Overruled. Judge Grewal's order excluded the 035 prototype to establish invalidity of the D'677 patent because the theory of invalidity was not timely disclosed. The 035 proto may be used for impeachment purposes and non-infringement purposes. However, it is only admissible for impeachment and non-infringement and may not be used to argue invalidity.
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23	DX0741	Overruled for the same reasons with respect to the DX0740.
24	DX0743	Sustained. This is a subsequently filed design patent application. This document was precluded pursuant to Apple's motion in limine #2. Moreover, this document cannot be used without likely causing undue confusion for the jury and wasting time.
25		
26	JX1040	Overruled. This exhibit is the D'889 Patent and is entirely appropriate for use on cross-examination of one of the named inventors. However, pursuant to Judge Grewal's Order, this evidence may not be used to establish invalidity of the D'677 Patent. Apple shall prepare a limiting instruction.
27		
28	APL-ITC796-	Sustained. This is a subsequently filed design patent application. This

00000360	document was precluded pursuant to Apple's motion in limine #2. Moreover, this document cannot be used without likely causing undue confusion for the jury and wasting time.
APL-ITC796-900000442	The Court will reserve ruling on this exhibit until the Court sees the exhibit.
Apple's Discovery Responses	Overruled. Apple's interrogatory responses are admissible for impeachment purposes.
ITC 796 Witness Statement of Chris Stringer	Overruled. Mr. Stringer's prior sworn testimony is admissible for impeachment purposes.
ITC Day 1 Hearing Transcript	Overruled. Mr. Stringer's prior sworn testimony is admissible for impeachment purposes.
ITC Exhibit RX-1894C	Sustained. Judge Grewal struck Samsung's theory of invalidity, as well as its theory regarding Sony's influence on the Apple design. This document cannot be used to impeach Christopher Stringer without being used for the purposes which were barred by Judge Grewal.
Depositions of Christopher Stringer	Overruled. Mr. Stringer's prior sworn testimony is admissible for impeachment purposes.
Ex. 34 to the 2/15/2012 ITC Dep. of Christopher Stringer	Overruled. This evidence is relevant to infringement and invalidity and may be used for impeachment purposes.
5/2/2012 Deposition of Shin Nishibori	Sustained in part, overruled in part. Judge Grewal struck Samsung's theory of invalidity based on the Sony style designs, as well as Samsung's theory regarding Sony's influence of the Apple design. Mr. Nishibori's testimony cannot be admitted to impeach Christopher Stringer without being used for the purposes which were barred by Judge Grewal. The only exception to this ruling is to the extent that Mr. Nishibori's testimony may be used to prove functionality or rebut allegations of non-functionality of the design patents.

IT IS SO ORDERED.

Dated: July 30, 2012



LUCY H. KOH
United States District Judge