

# Exhibit A

# Forbes



**Connie Guglielmo**, Forbes Staff  
I cover the people and technology driving Silicon Valley

TECH | 7/31/2012 @ 9:19PM | 9,652 views

## Samsung, After 'Begging' to Get Sony Into Apple Patent Trial, Flouts Judge And Releases 'Excluded Evidence' Anyway (Updated)

*Updates to add comments from Samsung's lawyer John Quinn filed to the court on Aug. 1 saying "excluded evidence" had been previously made public and that the company didn't violate any legal or ethical standards.*

Oh yes they did.

After 'begging' the court to allow evidence it said would show that Apple's iPhone was inspired by designs from Sony, Samsung Electronics, rebuffed by the judge in its high-profile patent dispute with Apple, decided to make the exhibits public anyway today.

Apple's lawyer Harold McElhinny called the move the most blatant example of contempt of court it had ever seen and an intentional effort to "pollute the jury." U.S. District Court Judge Lucy Koh told Samsung she wanted answers about who drafted the statement sent to reporters with the documents, which members of Samsung's legal team authorized the distribution of the exhibits and what role Samsung lawyer John Quinn of Quinn Emanuel Urquhart & Sullivan played.

As for Samsung, it had its PR agency send two PowerPoint presentations, containing a total of nine pages, to reporters with this statement about what it called the "excluded evidence."

“The Judge’s exclusion of evidence on independent creation meant that even though Apple was allowed to inaccurately argue to the jury that the F700 was an iPhone copy, Samsung was not allowed to tell the jury the full story and show the pre-iPhone design for that and other phones that were in development at Samsung in 2006, before the iPhone. The excluded evidence would have established beyond doubt that Samsung did not copy the iPhone design. Fundamental fairness requires that the jury decide the case based on all the evidence.

The files contains a snippet of a deposition by former Apple industrial designer Shin Nishibori who said that Apple’s design chief Jonathan Ive told him to create a phone inspired by Sony’s designs. “If Sony were to make an iPhone, what would it be like?” Nishibori then goes on to comment on some designs for an Apple phone that he says were created “based on my own thoughts or my understanding of Sony-like designs.”

Quinn, in a declaration to the court on Aug. 1, said the company didn’t release a “general press release” and that there was no court order preventing the company from sending reporters information about exhibits that he noted had already been made public in court documents prior to this week’s trial. Therefore, Samsung’s distribution of the documents didn’t violate any “legal or ethical standards,” he said.

“Samsung’s brief statement and transmission of public materials in response to press inquiries was not motivated by or designed to influence jurors,” Quinn said in a five-page declaration. “All of the material in the excluded trial demonstrative exhibits at issue was previously in the public record. The substance of these trial demonstrative exhibits was included in Samsung’s trial brief, in other public filings (including filings by Apple) and reports, and were specifically addressed in open court with the media in attendance.”

He also took the time to jab at Apple — and at the media for supposedly buying into Apple’s argument that Samsung had copied the designs of its iPhone and iPad in their early coverage of the dispute. “The media has been reporting in salacious detail Apple’s allegations of Samsung’s supposed ‘copying,’ causing injury to Samsung’s public reputation as a company. Moreover, Apple’s baseless and public assertions that Samsung’s transmission to the media of public information constituted contempt of court and that these actions were intended to pollute the jury were themselves glaring falsehoods, highlighting why Samsung has every right to defend itself in the public domain from unfair and malicious attacks.”

Apple and Samsung each delivered 90-minute opening statements on July 31. Apple, which sued Samsung in April 2011, says the company stole its designs for the iPhone and iPad and is asking for \$2.5 billion in damages. Samsung says it, like many other tech companies, were “inspired” by Apple’s products and that it did not copy the designs. Samsung is seeking 2.4 percent of every Apple iPhone and iPad sold, Apple said in its opening statement.

Samsung’s press move came just hours after Koh rejected repeated requests by Quinn to make the information part of the four-week trial, which got underway today (jury selection was July 30).

Quinn kicked off the day with an impassioned plea to allow the evidence, saying he had never begged a court for anything throughout a more than 30-year legal career but was begging now. Koh was unmoved, saying the court had reviewed the issue at least three times and denied Samsung's request. That prompted an unexpected outburst from Quinn of Quinn Emanuel Urquhart & Sullivan. "What's the point of having a trial?...They want to create a completely false impression that we came up with this design after January 2007."

Quinn kept at it, prompting a visibly annoyed Koh to issue a warning. "Don't make me sanction you," she said. "I want you to sit down please."

The [trial](#) resumes in federal court in San Jose, California, on Aug. 3. The case is Apple Inc. v. Samsung Electronics Co. Ltd., 11- cv-01846, U.S. District Court, Northern District of California (San Jose).

---

**This article is available online at:**

<http://www.forbes.com/sites/connieguglielmo/2012/07/31/samsung-after-begging-to-get-sony-into-apple-patent-trial-flouts-judge-and-releases-excluded-evidence-anyway/>