

Exhibit 3

1 this exhibit? 05:05

2 A. I understand what is depicted in the 05:05

3 exhibit. I've not seen this device before. 05:05

4 Q. What is it? 05:05

5 A. I understand it's a model of a tablet 05:05

6 computer produced by Apple. 05:05

7 Q. And what's that understanding based 05:05

8 on? 05:05

9 A. Based partially on review of the '889 05:06

10 history, but mostly upon listening and 05:06

11 overhearing conversations between counsel re: 05:06

12 this model. 05:06

13 Q. Prior to the start of your deposition 05:06

14 sessions, did you have any knowledge or 05:06

15 information as to this tablet model that's 05:06

16 depicted in Exhibit 3527? 05:06

17 MR. BARQUIST: Objection, vague and 05:06

18 ambiguous. 05:06

19 A. I knew that there were photographs of 05:06

20 a tablet model that had been excluded from the 05:06

21 design application for the '889. And that was 05:06

22 what I knew at the time up until beginning of 05:06

23 deposition. 05:06

24 Q. Anything else? 05:06

25 A. No. 05:06

1 Q. Is the '035 mockup that's depicted in 05:07
2 here an embodiment of the '889 design patent? 05:07

3 MR. BARQUIST: Objection, lacks 05:07
4 foundation. 05:07

5 A. I don't know. I've not had an 05:07
6 opportunity to analyze these photographs or the 05:07
7 model they represent. 05:07

8 Q. You had an opportunity to analyze the 05:07
9 '035 mockup; correct? 05:07

10 A. No. I have never seen it. 05:07

11 Q. You understand the '035 mockup is in 05:07
12 Apple's possession; right? 05:07

13 A. I understand from hearing that in 05:07
14 conversation between counsel, yes. 05:07

15 Q. You understand that if you had asked 05:07
16 to see the '035 mockup which was depicted in 05:07
17 the prosecution history for the '889 design 05:07
18 patent, that that was something that Apple 05:07
19 could secure for you; correct? 05:07

20 MR. BARQUIST: Objection, calls for 05:07
21 speculation. 05:07

22 A. I was under the impression that it 05:07
23 was excluded from being part of the design 05:08
24 patent that was granted and, therefore, didn't 05:08
25 see it as necessary to explore further. 05:08

1 Q. Isn't it true that even though you 05:08
2 had an opportunity to review this model that 05:08
3 Apple created, you chose not to because you 05:08
4 decided it was not relevant? Right? 05:08

5 MR. BARQUIST: Objection, lacks 05:08
6 foundation. 05:08

7 A. That's not true. 05:08

8 Q. So please tell me everything you did 05:08
9 in order to try and obtain the physical mockup 05:08
10 that was depicted in those photographs in the 05:08
11 file history of the '889 design patent. 05:08

12 MR. BARQUIST: Objection, lacks 05:08
13 foundation. 05:08

14 A. Would you repeat the question, 05:08
15 please? 05:08

16 Q. Please tell us everything that you 05:08
17 did, all the steps that you took, in order to 05:08
18 try and get the physical mockup of the tablet 05:08
19 computer that was depicted in the file wrapper 05:08
20 or prosecution history for the '889 design 05:09
21 patent. 05:09

22 MR. BARQUIST: Objection, lacks 05:09
23 foundation. 05:09

24 A. I did nothing to do that. 05:09

25 Q. Directing your attention to the page 05:09

1 ending with 5885 of Exhibit 3527, you'll see 05:09

2 that there's a gap area that runs the perimeter 05:09

3 of the front face that's depicted there -- 05:09

4 MR. BARQUIST: Objection. 05:09

5 Q. -- a portion of the front face. 05:09

6 MR. BARQUIST: Objection, vague and 05:09

7 ambiguous, lacks foundation. 05:09

8 A. I have not -- neither analyzed this 05:09

9 model nor these photographs in this detail. 05:09

10 However, I'd be glad to respond to your 05:09

11 question as to what I see. And I do see a gap 05:09

12 between the edge of the screen and what appears 05:10

13 to be the rim of the case. 05:10

14 Q. Is it your understanding that an 05:10

15 embodiment of a tablet design that has a gap or 05:10

16 opening that runs the perimeter of the front 05:10

17 face between the display screen area and the 05:10

18 housing is the same or substantially the same 05:10

19 as the design shown in the '889 design patent? 05:10

20 MR. BARQUIST: Objection, vague and 05:10

21 ambiguous, lacks foundation, incomplete 05:10

22 hypothetical. 05:10

23 A. That is not how I interpret the '889 05:10

24 design patent. 05:10

25 Q. Do you understand and interpret the 05:10

1 '889 design patent to show a front surface that 05:10
2 has no gap on the front face between the 05:10
3 display portion and that mask area and the 05:11
4 housing? Right? 05:11

5 MR. BARQUIST: Objection, vague and 05:11
6 ambiguous. 05:11

7 A. I believe I can rephrase it and still 05:11
8 be within your question. I believe that the 05:11
9 '889 design patent depicts a clear continuous 05:11
10 surface to the edge of the tablet without a gap 05:11
11 around the edge. 05:11

12 Q. If you could please pull out the '889 05:11
13 design patent. Directing your attention to 05:11
14 figure 1 of the '889 design patent, you'll see 05:12
15 that around a portion of the perimeter of the 05:12
16 front face of the device, there's a thicker 05:12
17 line that runs on part of it. Do you see that? 05:12

18 A. I do. Do you mean on the very 05:12
19 exterior perimeter? 05:12

20 Q. Right. 05:12

21 A. Yes. 05:12

22 Q. Do you have an understanding as to 05:12
23 what that thicker line depicts? 05:12

24 A. It's my understanding that it depicts 05:12
25 the outer portion of that edge that is the 05:12

1 circumference of the screen. 05:12

2 Q. Is that edge of the housing? Is it 05:12

3 of the mask area? Or does it depict an 05:12

4 opening? 05:12

5 A. In my view, it doesn't depict an 05:12

6 opening. 05:12

7 Q. Does it depict the edge of the 05:12

8 housing or the edge of the mask area? 05:12

9 MR. BARQUIST: Objection, vague and 05:12

10 ambiguous. 05:12

11 A. Which line are you referring to now? 05:12

12 Q. This darker, thicker line that we 05:12

13 were talking about in figure 1. 05:12

14 A. I believe it represents the external 05:12

15 perimeter of the rim of the product. 05:13

16 Q. And is the same true of the darker, 05:13

17 thicker line that runs around part of the 05:13

18 perimeter of the front face of the device on 05:13

19 figure 9? 05:13

20 A. My interpretation of the illustration 05:13

21 on figure 9 is representing an edge that has 05:13

22 thickness. 05:13

23 Q. Which edge? 05:13

24 A. The edge to which the front 05:13

25 transparent surface abuts. 05:13

1 directly, but it could have been counsel's 06:15
2 idea. 06:15

3 Q. I'm asking, What's your best 06:15
4 recollection? 06:15

5 A. I don't recall. 06:15

6 MR. BARQUIST: I think we'll quit 06:15
7 at this point. We're over 7 hours. I 06:15
8 let you finish this line of questioning. 06:15

9 THE REPORTER: Off the record, 06:15
10 then? 06:15

11 MR. BARQUIST: Yes. 06:15

12 MR. ZELLER: Yes. 06:15

13 THE VIDEOGRAPHER: This is the end 06:15
14 of the deposition of Mr. Bressler. Off 06:15
15 the record at 6:15. And it consists of 06:15
16 7 tapes. 06:15

17 (Deposition adjourned at 6:15 p.m.) 06:15

18 06:15

19 _____ 06:15

_____ 06:15

20 PETER BRESSLER 06:15

21 SUBSCRIBED AND SWORN TO BEFORE ME 06:15

22 THIS _____ DAY OF _____, 2012. 06:15

23 _____ 06:15

24 (Notary Public) 06:15

25 My Commission expires: _____ 06:15

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C E R T I F I C A T E

DISTRICT OF COLUMBIA:

I, MARY ANN PAYONK, CRR-RDR, CBC, CCP, CLR, shorthand reporter, do hereby certify:

That the witness whose deposition is hereinbefore set forth was duly sworn, and that such deposition is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of April, 2012.

MARY ANN PAYONK, CRR-RDR, CBC, CCP, CLR
Shorthand Reporter