

# Exhibit 44

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

5 APPLE INC., a California  
6 corporation,

7 Plaintiff,

8 vs.

CASE NO. 11-CV-01846-LHK

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

13 Defendants.  
14 \_\_\_\_\_/

15 C O N F I D E N T I A L  
16 A T T O R N E Y S ' E Y E S O N L Y  
17 O U T S I D E C O U N S E L  
18

19 VIDEOTAPED DEPOSITION OF RICHARD J. LUTTON, JR.  
20 REDWOOD SHORES, CALIFORNIA  
21 TUESDAY, JULY 26, 2011  
22

23 BY: ANDREA M. IGNACIO HOWARD, CSR, RPR, CCRR, CLR  
24 CSR LICENSE NO. 9830  
25 JOB NO. 40668

1 MR. MONACH: Andrew Monach, from Morrison &  
2 Foerster, representing Apple and the witness.

3 MR. REINSTEDT: Dane Reinstedt from Quinn  
4 Emanuel.

5 MR. ZELLER: Mike Zeller for Samsung, also  
6 Quinn Emanuel.

7 MS. RONEY: Katie Roney, from Morrison &  
8 Foerster, for Apple.

9 MS. WHEELER: Amy Wheeler, from Apple.

10 MR. OLSON: Erik Olson, from Quinn Emanuel,  
11 for Samsung.

12

13 RICHARD J. LUTTON, JR.,

14 having been sworn as a witness,

15 by the Certified Shorthand Reporter,

16 testified as follows:

17

18 EXAMINATION BY MR. JOHNSON

19 MR. JOHNSON: Q. Good morning, Mr. Lutton.

20 A Hi.

21 Q About how many times have you had your  
22 deposition taken?

23 A Approximately ten.

24 Q Is there any reason that would prohibit you  
25 from being able to offer truthful testimony today?

1 question. I'm going to break it down into pieces.

2 Q So what -- what kinds of harm are caused to  
3 Apple, in Apple's view, by the sales of infringing  
4 Samsung products?

5 A Okay. So -- so the first is lost sales and  
6 exactly how many lost sales and exactly the cost of  
7 those lost sales might be very difficult to determine  
8 after the fact.

9 Secondly, there's another form of harm, which  
10 is a harm to the iOS ecosystem generally, that the  
11 eco- -- the health of the ecosystem depends on market  
12 share, maybe growing market share; and if Apple is  
13 losing market share of momentum or market share  
14 generally to Samsung, then it's losing not just the  
15 incremental sales and the revenue associated with  
16 them, but also the impact on the ecosystem generally,  
17 which could be application developer mind share and  
18 attention.

19 It could be other forms of services that are  
20 provided into the ecosystem, either by Apple or by  
21 third parties, and those could have impacts not only  
22 on the vitality of Apple's iOS platform, but also even  
23 on revenue that Apple makes in areas like iTunes and  
24 the App store.

25 Q What do you mean by "the ecosystem"?

## 1 CERTIFICATE OF REPORTER

2  
3  
4  
5 I, ANDREA M. IGNACIO HOWARD, hereby certify  
6 that the witness in the foregoing deposition was by me  
7 duly sworn to tell the truth, the whole truth, and  
8 nothing but the truth in the within-entitled cause;  
9

10 That said deposition was taken in shorthand  
11 by me, a Certified Shorthand Reporter of the State of  
12 California, and was thereafter transcribed into  
13 typewriting, and that the foregoing transcript  
14 constitutes a full, true and correct report of said  
15 deposition and of the proceedings which took place;  
16

17 That I am a disinterested person to the said  
18 action.  
19

20 IN WITNESS WHEREOF, I have hereunto set my  
21 hand this 27th day of July, 2011.  
22

23 \_\_\_\_\_  
24 ANDREA M. IGNACIO HOWARD, RPR, CCRR, CLR, CSR No. 9830  
25