

Exhibit 45

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

4 APPLE INC., a California
corporation,

5
6 Plaintiff,

7 vs.

Case No. 11-CV-01846-LHK

8 SAMSUNG ELECTRONICS CO., LTD.,
a Korean business entity;

9 SAMSUNG ELECTRONICS AMERICA,
INC., a New York corporation;

10 SAMSUNG TELECOMMUNICATIONS
AMERICA, LLC, a Delaware
11 limited liability company,

12 Defendants.

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14
15 CONFIDENTIAL
16 ATTORNEYS' EYES ONLY
17 OUTSIDE COUNSEL

18 VIDEOTAPED DEPOSITION OF MICHAEL J. WAGNER, CPA
San Francisco, California
19 Wednesday, September 14, 2011
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22

23 Reported by:

24 LORRIE L. MARCHANT, CSR No. 10523, RPR, CRR, CCRR, CLR
25 JOB NO. 41962

P R O C E E D I N G S

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2 THE VIDEOGRAPHER: Good morning. This is the
3 start of the disk labeled No. 1 of the videotaped
4 deposition of Michael Wagner in the matter Apple
5 Incorporated versus Samsung Electronics Company,
6 Limited, in the Court -- U.S. District Court, Northern
7 District of California, San Jose Division. Case No.
8 11-CV-01846-LHK.

9 This deposition is being held at 425 Market
10 Street, San Francisco, California, on September 14th,
11 2011, at approximately 9:33 a.m. My name is
12 Sean McGrath from TSG Reporting, Incorporated, and I am
13 the legal video specialist. The court reporter is
14 Lorrie Marchant, in association with TSG Reporting.

15 Will counsel please introduce yourselves.

16 MR. OVERSON: Wesley Overson and Grant Kim of
17 Morrison & Foerster, on behalf of Apple Inc., the
18 plaintiff.

19 MR. ANDERSON: Carl Anderson of Quinn Emanuel
20 Urquhart & Sullivan, representing Samsung and the
21 witness. And with me is Heather Belville, also of Quinn
22 Emanuel Urquhart & Sullivan.

23 THE VIDEOGRAPHER: Will the court reporter
24 please swear in the witness.

25 THE REPORTER: Do you solemnly swear or affirm

1 under the penalties of perjury that the testimony you
2 are about to offer will be the truth, the whole truth
3 and nothing but the truth?

4 THE WITNESS: I do.

5 THE VIDEOGRAPHER: You may proceed.

6 EXAMINATION BY MR. OVERSON

7 BY MR. OVERSON:

8 Q. Good morning.

9 A. Good morning.

10 Q. Please state your full name.

11 A. Michael Joseph Wagner.

12 MR. OVERSON: Okay. First off, I'm going to
13 mark as Exhibits 160 and 161 your declaration from this
14 case and your CV.

15 (Marked for identification purposes,
16 Exhibits 160 and 161.)

17 BY MR. OVERSON:

18 Q. Mr. Wagner, is -- is Exhibit 160 your
19 declaration in this case?

20 A. It is.

21 Q. And is Exhibit 161 your CV?

22 A. It is.

23 Q. Okay. I note from your declaration that you're
24 a CPA; is that right?

25 A. I am licensed as a CPA in the State of

1 A. I prefer to have actual survey data on that,
2 but I think, generally, they're -- the tendency would
3 be, true, that they would buy other Apple products.

4 Q. Kind of like if you buy your iPhone 4 and you
5 want to talk with your grandson, that you might want to
6 buy another Apple product; right?

7 A. If you're talking about that I would like my
8 son to have an iPhone 4, yes. In fact, I bought six
9 iPhone 4s when I bought mine.

10 Q. Why did you buy so many?

11 A. I have four children and a wife.

12 Q. And why did you want them all to have the same
13 phone?

14 A. So that we can communicate easier and use
15 FaceTime.

16 Q. And you could communicate easier because the --
17 because why?

18 A. Because I can't use FaceTime with any other
19 provider. And, actually, it was a group decision as to
20 what we would go -- we were going to go with a common
21 platform, because that just makes things easier. And
22 there were dissenting votes to go with Apple.

23 But I live in a democracy and the democracy
24 won. And I stopped with my fifth edition of a
25 BlackBerry and bought an iPhone. But I did not buy it

1 for the design. I bought it for function.

2 Q. And you bought it, in part, so that you could
3 communicate well with the rest of your family members
4 who have the same device?

5 A. Yes.

6 Q. And be working within the same operating
7 system?

8 A. Yes.

9 Q. And have you seen, from your review of the
10 documents in this case, that -- that once a user is in a
11 particular operating system, they're likely to buy their
12 next product, in other words, their next phone, in that
13 same operating system?

14 A. The majority will. Not all, but the majority
15 will. And it depends on the operating system. And,
16 again, the most loyal group are people who use the iOS
17 operating system.

18 Q. The Apple operating system?

19 A. Apple operating system.

20 Q. So it's the most likely -- if people buy an
21 Apple product, that means they're using -- well, first
22 of all, let's get the basics down.

23 If they buy an Apple product, they have to use
24 the Apple operating system; right?

25 A. They do.

CERTIFICATE

STATE OF CALIFORNIA)

: ss

COUNTY OF SONOMA)

I, Lorrie L. Marchant, a Certified Shorthand Reporter, a Registered Professional Reporter, a Certified Realtime Reporter, and a Certified Realtime Professional within and for the State of California, do hereby certify:

That MICHAEL J. WAGNER, the witness whose deposition is herein set forth, was duly sworn/affirmed by me 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 14th day of September, 2011.

LORRIE L. MARCHANT, CSR, RPR, CRR, CLR, CCRR
CSR No. 10523