

# Proctor Declaration

## EXHIBIT 4

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

APPLE INC., A CALIFORNIA CORPORATION,	)	C-11-01846 LHK
	)	
	)	SAN JOSE, CALIFORNIA
PLAINTIFF,	)	
	)	AUGUST 10, 2012
VS.	)	
	)	VOLUME 6
SAMSUNG ELECTRONICS CO., LTD., A KOREAN BUSINESS ENTITY; SAMSUNG ELECTRONICS AMERICA, INC., A NEW YORK CORPORATION; SAMSUNG TELECOMMUNICATIONS AMERICA, LLC, A DELAWARE LIMITED LIABILITY COMPANY,	)	PAGES 1638-1988
	)	
	)	
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	)	
DEFENDANTS.	)	

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TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE LUCY H. KOH  
UNITED STATES DISTRICT JUDGE

APPEARANCES ON NEXT PAGE

OFFICIAL COURT REPORTER: LEE-ANNE SHORTRIDGE, CSR, CRR  
CERTIFICATE NUMBER 9595

1 A P P E A R A N C E S :

2 FOR PLAINTIFF MORRISON & FOERSTER  
3 APPLE: BY: HAROLD J. MCELHINNY  
4 MICHAEL A. JACOBS  
5 RACHEL KREVANS  
6 425 MARKET STREET  
7 SAN FRANCISCO, CALIFORNIA 94105

8 FOR COUNTERCLAIMANT WILMER, CUTLER, PICKERING,  
9 APPLE: HALE AND DORR  
10 BY: WILLIAM F. LEE  
11 60 STATE STREET  
12 BOSTON, MASSACHUSETTS 02109

13 BY: MARK D. SELWYN  
14 950 PAGE MILL ROAD  
15 PALO ALTO, CALIFORNIA 94304

16 FOR THE DEFENDANT: QUINN, EMANUEL, URQUHART,  
17 OLIVER & HEDGES  
18 BY: CHARLES K. VERHOEVEN  
19 50 CALIFORNIA STREET, 22ND FLOOR  
20 SAN FRANCISCO, CALIFORNIA 94111

21 BY: VICTORIA F. MAROULIS  
22 KEVIN P.B. JOHNSON  
23 555 TWIN DOLPHIN DRIVE  
24 SUITE 560  
25 REDWOOD SHORES, CALIFORNIA 94065

BY: MICHAEL T. ZELLER  
WILLIAM C. PRICE  
865 SOUTH FIGUEROA STREET  
10TH FLOOR  
LOS ANGELES, CALIFORNIA 90017

BY: EDWARD J. DEFRANCO  
51 MADISON AVENUE, 22ND FLOOR  
NEW YORK, NEW YORK 10010

22  
23  
24  
25

INDEX OF WITNESSESPLAINTIFF'S**HAL PORET**

CROSS-EXAM BY MR. PRICE (RES.) P. 1665  
REDIRECT EXAM BY MR. JACOBS P. 1687

**KENT VAN LIERE**

DIRECT EXAM BY MR. JACOBS P. 1690  
CROSS-EXAM BY MR. PRICE P. 1702

**RAVIN BALAKRISHNAN**

DIRECT EXAM BY MR. JACOBS P. 1723  
CROSS-EXAM BY MR. JOHNSON P. 1769  
REDIRECT EXAM BY MR. JACOBS P. 1806  
RE-CROSS-EXAM BY MR. JOHNSON P. 1813

**KARAN SINGH**

DIRECT EXAM BY MR. JACOBS P. 1815  
CROSS-EXAM BY MR. DEFRANCO P. 1848  
REDIRECT EXAM BY MR. JACOBS P. 1909

**JOHN HAUSER**

DIRECT EXAM BY MR. JACOBS P. 1914  
CROSS-EXAM BY MR. PRICE P. 1917  
REDIRECT EXAM BY MR. JACOBS P. 1945  
RE-CROSS-EXAM BY MR. PRICE P. 1948

**BORIS TEKSLER**

DIRECT EXAM BY MR. MUELLER P. 1951  
CROSS-EXAM BY MS. MAROULIS P. 1964

INDEX OF EXHIBITS

	<u>MARKED</u>	<u>ADMITTED</u>
1		
2		
3	<u>PLAINTIFF'S</u>	
4	24	1692
	24.5	1697
5	24.6	1699
	24	1699
6	1045	1729
	64	1755
7	46	1758
	57	1763
8	1023, 1024, 1028, 1036	1768
	27.9, 27.12, 27.14, 27.16, 27.18	1811
9	27.20, 27.22, 27.24, 27.33	
	27.34 - 27.39	
10	UNDER SEAL 31	1811
	UNDER SEAL 27.31	1812
11	1044	1817
	1014, 1009	1831
12	29.4, 29.5, 29.6, 29.10, 29.12	1844
	UNDER SEAL 29.13, 29.14, 29.36	1844
13	29.16, 29.18, 29.20 - 29.28,	1844
	29.32, 29.34 - 29.37,	
14	29.39, 29.41 - 29.45	
	38	1845
15	30	1915
	52	1959
16		
17	<u>DEFENDANT'S</u>	
18	2534	1669
	2528	1671
19	2529	1686
	2526	1722
20	3918.105	1795
	66-A, 66-B, 751-A	1795
21	3918.104, 3918.105, 3918.106	1798
	29.29, 27.30	1813
22	2557	1912
	586	1975
23		
24		
25		

1 MR. VERHOEVEN JUST SAID HE CAN GET ON AND OFF  
2 TODAY. SO THEY KNEW HE WAS COMING ON TODAY.

3 THE QUESTION IS WHETHER HE'S NEXT OR  
4 SECOND TO NEXT. THAT'S THE ISSUE. SO THE SURPRISE  
5 THAT MR. VERHOEVEN EXPRESSES IS A LITTLE GENERATED.

6 THE COURT: WELL, LET'S -- IF MR. LEE AND  
7 MR. TEKSLER ARE FAIRLY QUICK, THEN IT SOUNDS LIKE  
8 WE SHOULD BE ABLE TO GET TO MR. HAUSER. CORRECT?

9 MR. JACOBS: IT'S JUST ONE OF THOSE  
10 THINGS, YOUR HONOR. HE HAS TO TESTIFY TODAY.

11 MR. VERHOEVEN: YOUR HONOR, I DOUBT VERY  
12 MUCH WE COULDN'T GET HIM AN AND OFF TODAY.

13 THE COURT: YOU MEAN AFTER LEE AND  
14 TEKSLER?

15 MR. VERHOEVEN: I'M NOT SURE HOW LONG THE  
16 DEPOSITION DESIGNATIONS ARE, BUT MR. TEKSLER IS --  
17 THEY HAVEN'T TOLD US HOW LONG HIS DIRECT IS GOING  
18 TO BE, BUT I DON'T THINK IT'LL BE VERY LONG.

19 MR. LEE: VERY, VERY BRIEF, TEN MINUTES.

20 MR. VERHOEVEN: AND THEN MR. HAUSER IS  
21 NEXT.

22 MR. MCELHINNY: SO IN TERMS OF YOUR  
23 SCHEDULE, YOUR HONOR, IT'S -- I MEAN, THE  
24 OBJECTIONS ARE COMING THIS AFTERNOON.

25 THE COURT: ALL RIGHT. WELL, LET ME SEE

1 IF I CAN GET HAUSER DONE. I WAS TOLD TO PRIORITIZE  
2 BENNER AND SITTLER, WHICH I DID OVER THE LUNCH  
3 HOUR. BUT I'LL TRY TO SEE IF I CAN GET HAUSER.

4 MR. MCELHINNY: THANK YOU, YOUR HONOR.

5 THE COURT: ALL RIGHT. THANK YOU.

6 MR. VERHOEVEN: THANK YOU, YOUR HONOR.

7 THE COURT: THANK YOU.

8 (WHEREUPON, A RECESS WAS TAKEN.)

9 THE COURT: OKAY. WELCOME BACK. PLEASE  
10 TAKE A SEAT.

11 I FILED THE HAUSER OBJECTION RULINGS.

12 ALL RIGHT. LET'S BRING THE JURY IN,  
13 PLEASE.

14 (WHEREUPON, THE FOLLOWING PROCEEDINGS  
15 WERE HELD IN THE PRESENCE OF THE JURY:)

16 THE COURT: ALL RIGHT. WELCOME BACK.

17 IT'S 3:12. PLEASE GO AHEAD,

18 MR. DEFRANCO.

19 BY MR. DEFRANCO:

20 Q WELCOME BACK, DR. SINGH. A FEW FOLLOW-UP  
21 QUESTIONS.

22 YOU STARTED YOUR WORK IN ABOUT DECEMBER  
23 OF LAST YEAR?

24 A MORE OR LESS ABOUT JANUARY OF THIS YEAR, MAYBE  
25 LATE DECEMBER.

1 Q AND IF I ASKED YOU, I APOLOGIZE, YOUR RATE,  
2 YOUR HOURLY RATE IS \$450 AN HOUR?

3 A THAT'S CORRECT.

4 Q AND AT YOUR DEPOSITION IN APRIL, MY MEMORY IS  
5 YOU COULDN'T RECALL AT THAT TIME ABOUT HOW MANY  
6 HOURS YOU HAD SPENT ON THIS CASE.

7 COULD YOU ESTIMATE FOR US NOW ABOUT HOW  
8 MANY HOURS YOU'VE SPENT WORKING ON THIS CASE?

9 A MAYBE SOMEWHERE BETWEEN 150 AND 200.

10 Q LET'S GO BACK -- THANK YOU, SIR. LET'S GO  
11 BACK TO PDX 29.29, PLEASE.

12 I'D LIKE TO SHIFT GEARS -- WE'RE BACK --  
13 WE'RE STILL IN THE '163 PATENT, ONE OF THE TWO  
14 PATENTS YOU ANALYZED, CLAIM 50, ONE OF THE TWO  
15 CLAIMS YOU ANALYZED, ONE FOR EACH PATENT; RIGHT?

16 A YES.

17 Q WE MENTIONED SUBSTANTIALLY CENTERED BRIEFLY.  
18 I'D LIKE TO GO BACK TO THAT.

19 THAT TERM, THAT CONTENT, THAT LIMITATION  
20 APPEARS TWICE IN CLAIM 50; IS THAT CORRECT?

21 A YES.

22 Q AND THERE -- THE CLAIM REQUIRES THERE TO BE  
23 INSTRUCTIONS FOR SUBSTANTIALLY CENTERING SOME FIRST  
24 BIT OF INFORMATION AND INSTRUCTIONS FOR  
25 SUBSTANTIALLY CENTERING A SECOND BIT OF



1 INFORMATION; IS THAT RIGHT?

2 A THAT IS CORRECT.

3 Q NOW, YOU ANALYZED WHETHER OR NOT THE ACCUSED  
4 PRODUCTS SUBSTANTIALLY CENTERED CONTENT IN YOUR  
5 WORK ON INFRINGEMENT; IS THAT CORRECT?

6 A YES.

7 Q NOW, THERE'S NO -- OTHER THAN THAT PHRASE,  
8 "SUBSTANTIALLY CENTERED," THERE'S NO -- THERE'S NO  
9 DEFINITION OR EXPLANATION ABOUT WHAT THOSE TERMS  
10 MEAN IN THE CLAIM; RIGHT?

11 A NOT IN THE CLAIM, NO.

12 Q AND THE SPECIFICATION TALKS ABOUT THOSE TERMS,  
13 BUT THERE'S NO EXPLICIT DEFINITION IN THE  
14 SPECIFICATION; ISN'T THAT RIGHT?

15 A WELL, THERE'S TALK IN THE SPECIFICATION ABOUT  
16 PADDING AND SO ON WITH REGARDS TO, TO THE DOCUMENT.

17 BUT BY AND LARGE, IT'S SOMETHING THAT A  
18 PERSON OF ORDINARY SKILL IN THE ART WILL HAVE NO  
19 PROBLEM UNDERSTANDING.

20 Q SO IS IT YOUR TESTIMONY, SIR, THAT IF I HAD 50  
21 PEOPLE LINED UP WHO WERE SKILLED IN THE ART, THEY  
22 WOULD ALL GIVE ME THE EXACT SAME ANSWER IF I SHOWED  
23 THEM SOMETHING AND ASKED THEM IF IT WAS  
24 SUBSTANTIALLY CENTERED?

25 A BY AND LARGE, GIVEN THE CONTEXT FOR THE '163

1 PATENT, THERE ARE OTHER DESIGN CRITERIA, DESIGN  
2 GOALS THAT UNDERLIE THE, THE PATENT, AND SO USUALLY  
3 IN THE RARE CIRCUMSTANCE WHERE YOU FIND -- YOU FEEL  
4 THAT REASONABLE MINDS MIGHT, MIGHT DEVIATE.

5 THERE'S USUALLY A GOOD REASON IN THE, IN  
6 THE INTERFACE DESIGN FOR, FOR THINGS APPEARING THE  
7 WAY THEY DO.

8 Q SO TWO PEOPLE MIGHT DISAGREE ABOUT WHETHER  
9 SOMETHING IS SUBSTANTIALLY CENTERED, BUT THAT MAY  
10 BE KEY TO THE DESIGN GOAL FOR THE SPECIFIC DEVICE?  
11 IS THAT WHAT YOU'RE SAYING?

12 A NO, THAT'S NOT WHAT I'M SAYING.

13 Q OKAY. LET ME ASK YOU THIS. THERE'S NO -- IN  
14 TERMS OF GIVING THOSE 50 HYPOTHETICAL PEOPLE SOME  
15 TOOLS, THERE'S NO SPECIFIC PARAMETERS SET FORTH IN  
16 THE CLAIM; IS THAT TRUE?

17 A THERE DOESN'T NEED TO BE SPECIFIC PARAMETERS  
18 SET FORTH IN THE CLAIM.

19 Q THERE ARE NONE SET FORTH IN THE CLAIM, SIR;  
20 ISN'T THAT TRUE?

21 A WELL, THERE'S THE TERM "SUBSTANTIALLY  
22 CENTERED."

23 Q RIGHT. IT DOESN'T SHOW ANY -- IT DOESN'T GIVE  
24 ANY MORE INDICATION. IT DOESN'T GIVE YOU  
25 MEASUREMENTS OR DISTANCE OR ANY OTHER INDICATION

1 ABOUT WHAT THAT MEANS, ISN'T THAT TRUE, SIR, IN THE  
2 CLAIM?

3 A IN THE CLAIM TAKEN WITH THE PATENT, A PERSON  
4 OF ORDINARY SKILL IN THE ART WILL UNDERSTAND WHAT  
5 IT MEANS.

6 Q THERE ARE NO -- THERE ARE NO SPECIFIC  
7 PARAMETERS. YOU'VE SEEN CLAIMS THAT HAVE  
8 PARAMETERS, RIGHT, SPECIFIC MEASUREMENTS DETAILED  
9 EXACTLY IN THE CLAIM? YOU'VE SEEN THAT, RIGHT,  
10 BEFORE SIR? THAT'S NOT THE SITUATION, IS IT, HERE,  
11 SIR?

12 A NOT FOR THIS PARTICULAR --

13 Q I'M SORRY. EVERYBODY IS RUSHED. I APOLOGIZE  
14 FOR TALKING OVER YOU.

15 THAT'S ALSO NOT THE SITUATION WITH  
16 RESPECT TO THE '163 SPECIFICATION. THERE ARE NO  
17 SPECIFIC PARAMETERS FOR EACH OF THOSE 50  
18 INDIVIDUALS TO COME TO THE SAME CONCLUSION, TO SEE  
19 WHETHER THOSE PARAMETERS ARE MET. THAT'S FAIR,  
20 ISN'T IT, SIR?

21 A THAT'S WHY YOU NEED TO BE A PERSON OF ORDINARY  
22 SKILL IN THE ART.

23 Q NOW, YOU ANALYZED, FOR INFRINGEMENT OF THE  
24 '163 PATENT, ONE WEB PAGE. IS THAT TRUE, SIR?

25 A THAT IS NOT TRUE.

1 Q YOU ANALYZED A PARTICULAR APPLICATION, DIDN'T  
2 YOU, THE BROWSER APPLICATION?

3 A YES, THE BROWSER APPLICATION, YES.

4 Q AND IN YOUR REPORT, YOU DIDN'T ANALYZE OTHER  
5 APPLICATIONS, LIKE E-MAIL, THE MUSIC PLAYER, OR  
6 GALLERY, OR ANY OTHER APPLICATION. YOU FOCUSSED ON  
7 THE GALLERY APPLICATION; IS THAT TRUE?

8 A NO, I DID NOT.

9 Q I'M SORRY?

10 A I DID NOT FOCUS ON THE GALLERY APPLICATION AT  
11 ALL.

12 Q I APOLOGIZE. I MISSPOKE. I'M RUSHED. LET ME  
13 SLOW DOWN.

14 YOU FOCUSSED ON THE WEB BROWSER  
15 APPLICATION IN YOUR ANALYSIS; IS THAT TRUE?

16 A THAT IS TRUE.

17 Q THERE ARE MANY OTHER APPLICATIONS OUT THERE,  
18 HIGHER ORDER APPLICATIONS LIKE GALLERY AND E-MAIL  
19 AND THINGS LIKE THAT, AND HUNDREDS OF OTHER MORE  
20 DETAILED APPLICATIONS YOU CAN DOWNLOAD FROM THE  
21 WEB, FOR EXAMPLE. YOU DIDN'T ANALYZE OTHER  
22 APPLICATIONS?

23 A I DIDN'T NEED TO.

24 Q NOW -- AND THE WEB PAGE, YOU ALSO -- WITHIN  
25 ANALYZING THE WEB BROWSER, YOU PICKED OUT A

1 PARTICULAR WEB PAGE, THE NEW YORK TIMES WEB PAGE;  
2 IS THAT TRUE?

3 A AS PART OF MY TESTING, I TESTED IT ON A NUMBER  
4 OF WEB PAGES. I JUST CHOSE THE NEW YORK TIMES AS A  
5 GOOD REPRESENTATIVE WEB PAGE FOR MY ILLUSTRATIONS.

6 BUT THE DESIGN WORKS ON, ON AN  
7 INNUMERABLE NUMBER OF WEB PAGES.

8 Q IN THE INTERESTS OF TIME, SIR, DO YOU RECALL  
9 TESTIFYING AT YOUR DEPOSITION THAT YOU COULD NOT  
10 RECALL TESTING, PERFORMING ANY TESTS ON ANY OTHER  
11 WEB PAGE OTHER THAN THE NEWYORKTIMES.COM WEB PAGE?  
12 DO YOU RECALL THAT?

13 A I RECALL SAYING AT MY DEPOSITION THAT I DID  
14 NOT CONCLUSIVELY REMEMBER VERY PRECISE WEBSITES  
15 THAT I TESTED ON.

16 AS PART OF MY TESTING, I SPENT A LOT OF  
17 TIME JUST BROWSING AROUND GENERALLY ON THE WEB  
18 PAGE. WHEN ONE DOES THAT, YOU DON'T NECESSARILY  
19 KEEP A CLEAR TRACK OF EVERY WEB PAGE THAT YOU MIGHT  
20 HAPPEN TO VISIT.

21 Q SO YOU DON'T DISAGREE, AT YOUR DEPOSITION, YOU  
22 COULDN'T IDENTIFY ANY OTHER WEB PAGE OTHER THAN THE  
23 NEW YORK TIMES?

24 A NO. I BELIEVE I DID GIVE AN EXAMPLE OR TWO.

25 Q YOU DIDN'T REMEMBER EXACTLY WHAT YOU TESTED;

1           ISN'T THAT FAIR, SIR?

2           A        ARE YOU ASKING ME TO REMEMBER WHAT I SAID AT  
3           THE DEPOSITION THREE MONTHS BACK?  OR I DON'T KNOW  
4           HOWEVER LONG BACK?  YOU'D LIKE TO KNOW WHAT WEB  
5           PAGES I TESTED ON, I'D BE HAPPY TO GIVE YOU A LIST.

6           Q        LET'S KEEP GOING.

7                        THE -- THERE ARE OTHER -- THERE ARE  
8           CERTAIN TYPES OF CONTENT WEB PAGES THAT ARE NOT OF  
9           USE FOR THE '163 PATENT; IS THAT TRUE, SIR?

10          A        CAN YOU BE MORE PRECISE WITH THAT QUESTION?

11          Q        THERE ARE CERTAIN TYPES OF, LIKE, MOBILE  
12          WEBSITES?  ISN'T IT TRUE, SIR, THAT MOBILE WEBSITES  
13          ARE NOT USEFUL IN THE CONTEXT OF THE '163 PATENT?

14          A        MOBILE WEBSITES ARE SITES THAT ARE  
15          SPECIFICALLY DESIGNED AS AN ALTERNATIVE, AS AN  
16          ALTERNATIVE SOLUTION TO BROWSING ON A SMALL SCREEN  
17          DEVICE.

18                       THE '163 PATENT SORT OF OBVIATES THE NEED  
19          FOR PEOPLE TO GO AND REWRITE THEIR ENTIRE WEB PAGE.

20                       SO IT'S -- IT DOESN'T MATTER -- IT'S NOT  
21          DESIGNED FOR IT, I WILL AGREE.

22                       BUT IT DOESN'T MATTER FOR THE CASE -- FOR  
23          THE SAKE OF INFRINGEMENT.

24          Q        WELL, WOULDN'T YOU AGREE THAT IT GOES AGAINST  
25          THE TEACHING, MOBILE WEBSITES GO AGAINST THE

1 BUILT THE FOUNDATIONAL POSITIONING.

2 Q WHAT IS APPLE'S POSITION ON LICENSING THIS  
3 PORTION OF ITS PATENT PORTFOLIO?

4 A SO UNLIKE STANDARDS WHERE WE HAVE TO LICENSE,  
5 THIS IS AN AREA WHERE WE DON'T HAVE TO LICENSE.

6 MS. MAROULIS: OBJECTION. BEYOND THE  
7 COURT'S ORDER ON STANDARDS.

8 MR. MUELLER: YOUR HONOR, HE'S JUST  
9 DESCRIBING THE SECOND CATEGORY, NON-STANDARDS  
10 PATENTS.

11 THE COURT: ALL RIGHT. OVERRULED.

12 THE WITNESS: SO WITH RESPECT TO THE  
13 COMPUTING PORTFOLIO, IT'S NOT ONE THAT WE HAVE TO  
14 LICENSE, BUT WE'RE CERTAINLY WILLING TO DISCUSS  
15 LICENSING.

16 WE DO THAT WITH TWO PRIMARY GOALS. THE  
17 FIRST ONE IS THAT WE WANT TO GET FAIRLY COMPENSATED  
18 FOR THE WORK THAT WE'VE DONE; AND THE SECOND -- AND  
19 THE SECOND ONE IS WE WANT TO MAKE SURE THAT WE  
20 SAFEGUARD APPLE'S DIFFERENTIATED USER EXPERIENCE.

21 BY MR. MUELLER:

22 Q MR. TEKSLER, LET'S TURN, IF WE COULD, TO THE  
23 THIRD CATEGORY IN THE APPLE PORTFOLIO. WOULD YOU  
24 REMIND US WHAT THAT IS?

25 A CERTAINLY. THAT'S APPLE'S UNIQUE USER

1 EXPERIENCE I.P.

2 Q WHAT DOES THAT REFER TO?

3 A SO I WOULD DESCRIBE THAT IN A COUPLE DIFFERENT  
4 WAYS. FROM A TOP LEVEL, IT'S THAT WHICH MAKES OUR  
5 BRAND IDENTITY AND KEEPS US UNIQUE IN THE  
6 MARKETPLACE, AND IT'S WHAT WE DON'T WISH TO SHARE  
7 AND OTHER PEOPLE TO MAKE.

8 SO WITH THAT, I WOULD SAY FROM A  
9 TECHNICAL PERSPECTIVE, IT INCLUDES TRADEMARKS,  
10 TRADE DRESS, ALL THE DESIGN PATENTS, AND A SMALL  
11 SET OF UTILITY PATENTS THAT REALLY DEAL WITH USER  
12 INTERFACE ELEMENTS, AND MAYBE A COUPLE OF  
13 ASSOCIATED FEATURES.

14 Q AND HOW DOES THIS CATEGORY RELATE TO WIRELESS  
15 DEVICES?

16 A WELL, I GUESS YOU DON'T REALLY NEED A LICENSE  
17 TO THIS. FROM OUR PERSPECTIVE, UNLESS YOU'RE  
18 TRYING TO BUILD AN IPHONE KNOCK-OFF OR A CLONE OR  
19 AN IPAD CLONE, YOU WOULDN'T NEED A LICENSE TO THIS  
20 SET OF I.P.

21 Q AND TO BE CLEAR, WHAT IS APPLE'S POSITION ON  
22 LICENSING THIS PORTION OF ITS PORTFOLIO?

23 A WE STRONGLY DESIRE NOT TO LICENSE IT. IT'S  
24 NOT AN AREA THAT WE LICENSE, AND OUR GOAL IN  
25 LICENSING IS TO ENABLE PEOPLE TO DESIGN THEIR OWN



1 PRODUCTS, NOT THE ABILITY TO JUST COPY OUR  
2 PRODUCTS.

3 Q HAS APPLE EVER LICENSED ANY OF THE PATENTS  
4 WITHIN THIS CATEGORY?

5 A CERTAINLY OVER TIME WE HAVE, BUT I CAN COUNT  
6 THOSE INSTANCES ON ONE HAND QUITE EASILY. AND WE  
7 DO SO WITH RARE EXCEPTION AND WE DO IT CONSCIOUSLY  
8 KNOWING THAT WE'RE NOT ENABLING SOMEBODY TO BUILD A  
9 CLONE PRODUCT.

10 Q MR. TEKSLER, I WANT TO SHIFT GEARS, IF I  
11 COULD, AND TURN BACK THE CLOCK TO THE BEGINNING OF  
12 THE APPLE/SAMSUNG DISPUTE.

13 DO YOU KNOW WHEN THAT DISPUTE BEGAN?

14 A YES. IT BEGAN IN THE SUMMER OF 2010.

15 Q AND WHAT HAPPENED IN THE SUMMER OF 2010?

16 A SO SAMSUNG INTRODUCED THEIR GALAXY S PHONE,  
17 AND WITH THIS, WE WERE QUITE SHOCKED FOR A COUPLE  
18 OF REASONS.

19 FIRST, THEY WERE A TRUSTED PARTNER OF  
20 OURS AND WE DIDN'T UNDERSTAND HOW A TRUSTED PARTNER  
21 WOULD BUILD A COPYCAT PRODUCT LIKE THAT.

22 AND THE SECOND ONE WAS THAT THE PRODUCT  
23 WAS JUST WAY TOO CLOSE TO OUR PRODUCT.

24 SO WE TOOK IT SO SERIOUS THAT STEVEN JOBS  
25 AND TIM COOK CONTACTED SAMSUNG EXECUTIVES AND MET

1 WITH THEM TO RELAY OUR CONCERN.

2 MS. MAROULIS: YOUR HONOR, I MOVE TO  
3 STRIKE FOR LACK OF FOUNDATION ON THAT RESPONSE.

4 THE COURT: YOU'RE GOING TO HAVE TO LAY A  
5 FOUNDATION HOW HE KNOWS THAT.

6 BY MR. MUELLER:

7 Q SURE. MR. TEKSLER, WERE YOU AT APPLE AT THAT  
8 TIME?

9 A I WAS.

10 Q WHAT WAS YOUR POSITION AT THAT TIME?

11 A I WAS THE DIRECTOR OF APPLE I.P. AND STRATEGY.

12 Q YES OR NO, WERE YOU PRIVY TO CONVERSATIONS  
13 INVOLVING SAMSUNG?

14 A YES, I WAS.

15 MR. MUELLER: YOUR HONOR, I'VE LAID A  
16 FOUNDATION.

17 Q COULD YOU PLEASE TURN TO TAB 1 IN YOUR BINDER,  
18 THAT'S PLAINTIFF'S EXHIBIT 52.

19 THE COURT: I DON'T HAVE THE DIRECT  
20 EXHIBITS TO MR. TEKSLER. I THOUGHT THEY WERE  
21 COMING.

22 MR. MUELLER: I'M SORRY. I THOUGHT YOU  
23 HAD A BINDER. I APOLOGIZE, YOUR HONOR. THIS IS  
24 TAB 1, PLAINTIFF'S EXHIBIT 52.

25 Q MR. TEKSLER, DO YOU KNOW WHAT THIS DOCUMENT

1 IS?

2 A I DO.

3 Q WHAT IS IT?

4 A IT'S A PRESENTATION THAT WAS GIVEN TO SAMSUNG  
5 IN AUGUST OF 2010. IT'S ONE THAT I HELPED AUTHOR  
6 AND CREATE.

7 MR. MUELLER: YOUR HONOR, I OFFER IT.

8 MS. MAROULIS: YOUR HONOR, NO FURTHER  
9 OBJECTION, BUT YOUR HONOR RULED THAT THE WITNESS  
10 WOULD NOT BE ALLOWED TO TESTIFY ABOUT THE MEETING  
11 ITSELF.

12 THE COURT: AND I'LL CONTINUE THAT  
13 RULING. IT'S ADMITTED.

14 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER  
15 52, HAVING BEEN PREVIOUSLY MARKED FOR  
16 IDENTIFICATION, WAS ADMITTED INTO  
17 EVIDENCE.)

18 THE COURT: GO AHEAD.

19 BY MR. MUELLER:

20 Q MR. TEKSLER, WE'RE PUTTING PLAINTIFF'S EXHIBIT  
21 52 ON THE SCREEN. THIS IS TITLED "SAMSUNG'S USE OF  
22 APPLE PATENT IN SMARTPHONES."

23 AND COULD YOU REMIND US WHAT THIS  
24 DOCUMENT IS? IT'S A PRESENTATION?

25 A YES, IT'S A PRESENTATION GIVEN TO SAMSUNG IN

1 AUGUST OF -- AUGUST 4TH OF 2010.

2 Q WHO DELIVERED THE PRESENTATION?

3 A CHIP LUTTON DID.

4 Q WHO IS CHIP LUTTON?

5 A CHIP LUTTON WAS THE CHIEF PATENT COUNSEL AND  
6 MY MANAGER AT THAT TIME.

7 Q MR. LUTTON IS STILL AT APPLE?

8 A NO, HE'S NOT.

9 Q NOW, WERE YOU AT THIS PRESENTATION?

10 A I WAS NOT.

11 Q BUT YOU NOW WHEN IT WAS GIVEN?

12 A I DO.

13 Q WHAT WAS THAT DATE?

14 A AUGUST 4TH, 2010.

15 Q LET'S TURN, IF WE COULD, TO PAGE 17 OF THE  
16 PRESENTATION AND PUT IT ON THE SCREEN.

17 WHAT DO WE SEE HERE?

18 A SO THIS WAS REALLY A CHAPTER THAT WAS ENTITLED  
19 "SAMSUNG COPYING IPHONE," AND WHAT WE WERE -- WHAT  
20 WE WERE RELAYING WITH THIS CONTENT WAS REALLY ABOUT  
21 THE REMARKABLE SIMILARITY OF THE TWO PRODUCTS, ALL  
22 THE WAY FROM THE OVERALL APPEARANCE OF THE PRODUCT  
23 DOWN TO THE ARRANGEMENT, THE FOUR-BY-FOUR  
24 ARRANGEMENT OF THE ICONS, THE SIMILARITY OF THE  
25 ICONS, THE PERSISTENT DOCK THAT YOU HAVE AT THE

1 BOTTOM THAT DOESN'T CHANGE WITH THE SCREENS.

2 AND WE DETAILED IT, YOU KNOW, WITH  
3 SUBSEQUENT PAGES THAT REALLY TALKED ABOUT THESE,  
4 THE USER INTERFACE ELEMENTS THAT WERE SIMILAR ALL  
5 THE WAY DOWN TO THE PACKAGING.

6 Q LET'S TURN --

7 MS. MAROULIS: YOUR HONOR, I MOVE TO  
8 STRIKE. THIS WAS A LAY OPINION ON INFRINGEMENT  
9 ISSUES AND, AGAIN, THE WITNESS WAS NOT DISCLOSED.

10 MR. MUELLER: YOUR HONOR, I'M SIMPLY  
11 ASKING MR. TEKSLER ABOUT A DOCUMENT THAT HE HELPED  
12 AUTHOR.

13 THE COURT: OVERRULED.

14 BY MR. MUELLER:

15 Q LET'S PUT PAGE 14 ON THE SCREEN IF WE COULD.

16 WHAT DO WE SEE HERE?

17 A SO IN THIS PAGE WHAT WE WERE DESCRIBING --  
18 THIS WAS PART OF THE CHAPTER WHERE WE TALK ABOUT  
19 THE ARCHITECTURE OF SAMSUNG PHONES, AND  
20 SPECIFICALLY HERE WE'RE REFERRING TO THE ANDROID  
21 APPLICATION FRAMEWORK THAT'S HIGHLIGHTED IN THE  
22 LEFT ARCHITECTURE DIAGRAM THERE.

23 AND WE WERE COMMUNICATING TO SAMSUNG BY  
24 THIS SLIDE THAT THESE ARE SOME OF THE, SOME OF THE  
25 PATENTS -- IT'S JUST REPRESENTATIVE OF A LIST OF

1 PATENTS THAT SAMSUNG INFRINGES WITH THIS PORTION OF  
2 THE ARCHITECTURE.

3 Q I'D LIKE TO DIRECT YOUR ATTENTION, IF I COULD,  
4 MR. TEKSLER, TO U.S. PATENT NUMBER 7,469,381 ON  
5 THIS LIST.

6 ARE YOU FAMILIAR WITH THAT PATENT?

7 A I AM.

8 Q WHAT IS IT?

9 A SO THIS PATENT RELATES TO SCROLL BOUNCING AND,  
10 I GUESS PUT SIMPLY, IT'S A USER INTERFACE ELEMENT  
11 WHEN YOU'RE PANNING THROUGH A LIST, WHEN YOU GET TO  
12 THE BOTTOM OF THE LIST, HOW DO YOU KNOW THAT YOU  
13 GOT TO THE BOTTOM?

14 WELL, WE HAVE A RUBBER BAND LIKE EFFECT  
15 THAT HAPPENS WHEN YOU GET TO THE BOTTOM OF THE  
16 LIST. IF YOU DIDN'T HAVE SOMETHING LIKE THIS, YOU  
17 WOULDN'T KNOW, IS THE COMPUTER HUNG UP? SO YOU  
18 NEED TO HAVE SOME KIND OF USER INTERFACE ELEMENT  
19 AND THIS IS HOW WE DO IT.

20 MS. MAROULIS: YOUR HONOR, MOVE TO  
21 STRIKE. LACK OF FOUNDATION AND OPINION TESTIMONY.

22 MR. MUELLER: YOUR HONOR, AGAIN, THIS IS  
23 A PORTION OF A PRESENTATION THAT MR. TEKSLER HELPED  
24 TO AUTHOR. I'M JUST ASKING ABOUT ONE ENTRY ON THIS  
25 PAGE.

1 THE COURT: ALL RIGHT. OVERRULED.

2 BY MR. MUELLER:

3 Q MR. TEKSLER, IF YOU COULD, PLEASE TURN TO TAB  
4 2 IN YOUR BINDER, AND THIS IS PDX 32. IF WE COULD  
5 ALSO PUT THAT ON THE SCREEN.

6 MR. TEKSLER, THIS SHOWS SEVEN PATENT  
7 COVERS. ARE YOU FAMILIAR WITH THESE PATENTS?

8 A I AM.

9 Q WHAT ARE THEY?

10 A THESE ARE THE PATENTS --

11 MS. MAROULIS: OBJECTION, CALLS FOR  
12 OPINION TESTIMONY. LACKS FOUNDATION.

13 THE COURT: WHAT ARE YOU ASKING?

14 MR. MUELLER: I MERELY WANTED TO GET  
15 ACROSS THAT THESE ARE THE ASSERTED PATENTS IN THIS  
16 CASE.

17 THE COURT: IS THERE ANY QUESTION ABOUT  
18 THAT SO FAR?

19 MR. MUELLER: I CAN REPHRASE IF YOU -- IF  
20 I MIGHT, YOUR HONOR.

21 Q ARE THESE THE SEVEN ASSERTED PATENTS?

22 A YES, THEY ARE.

23 Q WHERE DO THESE FALL, THESE SEVEN PATENTS,  
24 WITHIN THE CATEGORIES YOU DESCRIBED EARLIER IN THE  
25 APPLE PORTFOLIO?

1 A CERTAINLY. SO THERE'S FOUR DESIGN PATENTS,  
2 AND ALL FOUR DESIGN PATENTS FALL INTO APPLE'S  
3 UNIQUE USER EXPERIENCE.

4 AND THEN THE THREE UTILITY PATENTS THAT  
5 ARE LISTED HERE GENERALLY RELATE TO USER INTERFACE  
6 AND FEATURES THAT WE WOULD ALSO PUT IN THAT SAME  
7 CATEGORY OF APPLE'S UNIQUE USER INTERFACE, OR USER  
8 EXPERIENCE.

9 MR. MUELLER: THANK YOU, SIR.

10 NO FURTHER QUESTIONS.

11 THE COURT: ALL RIGHT. THE TIME IS NOW  
12 4:22.

13 **CROSS-EXAMINATION**

14 BY MS. MAROULIS:

15 Q GOOD AFTERNOON, MR. TEKSLER. HOW ARE YOU?

16 A GOOD AFTERNOON.

17 Q MY NAME IS VICTORIA MAROULIS. I'M COUNSEL FOR  
18 SAMSUNG. AND SEEING HOW IT'S LATE FRIDAY  
19 AFTERNOON, I'LL BE VERY BRIEF.

20 YOU TESTIFIED THAT YOU PREPARED A  
21 POWERPOINT FOR A MEETING BETWEEN APPLE AND SAMSUNG  
22 IN AUGUST 2010. IS THAT CORRECT?

23 A I BELIEVE THAT WAS KEY NOTE, BUT YES.

24 Q AND YOU DIDN'T PERSONALLY ATTEND THE MEETING  
25 IN QUESTION; RIGHT?



1 A NO, I DID NOT.

2 Q YOU CANNOT TELL US FROM YOUR PERSONAL  
3 KNOWLEDGE ANYTHING ABOUT THAT MEETING AND WHAT WAS  
4 PRESENTED; CORRECT?

5 A I KNOW THAT THAT WAS PRESENTED. WE LATER SENT  
6 SAMSUNG THE PRESENTATION AND, IN SUBSEQUENT  
7 MEETINGS WITH SAMSUNG, WE REFERRED BACK TO THAT  
8 PRESENTATION AND TO THE DIALOGUE THAT HAPPENED THAT  
9 DAY. SO THAT'S --

10 Q BUT FROM PERSONAL KNOWLEDGE, YOU DO NOT KNOW  
11 WHAT OCCURRED AT THAT MEETING AND WHAT WAS SHOWN  
12 AND WHAT WAS NOT SHOWN; CORRECT?

13 A OKAY, CERTAINLY.

14 Q AND THE POWERPOINT PRESENTATION THAT YOU  
15 PREPARED IS EXHIBIT 52 IN EVIDENCE; CORRECT? IF  
16 YOU CAN LOOK IN YOUR CROSS-EXAMINATION BINDER AT  
17 TAB 52, DO YOU SEE THAT?

18 A I DO.

19 Q IF YOU LOOK AT PAGES 12 THROUGH 14, DO YOU SEE  
20 A VARIETY OF PATENTS LISTED THERE?

21 A YES, I DO.

22 Q OKAY. AND DO YOU REMEMBER, ON DIRECT, JOE  
23 ASKED YOU ABOUT THE SEVEN PATENTS ASSERTED IN THIS  
24 CASE; CORRECT?

25 A YES, THAT'S CORRECT.

1 Q FOUR OF THEM WERE DESIGN PATENTS?

2 A YES, THAT'S CORRECT.

3 Q ONE OF THOSE DESIGN PATENT PATENTS WAS D'677;  
4 RIGHT?

5 A I BELIEVE THAT'S CORRECT, YES.

6 Q THAT PATENT IS NOWHERE IN THIS PRESENTATION;  
7 IS THAT CORRECT?

8 A IT'S NOT ENUMERATED.

9 Q IT'S NOT MENTIONED AT ALL AS A PATENT, THE  
10 D'677; RIGHT?

11 A SO I THINK WHAT I WOULD SAY IS I AGREE THAT  
12 IT'S NOT ENUMERATED IN THE PRESENTATION.

13 WHEN WE WERE PREPARING THE, THE POINTS  
14 THAT WE WANTED TO GET ACROSS -- AND I BELIEVE THAT  
15 WAS BACK IN SLIDE 17 OF THIS PRESENTATION -- WE DID  
16 SAY THAT THERE WAS A REMARKABLE SIMILARITY BETWEEN  
17 THE PRODUCTS AND, IN DOING SO, WE DID TALK ABOUT  
18 DESIGN PATENTS.

19 Q SIR, THIS PRESENTATION DOES NOT MENTION THE  
20 WORD "DESIGN PATENT" AT ALL; CORRECT?

21 A I AGREE.

22 Q AND DESIGN PATENT '087 THAT YOU REVIEWED WITH  
23 COUNSEL IS ALSO NOT MENTIONED IN THIS PRESENTATION;  
24 IS THAT RIGHT?

25 A I AGREE.

1 Q AND DESIGN PATENT '889 IS SIMILARLY NOT  
2 MENTIONED IN THIS PRESENTATION; CORRECT?

3 A I AGREE.

4 Q AND SO IS D'305, THAT IS ALSO NOT MENTIONED IN  
5 THE PRESENTATION; RIGHT?

6 A I AGREE.

7 Q YOU ALSO LOOKED AT SEVERAL UTILITY PATENTS  
8 WITH COUNSEL; IS THAT RIGHT?

9 A I DID.

10 Q ONE OF THEM WAS '163 PATENT; CORRECT?

11 A I BELIEVE THAT'S CORRECT, YES.

12 Q THAT PATENT IS NOT ENUMERATED ANYWHERE IN THIS  
13 PRESENTATION WE JUST LOOK AT; RIGHT?

14 A THAT'S CORRECT.

15 Q AND THE '915 PATENT THAT YOU ALSO LOOKED AT IN  
16 YOUR DIRECT TESTIMONY IS ALSO NOWHERE MENTIONED;  
17 CORRECT?

18 A THAT'S CORRECT.

19 Q THIS PRESENTATION THAT YOU PREPARED FOR  
20 SAMSUNG DOES NOT HAVE ANY MENTION OF TRADE DRESS;  
21 RIGHT?

22 A AGAIN, I THINK I WOULD PUT IT INTO THE SAME  
23 CATEGORY OF BULLET POINTS THAT WE TALKED ABOUT.

24 Q SIR, YOU'RE A LICENSING PROFESSIONAL. YOU  
25 KNOW WHAT A REGISTERED TRADE DRESS IS; CORRECT?

1 A I AM, YES.

2 Q SO NOWHERE IN THIS PRESENTATION IS THERE  
3 MENTION OF A REGISTERED TRADE DRESS FOR AN IPHONE;  
4 CORRECT?

5 A I AGREE THAT THERE IS NOT.

6 Q AND THERE'S NO MENTION OF UNREGISTERED TRADE  
7 DRESS FOR IPHONE AS WELL; CORRECT?

8 A I AGREE THAT IT'S NOT WRITTEN ON THE SLIDES.

9 Q AND THERE'S NO UNREGISTERED TRADE DRESS FOR  
10 IPAD; CORRECT?

11 A I AGREE.

12 Q EXHIBIT 52 DOESN'T SAY ANYWHERE THAT APPLE  
13 WOULD NOT LICENSE ITS DESIGN PATENTS TO SAMSUNG; IS  
14 THAT RIGHT?

15 A I AGREE.

16 Q AND THE PRESENTATION DOES NOT IDENTIFY ANY  
17 UTILITY PATENTS THAT APPLE WOULD NOT LICENSE TO  
18 SAMSUNG; IS THAT RIGHT?

19 A I AGREE.

20 Q PLEASE TAKE A LOOK AT EXHIBIT DX 586 IN YOUR  
21 BINDER. THIS IS A PRESENTATION THAT YOU MADE TO  
22 SAMSUNG IN OCTOBER 2010; CORRECT?

23 A YES, THAT'S CORRECT.

24 Q YOU PREPARED IT YOURSELF?

25 A I DID.

1 Q AS PART OF DOING BUSINESS AS A LICENSING  
2 OFFICER AT APPLE; CORRECT?

3 A YES, THAT'S CORRECT.

4 MS. MAROULIS: YOUR HONOR, I MOVE EXHIBIT  
5 586 INTO EVIDENCE.

6 MR. MUELLER: NO FURTHER OBJECTIONS, YOUR  
7 HONOR, SUBJECT TO THE LIMITING INSTRUCTION THAT  
8 YOUR HONOR MENTIONED.

9 THE COURT: RIGHT. AND THERE IS A --  
10 THIS IS ADMITTED.

11 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER  
12 586, HAVING BEEN PREVIOUSLY MARKED FOR  
13 IDENTIFICATION, WAS ADMITTED INTO  
14 EVIDENCE.)

15 THE COURT: YOU MAY CONSIDER THIS -- YOU  
16 MAY NOT CONSIDER THIS EVIDENCE TO PROVE OR DISPROVE  
17 THE VALIDITY OR INVALIDITY OF THE CLAIM OR THE  
18 AMOUNT OF THE DISPUTED CLAIM.

19 HOWEVER, YOU MAY CONSIDER THIS EVIDENCE  
20 FOR SOME OTHER PURPOSE, FOR EXAMPLE, WHETHER OR NOT  
21 SAMSUNG LACKED NOTICE OF APPLE'S INFRINGEMENT  
22 CLAIMS.

23 OKAY. GO AHEAD, PLEASE.

24 BY MS. MAROULIS:

25 Q MR. TEKSLER, NOWHERE IN EXHIBIT 586 DOES APPLE

1 IDENTIFY ANY PATENTS; CORRECT?

2 A THAT'S CORRECT.

3 Q AND NOWHERE IN THIS WRITTEN PRESENTATION DOES  
4 IT SAY THAT APPLE WOULD NOT LICENSE ITS DESIGN  
5 PATENTS TO SAMSUNG; CORRECT?

6 A I'M NOT SURE THAT I AGREE WITH THAT. I KNOW  
7 THAT WE TALKED ABOUT THAT AND THAT THERE WAS A  
8 SPECIFIC BULLET, I BELIEVE, ON ONE OF THE PAGES  
9 THAT ADDRESSED THAT.

10 Q SIR, I'M NOT ASKING YOU ABOUT THE MEETING  
11 ITSELF. I'M ASKING YOU ABOUT THE PRESENTATION.  
12 NOWHERE IN THIS DOCUMENT, 586, IS THERE A STATEMENT  
13 THAT APPLE WOULD NOT LICENSE DESIGN PATENTS TO  
14 SAMSUNG?

15 A I THINK THERE IS A BULLET IN HERE THAT SAYS  
16 SPECIFIC APPLE PROPRIETARY FEATURES TO BE  
17 DISCUSSED.

18 AND IN THAT CONSTRUCT, WE TALKED ABOUT  
19 NOT HAVING THE ABILITY TO CLONE OUR PRODUCTS.

20 Q AGAIN, WITHIN THE CONTEXT OF THIS  
21 PRESENTATION, THERE'S NO STATEMENT THAT APPLE WOULD  
22 NOT LICENSE ITS DESIGN PATENTS TO SAMSUNG; CORRECT?

23 A I AGREE.

24 Q AND NOWHERE IN THIS DOCUMENT DOES APPLE SAY  
25 THAT IT WOULD NOT LICENSE CERTAIN UTILITY PATENTS

1 TO SAMSUNG; CORRECT?

2 A SUBJECT TO THE SAME, YOU KNOW, POINT THAT I  
3 MADE EARLIER, YES.

4 Q LET'S PUT UP 586, PAGE 13, PLEASE.

5 AT THE TOP OF THE PAGE, IT SAYS "WE WILL  
6 PROVIDE SAMSUNG WITH A NUMBER OF OPTIONS FOR  
7 OBTAINING A COST-EFFECT LICENSE TO OUR PATENT  
8 PORTFOLIO."

9 DID I READ THIS CORRECTLY?

10 A YES, THAT'S CORRECT.

11 Q AND THIS REFERS TO LICENSING PATENT PORTFOLIO;  
12 RIGHT?

13 A YES, THAT'S CORRECT.

14 Q IT DOES NOT SAY "PATENT PORTFOLIO EXCEPT  
15 DESIGN PATENTS." CORRECT?

16 A NO, I AGREE THE SLIDE DOESN'T SAY THAT.

17 Q AND IT DOESN'T SAY "EXCEPT FOR CERTAIN UTILITY  
18 PATENTS." CORRECT?

19 A THAT'S CORRECT.

20 Q IN EXHIBIT 586, APPLE PROPOSED CERTAIN  
21 DISCOUNTS ON THE LICENSE FEES BASED ON CERTAIN  
22 ELEMENTS; CORRECT?

23 A YES, THAT'S CORRECT.

24 Q AND ONE OF THOSE ELEMENTS WERE PROPRIETARY,  
25 SO-CALLED PROPRIETARY FEATURES?

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CERTIFICATE OF REPORTER

I, THE UNDERSIGNED OFFICIAL COURT  
REPORTER OF THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH  
FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY  
CERTIFY:

THAT THE FOREGOING TRANSCRIPT,  
CERTIFICATE INCLUSIVE, CONSTITUTES A TRUE, FULL AND  
CORRECT TRANSCRIPT OF MY SHORTHAND NOTES TAKEN AS  
SUCH OFFICIAL COURT REPORTER OF THE PROCEEDINGS  
HEREINBEFORE ENTITLED AND REDUCED BY COMPUTER-AIDED  
TRANSCRIPTION TO THE BEST OF MY ABILITY.

/S/

\_\_\_\_\_  
LEE-ANNE SHORTRIDGE, CSR, CRR  
CERTIFICATE NUMBER 9595

DATED: AUGUST 11, 2012