

Pierce Declaration

EXHIBIT 13

Filed Under Seal

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April 24, 2012
9:13 a.m.

Deposition of PETER BRESSLER, held at
the law offices of Quinn Emanuel, 1299
Pennsylvania Avenue, N.W., Washington, D.C.,
pursuant to Notice before Mary Ann Payonk,
Certified Realtime Reporter and notary public
of the District of Columbia.

1 APPEARANCES:

2 ON BEHALF OF SAMSUNG:

3 MICHAEL ZELLER, ESQUIRE

4 BRETT ARNOLD, ESQUIRE

5 Quinn Emanuel Urquhart & Sullivan, LLP

6 865 S. Figueroa St., 10th Floor

7 Los Angeles, CA 90017

8

9 ON BEHALF OF APPLE:

10 CHARLES S. BARQUIST, ESQUIRE

11 Morrison & Foerster LLP

12 555 West Fifth Street, Suite 3500

13 Los Angeles, CA 90013

14

15 SARAH L. PRUTZMAN, ESQUIRE

16 Morrison & Foerster LLP

17 1290 Avenue of the Americas

18 New York, New York 10104

19

20 ALSO PRESENT:

21 Conway Barker, Legal Video Specialist

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1 that any consumer who purchased an iPhone at 02:03
2 any time through any Apple website was confused 02:03
3 into believing that the device that he or she 02:03
4 was buying was a Samsung device? 02:03

5 A. I have no evidence to that effect. 02:03

6 Q. Do you have any knowledge or 02:03
7 information to believe that any consumer who 02:03
8 purchased an iPhone at any time through any 02:03
9 carrier was confused into believing that the 02:04
10 device that he or she was buying was a Samsung 02:04
11 device? 02:04

12 A. I have no facts in that regard. 02:04

13 Q. Do you have any knowledge or 02:04
14 information to suggest that any consumer has 02:04
15 ever purchased a Samsung device or an Apple 02:04
16 device believing it was actually a device 02:04
17 manufactured by the other? 02:04

18 A. I have no direct evidence. 02:04

19 Q. Do you believe that consumers are 02:04
20 confused? Or have been confused? 02:04

21 A. I believe it is possible for 02:04
22 consumers to be confused. 02:04

23 Q. My question is: Do you believe that 02:04
24 consumers have been confused at any time when 02:04
25 purchasing Apple devices or Samsung devices 02:04

1 into thinking that they are the devices of the 02:05
2 other manufacturer? 02:05

3 A. I don't know. 02:05

4 Q. You don't know if you have a belief? 02:05

5 A. I have no direct evidence or 02:05

6 experience that would tell me that I should 02:05

7 believe that other than the opinions I've 02:05

8 formed about how substantially similar the 02:05

9 Samsung phones are to the iPhone patents. 02:05

10 Q. When you've looked at Samsung 02:05

11 devices, did you think to yourself and were you 02:05

12 confused into believing they were Apple 02:05

13 devices? 02:05

14 A. When? 02:05

15 Q. At any time. 02:05

16 A. When I first saw a Samsung phone in 02:06

17 the Galaxy line, I do recall being impressed 02:06

18 with how much they looked like an iPhone. 02:06

19 Whether I -- I personally was not deceived into 02:06

20 thinking they were the same because I'm a 02:06

21 designer and I could recognize the minor 02:06

22 differences. 02:06

23 Q. And in your view, the typical, 02:06

24 ordinary member of the public is too stupid to 02:06

25 tell the difference between the two? 02:06

1 MR. BARQUIST: Objection, misstates 02:06

2 the testimony. 02:06

3 A. I don't think I would use that word. 02:06

4 Q. They're just gullible and stupid? 02:06

5 A. No, I don't think -- 02:06

6 MR. BARQUIST: Objection, misstates 02:06

7 the testimony. 02:06

8 (Reporter admonition) 02:06

9 BY MR. ZELLER: 02:06

10 Q. Do you think consumers are confused 02:06

11 when they buy these smartphones and they 02:06

12 confuse Apple products and Samsung products 02:07

13 when they are doing it? 02:07

14 MR. BARQUIST: Objection, 02:07

15 overbroad, vague and ambiguous. 02:07

16 A. I believe that the overall impression 02:07

17 of the two phone -- the several phone designs 02:07

18 are substantially similar enough that someone 02:07

19 could mistake one for another. 02:07

20 Q. Is there some reason you won't answer 02:07

21 my question? 02:07

22 MR. BARQUIST: Objection, 02:07

23 argumentative. 02:07

24 Q. I'm trying to find out. We'll get to 02:07

25 other opinions you have. I'm trying to find a 02:07

1 baseline here right now. 02:07

2 Please tell me, In your expert 02:07

3 opinion, do you believe that consumers get 02:07

4 confused during the course of their purchasing 02:07

5 decisions and confuse Apple devices with 02:07

6 Samsung devices or vice versa? 02:07

7 A. I do not know if they get confused. 02:07

8 Q. Do you believe they do? 02:08

9 MR. BARQUIST: Objection, asked and 02:08

10 answered. 02:08

11 A. I don't know if they get confused. 02:08

12 Q. Do you believe, based on all the 02:08

13 information you have available to you about all 02:08

14 the circumstances that go into the purchasing 02:08

15 process, believe that consumers purchase 02:08

16 Samsung phones thinking that they're Apple 02:08

17 phones? 02:08

18 MR. BARQUIST: Objection, asked and 02:08

19 answered. 02:08

20 A. I would believe by the end of the 02:08

21 purchasing decision process, the consumer would 02:08

22 have to know which phone he was buying. 02:08

23 Q. Is that also your belief with respect 02:08

24 to consumer purchasing of tablet computer 02:09

25 devices? 02:09

1 A. Again, I believe by the time the 02:09
2 purchase decision was made and you're paying 02:09
3 for your device, you would know which device 02:09
4 you were paying for. 02:09

5 Q. Are Samsung devices sold in Apple 02:09
6 stores? 02:09

7 A. No. 02:09

8 Q. Are Apple devices sold in Samsung 02:09
9 stores? 02:09

10 A. I was unaware there were Samsung 02:09
11 stores. 02:09

12 Q. So you don't have any knowledge or 02:09
13 information about those kinds of retail 02:09
14 outlets; is that true? 02:09

15 MR. BARQUIST: Objection, lacks 02:09
16 foundation, vague and ambiguous. 02:09

17 A. Retail outlets that I'm aware of, 02:09
18 such as Best Buy and AT&T, do sell both lines 02:09
19 of products. 02:09

20 Q. I'm trying to find out something in 02:10
21 particular. Do you have any knowledge or 02:10
22 information about any Samsung retail stores? 02:10

23 A. No. 02:10

24 MR. BARQUIST: Objection, vague and 02:10
25 ambiguous. 02:10

1 A. I'm sorry. 02:10

2 Q. Did you do anything as an expert to 02:10

3 try and understand the consumer experience in 02:10

4 the Apple stores? 02:10

5 A. No, I don't believe so. 02:10

6 Q. Did you do anything as an expert to 02:10

7 try and understand the consumer experience in 02:10

8 purchasing products through any Apple website? 02:10

9 A. Beyond my own experience as an 02:10

10 individual, no. 02:10

11 Q. Please tell me your understanding of 02:10

12 the consumer evaluation and purchasing process 02:10

13 for electronic devices that are sold through 02:11

14 carriers such as AT&T and Verizon. 02:11

15 A. Could you repeat that, please? 02:11

16 MR. ZELLER: Yeah, if we can read 02:11

17 it back. 02:11

18 (The reporter read from the record.) 02:11

19 A. I suspect that the purchasing process 02:11

20 would to some degree be different depending 02:11

21 upon which kind of electronic device they're 02:11

22 going to buy. 02:11

23 BY MR. ZELLER: 02:11

24 Q. Please tell me your understanding of 02:11

25 the circumstances under which consumers 02:11

1 evaluate and purchase smartphones through 02:11
2 carriers here in the United States. 02:12

3 A. To the best of my knowledge -- and I 02:12
4 don't have any documentation that supports a 02:12
5 particular process. But my -- I would expect 02:12
6 that they would evaluate what they understood 02:12
7 about different phone models, compare them to 02:12
8 one another, and go to a store and compare them 02:12
9 to one another and make a decision based upon a 02:12
10 number of factors, including price, 02:12
11 performance, and appearance. 02:12

12 Q. Do you have any other -- any other 02:12
13 understanding? 02:12

14 A. Not beyond that as I sit here today. 02:12

15 Q. Isn't it true that when a consumer 02:12
16 encounters a smartphone in a carrier store or 02:13
17 carrier outlet that often, consumers actually 02:13
18 see some sort of marketing content on the 02:13
19 device? 02:13

20 MR. BARQUIST: Objection, vague and 02:13
21 ambiguous. 02:13

22 A. I don't know as a general rule, but I 02:13
23 have seen marketing content on phones in -- in 02:13
24 stores. 02:13

25 Q. In your view, does that have any 02:13

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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