Estrich Declaration

EXHIBIT I

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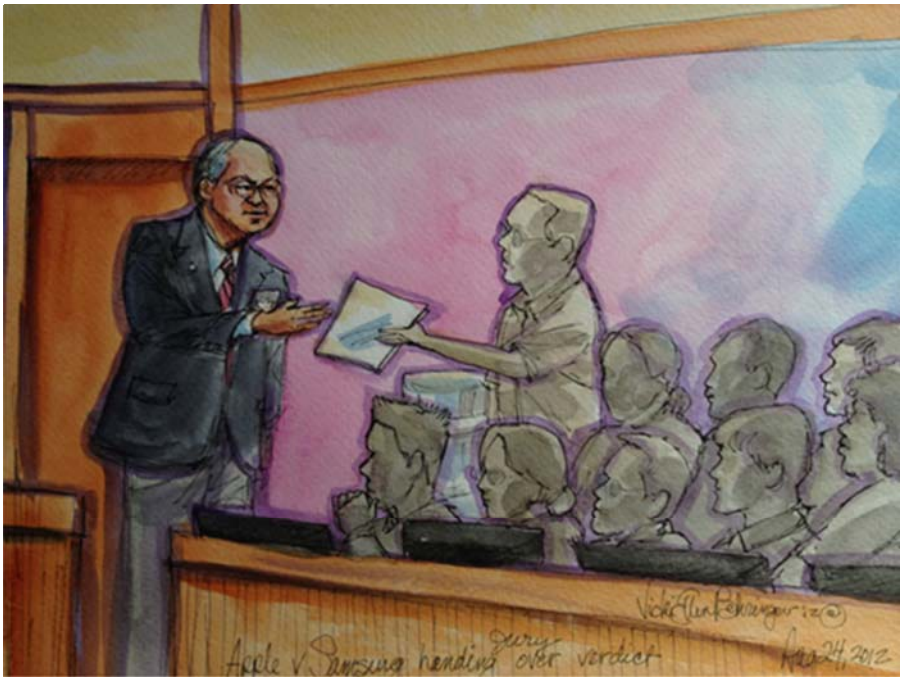
APPLE MOBILE POLICY & LAW INTERVIEW REPORT

Apple v. Samsung jury foreman: only the 'court of popular opinion' can change the patent system

By Bryan Bishop (http://www.theverge.com/users/bcbishop) on August 31, 2012 07:33 am Email (mailto:bryan@theverge.com) @bcbishop (https://twitter.com/intent/user?screen_name=bcbishop)



When the Apple v. Samsung jury handed in its $1.049 bilion verdict last week (http://www.theverge.com/2012/8/24/3254422/apple-samsung-trial-verdict) , the man that delivered the form itself was jury foreman Velvin Hogan. We recently spoke with the 67-year-old engineer, who described his time participating in the trial as a personal high point — while also cautioning that those who were unhappy with the US patent system should look to public debate to change the situation, not a jury.

"Except for my family, it was the high spot of my career," Hogan said about the trial. "You might even say my life." A holder of a patent on video compression himself, he said he recognized that the case represented a "landmark decision," and that he was pleased he'd been selected "because I wanted to be satisfied from my own perspective that this trial was fair, and protected copyrights and intellectual property rights, no matter who they belonged to."

"WE HAD A VERY METHODICAL APPROACH."

Hogan said he was one of a pair of jurors that served as the de facto technical experts of the nine-person panel. There was a sense amongst the jury that at times Samsung had been trying to muddy the technical waters, he admitted, with several jurors asking questions about the more nuanced issues in play. As the foreman, he

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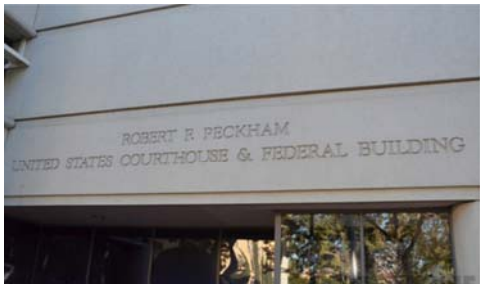

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moved discussion along by not allowing the jury to remain stuck on any given question; if they couldn't come to a unanimous decision, they would move on to the next item on the verdict form. "We had a very methodical approach, no matter what you may hear to the nay of that," Hogan said, also stating that the layout of the 20-page verdict form (http://www.theverge.com/2012/8/24/3266813/apple-vs-samsung-jury-final-verdict-form) helped the group reach their conclusions quickly.

A PHONE-BY-PHONE COMPARISON

When it came to determining if the UI on Samsung devices could be confused with that of the iPhone, Hogan detailed a comparison test the jury conducted. Brightness levels were adjusted accordingly, and then one of the jurors would pick up an iPhone and one of Samsung's phones. "He would hold one out in front of us, face out; put it back to his chest. Hold the other one, and put it back to his chest... We did that for each and every one of the phones." The jurors then performed the experiment again without the room's fluorescent lighting, he said, to see if that would change their impressions.

Hands-on time with the actual devices wasn't the only additional bit of information the jury found themselves considering during deliberations. When it came to Samsung's claims that Apple had infringed its standards-essential patents, the jury had only been shown select pages from the 3GPP Release 6 standard that Apple said it adhered to; while deciding the verdict, the jury had access to the entire document. Reviewing the full specification, Hogan said, made it clear that early deposition testimony by two German Intel employees — which favored Apple — was actually correct.

"YOU'RE MAKING JUDGEMENTS THAT THE PROCESS FAILED."

While the jurors were prohibited from viewing any media coverage during the trial, it was clear that Hogan has since become acutely aware of some of the criticism aimed at the jury by those who feel the decision was the result of a broken patent system, and that traditional juries aren't appropriate for these kind of cases. "I try to be as objective about it as I can... I tell you it doesn't bother me, but what does bother me is the fact that the position that that's coming from sounds like sour grapes. So, it didn't come out the way you wanted it to — and oh by the way, you didn't even sit on the jury, you didn't sit in the courtroom, you didn't hear all the evidence, but you're making judgements that the process failed."

Stressing that the jury used "the rules for today" in coming up with its verdict, Hogan noted that a vigorous public discussion was actually the appropriate place to air grievances — and create change. "I believe it's through fair and heated debate and the use of logic that if a philosophy is wrong — such as the Patent and Trademark Office, as many are saying it's sick, or it's broken — if that is the case then it's the court of popular opinion that makes the change," Hogan said. "I applaud the debate," he emphasized, noting that it was only with a clear consensus that the system could be modified effectively.

As for Samsung, Hogan sees the company as being in a strong position, citing their continual release of new products as an important strength. "You've got a collection of some of the most innovative engineers on the globe," Hogan said. "Use their ability to your advantage, and you just might be innovative enough to come up with something better than Apple."


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DISCUSSIONS

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VICKI ELLEN BEHRINGER (HTTP://COURTROOMARTIST.COM /DEFAULT.HTM)

VELVIN HOGAN (HTTP://WWW.LINKEDIN.COM/PUB/VELVIN-HOGAN/0 /36/B80)

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THERE ARE *338* COMMENTS. ADD YOURS.

Klaus Widraw *says:*

not bad.

Posted on **Aug 31, 2012 | 7:39 AM EDT (#113139473)** **Reply (#)**

Dan Gleibitz's *reply:*

You sound bias.

Posted on **Aug 31, 2012 | 7:40 AM EDT (#113139496)** **Reply (#)**

Strand0410's *reply:*

Coming from “Google removed Youtube full-screening on the iPad just to spite me!”, that’s very rich.

Posted on **Aug 31, 2012 | 8:10 AM EDT (#113140176)** **Reply (#)**

Dan Gleibitz's *reply:*

Good god… I called Klaus ‘bias’ (sic) or saying an unidentified something has “not bad”, and you thought I was serious?

You’ve earned a +1 from me, for being an exemplar of specialness. :)

Posted on **Aug 31, 2012 | 6:45 PM EDT (#113202938)** **Reply (#)**

Dan Gleibitz's *reply:*

*for saying
*was “not bad”

Damn autocorrect.

Posted on **Aug 31, 2012 | 6:46 PM EDT (#113203079)** **Reply (#)**

Urkel's *reply:*

I don’t care about Samsung being. Called out for copying and all that. But the way Velvin Hogan manipulated the jury and enforced his own personal agenda regarding patent validity based purely on his own patent defense is almost criminal.

> A holder of a patent on video compression himself, he said he recognized that the case represented a “landmark decision,” and that he was pleased he’d been selected “because I wanted to be satisfied from my own perspective that this trial was fair, and protected copyrights and intellectual property rights, no matter who they belonged to.”

A case should be judged based on what was presented by the dependent and plaintiff. But the more you read about this guy and the jury allowing him to take a shortcut in sorting out such a complicated mess then it’s clear he used his influence to get a result HE wanted. I’m not saying things would be different without him on the jury, but he clearly gives a solid reason for why the verdict should be questioned. This was a jury of one.

Posted on **Aug 31, 2012 | 8:30 AM EDT (#113140820)** **Reply (#)**

deviladv's *reply:*

This is more of the “sour grapes” this guy is talking about. Samsung was counter-suing here, and the guy was trying to read the patents and figure out who was infringing on both sides.

There is broad consensus in the tech industry that patents are broken, but there is no evidence real evidence this guy is biased. The above statement shows a concern for following the law that is

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Zunes in the wild
about 2 hours ago by **notoriousyid (http://www.theverge.com /users/notoriousyid)** **5 comments**

ALL

(/FORUMS/ALL)

written.

Posted on **Aug 31, 2012 | 8:39 AM EDT (#113141215)** **Reply (#)**

Allan Trickett's *reply:*

"There is broad consensus in the tech industry that patents are broken"

Proof, please.

Posted on **Aug 31, 2012 | 8:48 AM EDT (#113141683)** **Reply (#)**

letsbeobjective's *reply:*

Find and talk to real (professional) software engineers and they will tell you why tech people (unless they have a vested interest in Apple) think the case/verdict completely ignored and humiliated the engineering discipline and went against its customs/norms. BTW, don't confuse a professional software/computer engineer with an amateur or someone who just went to a 6 months training school and just become programmers because there are no jobs in the field that they were in before…

Posted on **Aug 31, 2012 | 10:47 AM EDT (#113147289)** **Reply (#)**

AnotherNetNarcissist's *reply:*

Is your user name supposed to be ironic?

Posted on **Sep 01, 2012 | 4:08 AM EDT (#113257087)** **Reply (#)**

Nathan Mcewen's *reply:*

Here you go:

(http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2016968)

Posted on **Aug 31, 2012 | 2:17 PM EDT (#113171006)** **Reply (#)**

Nathan Mcewen's *reply:*

Here you go:
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2016968 (http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2016968)

Posted on **Aug 31, 2012 | 2:18 PM EDT (#113171122)** **Reply (#)**

Dachannien's *reply:*

> and the guy was trying to read the patents and figure out who was infringing on both sides.

That's exactly it. He spent all the time deciding who infringed what, and gave short shrift to the question of invalidity of the patents. And that might be because he has a patent himself, and he's been through the process where an inventor thinks the patent examiner is kicking him in the balls repeatedly even though it's just a legal process for making sure the claims of the patent don't exceed their proper scope. People who take the patent process personally will tend to advocate for the patentability of everything, because to do less would be to admit the possibility that their own patent is invalid.

Posted on **Aug 31, 2012 | 8:54 AM EDT (#113141984)** **Reply (#)**

masterkenobi's *reply:*

Did you see his patent? He invented the DVR. Mind you, the DVR already existed for three years before he invented it. But yeah, the patent system isn't broken.

Posted on **Aug 31, 2012 | 10:38 AM EDT (#113146518)** **Reply (#)**

jdog25's *reply:*

> He invented the DVR. Mind you, the DVR already existed for three years before he invented it.

So he invented some that had already been invented???

But yeah, the patent system isn't broken.

He was granted a Patent for something he didn't invent and you say that the patent system isn't broken???

Solid logic there.

Posted on **Aug 31, 2012 | 11:00 AM EDT (#113148453)** **Reply (#)**

masterkenobi's *reply:*

Sorry, forgot the "/s". Thought it was implied.

And here's the link to Mr. Hogan's patent:

http://goo.gl/SzEEg (http://goo.gl/SzEEg)

Posted on **Aug 31, 2012 | 11:06 AM EDT (#113148985)** **Reply (#)**

jdog25's *reply:*

That little "/s" does actually make a lot of difference, now it makes sense.

Posted on **Aug 31, 2012 | 11:21 AM EDT (#113150471)** **Reply (#)**

K31's *reply:*

It always made sense.

Posted on **Aug 31, 2012 | 4:02 PM EDT (#113184885)** **Reply (#)**

masterkenobi's *reply:*

tl;dr: Hogan's patent for the DVR was filed in March of 2002. The first TiVo DVR was introduced into the market in March of 1999.

Posted on **Aug 31, 2012 | 11:08 AM EDT (#113149211)** **Reply (#)**

Sadiki's *reply:*

Wow, sarcasm meter is all the way broken huh?

Posted on **Aug 31, 2012 | 2:01 PM EDT (#113169083)** **Reply (#)**

beermit's *reply:*

Lol I'm pretty bad at picking up on sarcasm and even I caught that

Posted on **Aug 31, 2012 | 4:35 PM EDT (#113189181)** **Reply (#)**

daedbird's *reply:*

Hey Kenobi, ur no master – Read the guy's patent. He does not claim to invent a DVR, in fact he notes that there are DVRs all over the place.
What he claims is they have an issue that there is a fixed drive which limits the amount of video you can keep. He brings up the idea of a device where video and data can be placed off the device, via drive, which can be played on a number of devices. His patent seems to involve a physical drive, not through offloading to another device via software. This seems to take a different function than say, TiVO to go or Windows Media Center. Whether or not that should be a patentable idea may be a question, claiming this guy patented a DVR after they were out is not.

Posted on **Aug 31, 2012 | 12:00 PM EDT (#113154971)** **Reply (#)**

donomans's *reply:*

That is still not a good patent.

Storing extra content on a separate disk is certainly not novel. It's obvious and has been since the introduction of multiple means of storage. Just because nobody sold a product that supported saving content onto another device doesn't mean the idea isn't in the realm of obvious. It's not a novel solution to the problem, it's the obvious solution to the problem. Masterkenobi may have misinterpreted the patent, but it's still a bogus patent.

Posted on **Aug 31, 2012 | 2:29 PM EDT (#113172423)** **Reply (#)**

> **Brand B's** *reply:*
>
> First thing my wife asked upon learning the number of available hours on our Dish DVR we received in 2001 – "Can we plug a bigger hard drive into it?"
>
> And my wife is so not an engineer.
>
> Posted on **Aug 31, 2012 | 4:47 PM EDT (#113190506)** **Reply (#)**
>
> > **cole.shores's** *reply:*
> >
> > Then she should have been first to file :)
> >
> > Posted on **Sep 02, 2012 | 1:53 AM EDT (#113375719)** **Reply (#)**

strfx1's *reply:*

I still call BS on this patent. In 2001 I had mplayer/mencoder on my Linux box, along with a TV tuner card, and that covers every single one of his 12 claims.

It's also obvious that dumping recordings to external media was an obvious feature in 2002, and by no means novel. TiVo did/does not offer it to stay clear of any potential conflicts with the content owners, not for technical reasons.

Posted on **Aug 31, 2012 | 11:48 PM EDT (#113244748)** **Reply (#)**

Jedibugs's *reply:*

I don't think it was his status as a patent holder that kept him from giving consideration to the invalidity of the patents… I think it was his status as a juror.
In the US legal system, the juror is responsible for determining whether a law was violated beyond a reasonable doubt. And the juror is required to apply that determination to the law as it exists at the time of the trial.
Thus, to the jurors on this case, if the patent is held, it is valid. That is the only legal way for them to approach the case, as anything else is outside the scope of the trial.
So the guy was doing his job properly, as outlined by the law. Whether being a patent-holder would have influenced his decision on the validity of the patents is immaterial, as he wasn't allowed to consider such a thing in the first place.

Posted on **Aug 31, 2012 | 3:15 PM EDT (#113178331)** via mobile **Reply (#)**

> **Section VIII's** *reply:*
>
> Which isn't what happened based on his interviews.
>
> Posted on **Aug 31, 2012 | 6:54 PM EDT (#113203723)** **Reply (#)**
>
> > **strfx1's** *reply:*
> >
> > IANAL, but I don't think it's as simple as you claim.
> >
> > Samsung produced prior art in an effort to attack the patents, and I don't recall anyone saying that this approach was fundamentally flawed. Which leads me to be believe that the validity of the patents was actually on the line in this trial.
> >
> > Posted on **Aug 31, 2012 | 11:50 PM EDT (#113244932)** **Reply (#)**

phor11's *reply:*

deviladv said: "but there is no evidence real evidence this guy is biased."

Hogan said. "Use their ability to your advantage, and you just might be innovative enough to come up with something better than Apple."
That's pretty clear evidence of bias…

Listen, I'm not going to argue that the Jury was wrong in their trade dress/ornamental design patent infringement decision. Some of Samsung's phones looked and felt remarkably like the iPhone, and Google even warned them about it. That's pretty damning evidence.

But when it comes to three specific utility patents('163, '381, '915) for which Apple was awarded the bulk of damages, he single handedly persuaded the Jury to ignore evidence of prior art presented to them on completely fallacious grounds. (that apple's code could not run on the processor of the diamondtouch table… when the actual patents are so broad that they don't mention hardware implementation AT ALL)

And now we know that he holds a patent himself, and that his patent could probably be invalidated by prior art as well.
That's a fairly ludicrous evidence of bias. He has everything to lose if he were on a Jury that invalidated another company's patents due to evidence of prior art.

Posted on **Aug 31, 2012 | 1:04 PM EDT (#113162144)** **Reply (#)**

Sycus's *reply:*

Well said. Though, I find it strange Samsung's lawyers were OK with him being on the jury in the first place.

Posted on **Aug 31, 2012 | 3:45 PM EDT (#113182567)** **Reply (#)**

MikeWulfbeer's *reply:*

Just buy owning a patent he has an intrest in the case. That to me makes him biased. He should not have been on the jury. He admits he was stirring the jury into a direction HE felt it should be going. He manipulated the jury, verdict should be thrown out. To me makes me think of jury tampering from within the jury itself.

Posted on **Sep 03, 2012 | 3:40 AM EDT (#113445756)** **Reply (#)**

thewildman's *reply:*

Absolutely.

"I wanted [...] that this trial was fair, and protected copyrights and intellectual property rights, no matter who they belonged to."

To me, that simply means that that validity of the patent was unquestionable. Whoever was defending an intellectual property right ought to win, just because !
About Samsung's patents, the problem was different since it was proven that Apple did pay to use them through Intel's license.

The jury should have taken more seriously the question of patent validity and prior art (yes, I am assuming that it did not).
Maybe these questions were the ones he mentions when he says "if they couldn't come to a unanimous decision, they would move on to the next item on the verdict form". We aren't unanimous about the validity of this patent ? OK, let's move to the next question : is Samsung violating this patent ?

Posted on **Aug 31, 2012 | 8:40 AM EDT (#113141256)** **Reply (#)**

Urkel's *reply:*

> The jury should have taken more seriously the question of patent validity and prior art (yes, I am assuming that it did not).
> Maybe these questions were the ones he mentions when he says "if they couldn't come to a unanimous decision, they would move on to the next item on the verdict form". We aren't unanimous about the validity of this patent ? OK, let's move to the next question : is Samsung violating this patent ?

This seems like a good reason for why jury deliberations should be recorded because, whether its murder, civil disputes or this trial, its very easy for a jury member with an agenda to manipulate a decision.

Let's be honest, as message board participants we see people with an agenda every day so it's easy to tune them out or walk away. But imagine your mom forced to participate in one of these threads. Is she really going to scream and debate with a loudmouth know it all about a subject she doesn't even care about or understand? Or will she passively agree with the "expert" who promises to find them the fastest way out the door?

Posted on **Aug 31, 2012 | 9:26 AM EDT (#113143705)** **Reply (#)**

strfx1's *reply:*

I 100% agree that jury deliberations should be recorded and become a matter of public record.

And if that were to happen, it would become generally known and undeniable that a lot of juries are biased/idiotic/asinine/lazy/incompetent/you-name-it, and public outrage would put an end to the jury system, even if it takes a constitutional amendment to kill it. I have no doubt about this.

Posted on **Aug 31, 2012 | 11:53 PM EDT (#113245291)** **Reply (#)**

> **Robert Hahn's** *reply:*
>
> You are hereby summoned to appear for jury duty in the trial of Joey “Ruger” Bananas, who is on trial for murder. As you know, once the trial is over the deliberations will be a matter of public record.
>
> Posted on **Sep 02, 2012 | 3:29 PM EDT (#113404458)** **Reply (#)**

c2u's *reply:*

but it can also be argued that being recorded may sway a decision if genuine fear is a factor. I agree that jurors can be stupid I’ve been a part of a jury on 2 cases where we had a hard time reaching a unanimous decision but I’m not sure that recording deliberations would help. It will not give the shy juror any more confidence to share their opinion it may even deter from it. It would not stop the juror who doesn’t care and wants to go home.

Assume that a jury was recorded who then judges how the jurors deliberated? I’m not sure what it would help other than show that some jurors are hopeless in the mind of the others who believe they know better.

Posted on **Sep 01, 2012 | 3:02 AM EDT (#113255975)** **Reply (#)**

> **9L3nn's** *reply:*
>
> If jury deliberations were recorder, they don’t have to be released publicly.
>
> Instead, they can be used and reviewed only by the court (judge) and perhaps reviewed by the two sides for appeals to make sure deliberations were followed correctly and according to the instructions.
>
> Posted on **Sep 01, 2012 | 12:16 PM EDT (#113273291)** **Reply (#)**

EC8CH's *reply:*

His statements do seem to indicate that he went into this trial with a mindset protecting IP rather than questioning it’s validity.

Posted on **Aug 31, 2012 | 9:43 AM EDT (#113144685)** **Reply (#)**

> **jayfehr's** *reply:*
>
> You are aware that Samsung had the option of booting him from the jury right? He was upfront during selection that he had patents, there is no surprise here. If Samsung thought that would be detrimental they could have had him removed. But if you look at it from another angle, none of Samsung’s patents were invalidated either, you may understand why he made it through.
>
> Posted on **Aug 31, 2012 | 11:33 AM EDT (#113151880)** **Reply (#)**
>
> > **EC8CH's** *reply:*
> >
> > I’m disappointed at the possibility that the validity of Samsung’s patent claims weren’t fully scrutinized as well. I thought this case might finally challenge ALL of these broad patent claims, since instead of simply using them to intimate each other a jury would finally rule on prior art if they are valid or not. Sadly it seems based on this juror flawed understanding that opportunity was lost.
> >
> > Posted on **Aug 31, 2012 | 11:38 AM EDT (#113152396)** **Reply (#)**
> >
> > > **jayfehr's** *reply:*
> > >
> > > I do understand why you would hope that. But that wasn’t the focus of this trial, and neither side made it the focus either. Samsung did spend a some time on it, but it wasn’t something they were just hammering away at (maybe it should have been, Samsung’s case was disjointed).
> > >
> > > In the end though, the jury took the evidence presented, along with the instructions of the judge and came to a decision.
> > >
> > > Posted on **Aug 31, 2012 | 11:47 AM EDT (#113153382)** **Reply (#)**
> > >
> > > > **Sir_Brizz's** *reply:*

You mean the instructions they didn't even follow?

Posted on **Aug 31, 2012 | 12:18 PM EDT (#113157037)** **Reply (#)**

theduncan's *reply:*

it is hard to follow the 100 odd pages of instructions if they are discarded by the jury.

Posted on **Aug 31, 2012 | 2:49 PM EDT (#113174961)** **Reply (#)**

jayfehr's *reply:*

They weren't discarded. The judge read them out.

This instructions that weren't needed weren't from those. When they were sent back to fix the flaw in the verdict, damages for a product not found infringing, they asked for instructions on what the judge was asking. They figured it out before the they received them and said the instructions weren't needed. This is being taken out of context and parroted around as fact, it is not fact.

Posted on **Aug 31, 2012 | 2:52 PM EDT (#113175346)** **Reply (#)**

strfx1's *reply:*

Oh come on. For one, it is known that the instructions were not followed properly. Hogan, for example, said the the verdict should be more than a slap to the write, while the instructions repeatedly say that the verdict is not about punishment, but for compensation of losses.

That aside, the instructions were more than 100 pages long. It takes more than 3 days to fully read and understand them in all detail. And this jury took less than 3 days to read/process the instructions and come to a consensus on 700+ questions put before them. It's clear they were not thorough.

Posted on **Aug 31, 2012 | 11:58 PM EDT (#113245646)** **Reply (#)**

jayfehr's *reply:*

The instructions were read to the jury. Why does this keep coming up. The did not have to re-read them. In fact that would have been a waste of time. Also Hogan may have said it shouldn't just be a slap on the wrist but the numbers they used actually favoured samsung. Both sides had to submit what would be fair damages regardless of who won or lost.

Apple claimed 35% of revenue for damages.
Samsung claimed that 12% would be fair.

The jury figured 12% was to low. 35% was outrageously high. They concluded somewhere between 13%-15%, so they settled on 14%. That is the non-slap-on-wrist number. 2% higher than Samsung claimed was fair, an nowhere near the 35% Apple wanted. This info comes from the same interviews yours does.

Posted on **Sep 01, 2012 | 11:53 AM EDT (#113271308)** **Reply (#)**

Section VIII's *reply:*

Would YOU have remembered all the intructions read to you?

More power to you if you could. I would have to have referred to the instructions to make sure I followed them.

Posted on **Sep 01, 2012 | 11:58 AM EDT (#113271782)** **Reply (#)**

jayfehr's *reply:*

They never said they never referred the them. They just didn't reread them. There was no need too. When you play a new board game for the first time do you read the instructions, then sit down, set up the board, and read the instructions through fully again? No, you just refer to relevant sections as you go.

Posted on **Sep 01, 2012 | 12:32 PM EDT (#113274830)** **Reply (#)**

Scannall's *reply:*

You are aware that the jury instructions can be tossed out the window if that's what the jury wants to do? Further, if all they did was eat pizza and watch football for 3 days it wouldn't make any difference on appeal.

Instead, they seem to have moved through the verdict with deliberation and care. But I guess it's pretty easy to complain sitting there in your chair. Not having been present in the courtroom seeing everything and hearing all the arguments, how can you possibly complain?

Posted on **Sep 01, 2012 | 6:04 PM EDT (#113317472)** **Reply (#)**

Andy H's *reply:*

Why waste time posting things you don't understand? It is very clear that the jury followed the instructions. The instructions were read to the jury in court, and the jurors who spoke to the press stated that they followed the instructions.

The issue is that people with an agenda (i.e., Groklaw) have taken out of context the jury's statement that they were able to resolve the two inconsistencies in the verdict without needing new instructions. This was clearly covered in the Verge's, umm, coverage.

Posted on **Aug 31, 2012 | 3:11 PM EDT (#113177760)** **Reply (#)**

Section VIII's *reply:*

Except the part about bringing in personal experiences to "guide" the jury.

He pretty much said that he and another juror were de facto technical experts so that is why the jury listened to him instead of reviewing the testimony and evidence presented.

Posted on **Aug 31, 2012 | 7:06 PM EDT (#113204829)** **Reply (#)**

acslater017's *reply:*

Wanting to protect patents is like saying you want the law to be enforced in a criminal case. It doesn't mean that you will go for a guilty verdict. It means that he took his job seriously.

Posted on **Aug 31, 2012 | 4:38 PM EDT (#113189438)** via iPhone app **Reply (#)**

strfx1's *reply:*

Rubbish. This is a civil case, not a criminal case. Completely different story.

You make it sound like you believe that every patent that has ever been granted is sacrosanct and might as well be added to the commandments.

Posted on **Sep 01, 2012 | 12:00 AM EDT (#113245811)** **Reply (#)**

BC2009's *reply:*

sour grapes.

It is not the job of the judicial branch to create new laws. That is the job of the legislative branch. Certainly a jury should not disregard intellectual property rights because people who barely understand them are screaming about them. Too many misinformed posters on these forums have an unchangeable view of the patent system based on misguided knowledge of the sort of patents that are being issued.

For example:
1) "How could the patent office let Apple patent rounded rectangles?!?!?!" — simple answer: they never did

2) "How could the patent office let Apple patent multi-touch?!?!?!" — again, they never did.

Patents are issued on specific things when a field is already crowded with prior art. The best patents ALWAYS become the de facto way of doing things and look obvious in retrospect. I'm not saying that some reform in the patent system is not needed, and I have even made proposals for what I think a good reform would be (e.g.: a definition of "software patent" as a distinct kind of patent, software patent issuance within 1 year to match pace of industry, and forced FRAND terms

after 4 years from issuance upon first renewal of a software patent). But it is obvious that most folks are just voicing their sour grapes over the verdict and would simply abolish intellectual property rights altogether.

Posted on **Aug 31, 2012 | 12:23 PM EDT (#113157568)** **Reply (#)**

Sir_Brizz's *reply:*

To counterpoint this, things always seem non-obvious when someone has already created a de facto standard. You are incorrectly doing the same thing you are accusing others of doing.

The only litmus test is 1) if other people in related fields were experimenting with similar ideas (therefore, this idea would have been implemented eventually), or 2) if technological advancements created the ability to mimic real-world experiences in software.

At least two of these patents apply to one of those, therefore they should be invalidated. You have made this argument several times and it continually hinges on the supposed fact that everything that has ever been created was non-obvious or someone else would have done it first, which is ridiculous.

Posted on **Aug 31, 2012 | 2:07 PM EDT (#113169733)** **Reply (#)**

BC2009's *reply:*

Everything would be created eventually. Somebody was going to eventually figure out how to make fire and build a wheel. Software moves at a rather rapid pace so “eventually” in software terms has to be looked at relatively. Software moves so fast that an invention is usually superseded by something better within a decade and having a 5-year advantage on your competition is huge.

This is why I propose the patent reforms that I do:
1) Give the innovator protection within a year of patent application
2) Give them a standard 4-year patent term with renewals
3) Require that renewal of the patent comes with a FRAND licensing stipulation

If your “eventually” term is “five years” this pretty much covers it. There is no patent test that says “if somebody else would have eventually come up with this then it is not patentable”. The **tests for patentability (http://www.thoughtstopaper.com/knowledge/patenting-criteria-novel-non-obvious-useful.html)** are:

1) Useful (i.e.: it works)
2) Novel
3) Non-Obvious

The usual test for “non-obvious” is if the change to known art is minor and obvious to anybody. The link above gives the following example:

> To be non-obvious, the invention must not be easily perceived by a person of expertise in that invention’s particular field. One would be unsuccessful in trying to patent a toaster that can toast ten pieces of bread at a time because it takes an existing invention and simply makes its capacity larger. However, Jerome Lemelson was granted a patent when he thought of combining a video camera and a tape recorder to create a camcorder.

Notice the distinction there? Nothing is added to the corpus of known art by expanding the capacity of a toaster. The capacity is an arbitrary expansion. If you let one person patent a 10-slice toaster, what stops somebody else from patenting an 8-slice or 12-slice toaster? What’s the addition to known art other than a capacity change. On the contrary, combining a video recorder and audio recorder requires synchronization of recording and playback — there is a problem to be solved. The result is something more useful then the two individual components and takes them both to the next level. So the camcorder was patentable. If your 10-slice toaster had a specialized mechanism that automatically ejected the toast and stacked it neatly then a toaster with such a mechanism would be patentable.

But there is no patent test that says “do not grant patents on innovative things if somebody else will eventually solve this problem because of the plethora of research in the area”. This is why inventors used to “rush to the patent office”. It is because they usually knew others were competing with them to invent similar things and once they solved it they would race to be first.

You have to let the innovator get first claim on the invention because it is what drives them to innovate. However, with the pace of software the term of the patent needs to be reconsidered to allow for FRAND licensing to compensate the innovator after an initial

exclusive period. Further, I would argue that anybody found guilty of infringing a software patent in the exclusive period should probably pay a penalty of exclusion from FRAND terms for a period of time when all their competitors gain FRAND access. This would discourage infringement and give the innovator a real chance at implementing their product with their invention with a five-year head start.

Posted on **Aug 31, 2012 | 6:36 PM EDT (#113202157)** **Reply (#)**

Sir_Brizz's *reply:*

I never used the word “eventually” and that is not the correct way to look at the issue of non-obviousness.

The question is, if you sat a Samsung engineer down and said “We need a way to unlock your device with some kind of touch or swipe action after the screen has turned on and is difficult to do on accident with your palm or your leg” could they have legitimately come up with slide to unlock as a solution to that problem? If the answer is yes (and, frankly, it is), the patent is not valid.

You can apply this logic to each of Apple’s patents and, as I stated above, at least two of the patents do not survive this test. That is why I pointed out that you have to look at what people in the field are currently experimenting with. There is no other way to know what people in the field would come up with given the same parameters.

Your post simply seems to reinforce that you see all “inventions” as non-obvious because they were not done before. That is simply not a good way to determine f a patent claim is obvious.

Posted on **Sep 01, 2012 | 5:19 PM EDT (#113311468)** **Reply (#)**

jayfehr's *reply:*

I personally believe the most obvious solution to that problem is a passcode.

Posted on **Sep 01, 2012 | 6:10 PM EDT (#113318534)** **Reply (#)**

unclethursday's *reply:*

Unfortunately, this is covered by the “slide to unlock” patent. It covers not only moving an unlock image, but also making a pattern with your finger, or using a keypad to type in a security code/passcode. Look it up.

The patent should be invalid because it fails the obvious nature; also it should be invalid because it is too broad in scope. It covers everything except a hardware button press to unlock the touchscreen device or Google’s Face Unlock for Android 4.0+.

Posted on **Sep 07, 2012 | 1:39 AM EDT (#113802957)** **Reply (#)**

Rhonin's *reply:*

Gotta luv his "move on " tactic – I use this all the time in meetings.
It works well as long as the “team” is not composed primarily of alpha personalities.
So uless the jury was a collective of alpha personality types, yes, it was influenced, heavily.

Posted on **Aug 31, 2012 | 2:03 PM EDT (#113169282)** **Reply (#)**

theduncan's *reply:*

everyone uses the “move on” tactic to some degree,

Posted on **Aug 31, 2012 | 2:52 PM EDT (#113175256)** **Reply (#)**

vosquoque's *reply:*

Agreed. Patents should signify that the property is your original creation. If someone created it before you, the truth value of the patent is rendered moot.

Posted on **Sep 01, 2012 | 6:16 AM EDT (#113258219)** **Reply (#)**

reuthermonkey's *reply:*

Except that it is.

“I believe it’s through fair and heated debate and the use of logic that if a philosophy is wrong — such as the Patent and Trademark Office, as many are saying it’s sick, or it’s broken — if that is the case then it’s

the court of popular opinion that makes the change,"

He can believe that all he wants, but the PTO isn't elected. We can't oust the idiots who approve broad and obvious technical patents. Not only is it entirely within the jury's purview to claim that the patents should not have been granted because they were too broad, it was their duty.

Unfortunately for us, their foreman was indeed biased to support a patent system that allows for broad leeway in the patents being granted, rather than slap the PTO for granting such silly patents in the first place.

Posted on **Aug 31, 2012 | 7:56 AM EDT (#113139815)** **Reply (#)**

Amir Anuar's *reply:*

and as one of a patent holder he does not want the patent to be change

Posted on **Aug 31, 2012 | 8:00 AM EDT (#113139909)** **Reply (#)**

Formul's *reply:*

Both parties were litigating about their own patents. And both of them knew he was a patent holder. Not Apple nor Samsung wants the patent system changed, its just the fanboys that do not understand premise of intellectual property.

Apple wants their IP protected and Samsung is making millions from their SEPs (just like Motorola). Two sides of the same coin.

Posted on **Aug 31, 2012 | 8:09 AM EDT (#113140142)** **Reply (#)**

reuthermonkey's *reply:*

People have been complaining about the patent system and the USPTO for much longer than the Samsung v Apple trial. Feel free to Google (or Bing) it. Or just assume that it's a brand new thing and only fanboys are talking about it.

Posted on **Aug 31, 2012 | 8:12 AM EDT (#113140244)** **Reply (#)**

Formul's *reply:*

I'm sure even in the 19th century there were people crying about the patent system being broken. This does not mean it actually is.

Posted on **Aug 31, 2012 | 9:00 AM EDT (#113142282)** **Reply (#)**

Abacomancer's *reply:*

It doesn't mean it actually isn't either…. Kind of like how just because Apple and Samsung are against change, doesn't mean that change isn't potentially needed. That wasn't his point anyway. It was that your implied assumption of complaints about patents being new was false.

On a side note there are a lot of people that support the reformation of patents, and you are quite wrong when you say we are all fanboys. I'm going to support reuthermonkey's request that you actually research the other side of the argument before you blast us.

Posted on **Aug 31, 2012 | 9:51 AM EDT (#113145153)** **Reply (#)**

Zon's *reply:*

I'm sure every time new technologies and paradigms for using intellectual property come along, people complain that old rules for dealing with intellectual property need to be changed to accommodate them. In fact, it's why there is a patent system in the first place. Some time between cavemen and the 19th century, someone thought they needed to change how society dealt with intellectual property. They effected that change by creating a patent system.

So, guess what, intellectual property laws **do** need to change in response to changes in the paradigm of intellectual property. Saying that people have always complained about it doesn't change this. I have a vague feeling the rate of change of intellectual property paradigms is faster now than in the 19th century.

Posted on **Aug 31, 2012 | 5:46 PM EDT (#113197284)** **Reply (#)**

Urkel's *reply:*

"Except for my family, it was the high spot of my career," Hogan said about the trial

Ugh. This is like having a Red Sox fan being called from the stands to umpire the World Series, but actually much worse becausethe outcome will actually change the outside world.

Posted on **Aug 31, 2012 | 8:42 AM EDT (#113141337)** **Reply (#)**

jayfehr's *reply:*

You are aware that the jury system predates Major League Baseball. This is the way trial work, welcome to the real world. This is the same system that let's murders walk free, and puts innocent men to death. It works the majority of the time, but sometimes the lawyers win. This isn't going to be the case to topple the system no matter how much you may wish that it would.

Posted on **Aug 31, 2012 | 11:49 AM EDT (#113153670)** **Reply (#)**

Sir_Brizz's *reply:*

I like how his family is the product of his career. :p

Posted on **Aug 31, 2012 | 12:19 PM EDT (#113157227)** **Reply (#)**

BC2009's *reply:*

The patent system was never on trial here. The jury had no power to affect patent and trademark law. They only had the power to interpret the law as the verdict form was written and as it applied to this case. If you don't like the patent system, take it up with your house representative or senator.

Posted on **Aug 31, 2012 | 12:25 PM EDT (#113157767)** **Reply (#)**

unclethursday's *reply:*

They did have the power to say they felt any of the patents were invalid, which would be perfectly acceptable in this case as there were issues of prior art brought up (a reason for patents to be denied/invalidated), and thus deny any damages because they felt the patent was invalid to begin with. In fact, their instructions mentioned if they felt that a patent was invalid in their eyes, to say so, and deny whichever side held said patent any damages for it.

Posted on **Sep 07, 2012 | 1:46 AM EDT (#113803094)** **Reply (#)**

AdamReid's *reply:*

Patent agents at the USPTO have to have a undergrad degree in specialized sciences and a law degree yet you call them idiots. I'd love to see your educational record.

Posted on **Aug 31, 2012 | 8:00 AM EDT (#113139916)** **Reply (#)**

Conan Kudo's *reply:*

They aren't idiots, but they are overworked and the system is slanted to favor those filing patents instead of the actual viability of those patents.

Posted on **Aug 31, 2012 | 8:07 AM EDT (#113140083)** **Reply (#)**

reuthermonkey's *reply:*

thank you.

Posted on **Aug 31, 2012 | 8:09 AM EDT (#113140156)** **Reply (#)**

AdamReid's *reply:*

How? What data backs this up? Where did you get this information?

I can just toss things out of my ass too. Cancer isn't real, it was created by a secret government propaganda agency. Most people die from an injection from their significant others and they blame it on cancer.

Posted on **Aug 31, 2012 | 8:40 AM EDT (#113141287)** **Reply (#)**

Urkel's *reply:*

Why are you so angry about this? It's not a secret that there are many overlapping patents

that exist and the fact that these questionable patents cannot be changed or enforced unless it is brought to a lengthy and expensive trial (like this one) only proves how broken the system is.

If it were really so clear cut then a court battle would be unnecessary so I'm not sure why you're so determined to prove that the patent system as a whole is far from perfect.

Posted on **Aug 31, 2012 | 8:53 AM EDT (#113141922)** **Reply (#)**

AdamReid's *reply:*

Its not true. Its people who have no knowledge relating to the patent system bullshitting on the internet as if they are in the know. There aren't overlapping patents there are patents that sound the same in the description but claim entirely different things. And patent law 101: the claim controls. So people get on comment sections spouting off nonsense about the patent system when they have no idea how it actually works then other people see this and quote this as gospel. I just don't even understand why people espouse to understand the complex patent system when they don't purport to understand other complex systems. Its baffling.

Posted on **Aug 31, 2012 | 9:01 AM EDT (#113142332)** **Reply (#)**

Sir_Brizz's *reply:*

That may be true in general, but in software there are many patents granted that technically infringe on one another. On a software patent, not every claim must be infringed in order to be guilty of infringement. So each individual claim controls, not the combined sum of the claims.

Also, I don't know how you can seriously say the patent system is fine. There are many obvious patents in software. Patents are supposed to be unique and non-obvious. Intelligent people working in the same field must not have been able to come up with the same solution given the same set of parameters to work with. It's lunacy.

You can also be infringing on a patent without even knowing the patent exists or seeing any released products utilizing the patent. To me, this is most egregious. If there is proof of this happening, the patent should immediately be invalidated.

Sorry, but I'm going with it's broken, Alex.

Posted on **Aug 31, 2012 | 12:23 PM EDT (#113157634)** **Reply (#)**

Zon's *reply:*

Have you ever done a prior art search in order to submit a patent? I've done it several times,, and there are plenty of patents that contain tangentially overlapping ideas. You may want to call this "sounding the same in the description but claiming entirely different things" but if you were to get multiple people reading those patents, you would get multiple answers on whether they overlap or not.

I guess the only right answer is you, eh? You just assert they don't overlap. Following your logic, there is no reason for a jury trial, since all we need to do is ask you what a patent covers. It is clearly obvious, and there is no overlapping grey areas of contention. I don't know why Samsung and Apple didn't just consult you to decide their trial.

Posted on **Aug 31, 2012 | 5:56 PM EDT (#113198241)** **Reply (#)**

TheANARCHY's *reply:*

Oh? You know a few of them do you? The overwhelming majority of gov't bureaucrats are not evenly remotely skilled in the offices they find themselves working in. I'm betting that is the case here. In fact I looked at the USPTO office webpage & couldn't find the qualifications you list to work there.

Posted on **Aug 31, 2012 | 8:42 AM EDT (#113141351)** **Reply (#)**

AdamReid's *reply:*

Yep, so **right (http://en.wikipedia.org/wiki/USPTO_registration_examination)** there buddy.

Posted on **Aug 31, 2012 | 8:57 AM EDT (#113142116)** **Reply (#)**

TheANARCHY's *reply:*

Oh good. I just love the oh so reliable & informative Wikipedia sources. Got anything official from say, oh, maybe the US Gov't?

Posted on **Aug 31, 2012 | 9:17 AM EDT (#113143155)** **Reply (#)**

AdamReid's *reply:*

Nope (http://www.uspto.gov/ip/boards/oed/GRB_March_2012.pdf)

Posted on **Aug 31, 2012 | 9:20 AM EDT (#113143394)** **Reply (#)**

TheANARCHY's *reply:*

I didn't think so. try harder next time to make a case for gov't bureaucracy.

Posted on **Aug 31, 2012 | 9:22 AM EDT (#113143456)** **Reply (#)**

AdamReid's *reply:*

Some ill-humored mod deleted my response, but maybe you should have clicked before you commented. That was straight from the USPTO. I was being sarcastic.

Posted on **Aug 31, 2012 | 9:48 AM EDT (#113144966)** **Reply (#)**

TheANARCHY's *reply:*

I saw your response. Either way we are both whistling past the graveyard of what will be the USPTO in the future at some point.

Posted on **Aug 31, 2012 | 10:40 AM EDT (#113146708)** **Reply (#)**

MichaelY's *reply:*

In other words, "No source will change my arbitrarily held viewpoint, including the sources I've said would."

Posted on **Aug 31, 2012 | 3:00 PM EDT (#113176345)** **Reply (#)**

sonicmerlin's *reply:*

Please go back to engadget if you're not interested in legitimate debate.

Posted on **Sep 01, 2012 | 9:20 PM EDT (#113346396)** **Reply (#)**

Dachannien's *reply:*

He may not know a few of them, but I know a lot of them. A law degree isn't a requirement for being an examiner, but you do have to have a BS in a relevant engineering or science field, and there is extensive training on the legal aspects, far far far more than any layperson or juror would typically get.

Posted on **Aug 31, 2012 | 8:58 AM EDT (#113142154)** **Reply (#)**

msl86's *reply:*

A BS? Cute.

Posted on **Aug 31, 2012 | 5:14 PM EDT (#113193678)** **Reply (#)**

Blackstep's *reply:*

You're thinking of patent examiners, who do NOT need to have a law degree, they just need the undergrad technical degree.

Posted on **Aug 31, 2012 | 12:07 PM EDT (#113155774)** **Reply (#)**

unclethursday's *reply:*

The patent office is also woefully behind the times. In the case of software patents, especially. They allow companies to patent chunks of software, for example, not the entirety of the software if the companies are only trying to patent certain aspects of the software.

In effect, since software is just mathematical algorithms working to produce a desired result, they are patenting mathematical algorithms. Something the US Supreme Court has ruled, TWICE, cannot be done.

Posted on **Sep 07, 2012 | 1:50 AM EDT (#113803180)** **Reply (#)**

deviladv's *reply:*

And yet you can elect officials who can write and execute laws to change the PTO. Funny how that works.

Posted on **Aug 31, 2012 | 8:40 AM EDT (#113141254)** **Reply (#)**

jayfehr's *reply:*

Patent law wasn't on trial here, no matter how much neckbeards had wished it was. The jury was presented with evidence, examined it and came to a decision. This is how every jury trial has worked for centuries.

Posted on **Aug 31, 2012 | 11:35 AM EDT (#113152067)** **Reply (#)**

Malufor *says:*

It seems he takes the whole case really personal. I don't think this is a good sign at all.

Posted on **Aug 31, 2012 | 7:48 AM EDT (#113139646)** via Android app **Reply (#)**

Malufor's *reply:*

Also he maybe should just stop talking to the media about this whole story.

Posted on **Aug 31, 2012 | 7:50 AM EDT (#113139703)** via Android app **Reply (#)**

Formul's *reply:*

Like has an option. All the media wants to know his opinions.

Posted on **Aug 31, 2012 | 8:01 AM EDT (#113139928)** **Reply (#)**

loldog's *reply:*

He has no option to stop talking? Somebody holding has family hostage or something?

Posted on **Aug 31, 2012 | 8:28 AM EDT (#113140735)** **Reply (#)**

Carl Simpson's *reply:*

Fella really needs to just shut up. Good thing he isn't representing anyone, 'cause he's a PR disaster.

Posted on **Aug 31, 2012 | 8:28 AM EDT (#113140774)** **Reply (#)**

Carl Simpson's *reply:*

(You know, except the American people.)

Posted on **Aug 31, 2012 | 8:29 AM EDT (#113140786)** **Reply (#)**

Droosh's *reply:*

Thank god he is talking. It sheds some light on how these decisions were made. If he never gave an interview this jury's decisions would carry more weight in the court of popular opinion as well as the appeal.

Posted on **Aug 31, 2012 | 8:42 AM EDT (#113141328)** via Android app **Reply (#)**

Droosh's *reply:*

A question to the lawyers reading this… Can these jury interviews where they discuss their process, methodology, and rational be used in appeal, and if so how much weight will they carry?

Posted on **Aug 31, 2012 | 8:44 AM EDT (#113141474)** via Android app **Reply (#)**

Andy H's *reply:*

The statements can't be used on appeal at all.

Posted on **Aug 31, 2012 | 3:15 PM EDT (#113178345)** **Reply (#)**

Malufor's *reply:*

don't get me wrong i happy he's talking about the process, but for his own credibility, he shouldn't

play an attention wh*re. I think some things went wrong, and i hope these things can be clarified.

Posted on **Aug 31, 2012 | 8:58 AM EDT (#113142195)** **Reply (#)**

2003aaa's *reply:*

He wants the limelight. He doesn't know, however, that whatever he says, it's not going to work well for him or his verdict.

Posted on **Aug 31, 2012 | 11:39 AM EDT (#113152507)** **Reply (#)**

masterkenobi's *reply:*

Considering his patent is for the DVR, even though the DVR existed for three years prior to his filing it.

Posted on **Aug 31, 2012 | 10:39 AM EDT (#113146619)** **Reply (#)**

Blackstep's *reply:*

I think what is happening here is that he expected to get a lot of positive attention out of the trial. He was probably surprised to see all the opinion pieces about how this is a bad decision, and and a lot of those are focusing on how he personally got it wrong. He's getting personally attacked in a lot of places, so I don't blame him for wanting to defend himself and justify the decision. His problem is that the more he talks the worse he makes it. I'm sure Apple's lawyers want him to just shut up.

Posted on **Aug 31, 2012 | 12:00 PM EDT (#113154945)** **Reply (#)**

chesterharry's *reply:*

I thought this at first that he seemed defensive. But how else could he really act. The questions were:
Who what when where why and how did you guys come up with your verdict?
Why the numbers?
What views on patents?
What views on prior arts?

If he was asked this and wasn't able or willing to speak up about why they made their decisions, then the jury would look like fools.

All that said, I don;t agree with his take on prior art being invalidated as **per his interview (https://www.youtube.com/watch?v=c9cnQcTC2JY)**

PJ from groklaw and a few lawyers seem to think this video is proof that Hogan was wrong in his aha moment about how he could defend the patents to the rest of the jury not in agreement.

A lot of people will say PJ is bias, and so is Groklaw, but I would like to know if his view on prior art is correct. It seems not to be.

Posted on **Aug 31, 2012 | 12:30 PM EDT (#113158346)** **Reply (#)**

MichaelY's *reply:*

Actually, the question asked by most legal experts I've followed on this is, "How could a jury possibly weigh this much evidence thoroughly in 3 days? What did they choose to ignore in order to do so?"

Posted on **Aug 31, 2012 | 3:03 PM EDT (#113176736)** **Reply (#)**

Andy H's *reply:*

What legal experts?

Posted on **Aug 31, 2012 | 3:16 PM EDT (#113178495)** **Reply (#)**

Niels Leenheer's *reply:*

Groklaw is wrong in this instance.

In the interview the foreman tells us about what happened during the first patent they talked about. Groklaw assumes this is the first patent on the list and is about an Apple patent. The foreman in the interview never says it it was the first patent from the list. In fact I have not seen any interview stating it was the first from the list. Just "the first" they discussed and "one patent".

Which patent is it? Well, in the interview he clearly states it was the `460 patent. A Samsung patent that deals with modes and selecting photos. And in that context his comment about prior art actually does make sense.

What some people seem to forget is that the foreman is also just a layperson in this field. And clearly not used to being interviewed on national television. Everybody should just stop taking every little comment so literally.

I doubt when discussing prior art he just asking himself: “Does this software run on this other device. No? Okay prior art is invalid. Done!”. If somebody really believes that is all the jury did, it says more about the intelligence of that person than the foreman and the jury.

Posted on **Aug 31, 2012 | 3:17 PM EDT (#113178582)** **Reply (#)**

Niels Leenheer's *reply:*

Small addition: in **this BBC interview (http://www.bbc.co.uk/news/technology-19425051)** he once again clearly states that he is indeed talking about the ‘460 patent.

> **And we’re talking about Samsung’s patent claim about combining a mobile phone with email [and a camera]?**
> Exactly, in fact that is the one issue that we left on Wednesday night, the first day of deliberation, that had hung us up.

The interview also confirms he not just talking about loading an iPhone app on some old hardware and if that doesn’t work (obviously) that the prior art does not apply. He is clearly talking reading source code and about how the software methodology is not interchangeable.

Posted on **Aug 31, 2012 | 3:32 PM EDT (#113180696)** **Reply (#)**

Sir_Brizz's *reply:*

His story changes slightly in every interview because he is obviously reading what people are saying about his interviews.

Eventually, he will get it “right” I guess.

Posted on **Sep 01, 2012 | 5:21 PM EDT (#113311781)** **Reply (#)**

Allan Trickett *says:*

The patent system isn’t broken. The people saying it is don’t understand patents or technology.

Posted on **Aug 31, 2012 | 7:49 AM EDT (#113139676)** **Reply (#)**

Intricacy's *reply:*

I do understand it and I say it is broken. I now delivered a statement with as much argumentative poer as you did. We haven’t moved a bit. Next time you say something, make sure you have an argumnt to back up your thesis or just be quiet.

Posted on **Aug 31, 2012 | 7:54 AM EDT (#113139778)** **Reply (#)**

Allan Trickett's *reply:*

Feel free to explain why it’s broken and how to fix it, Einstein.

Posted on **Aug 31, 2012 | 7:58 AM EDT (#113139856)** **Reply (#)**

dahauns's *reply:*

Feel free to explain why it isn’t broken.

Posted on **Aug 31, 2012 | 8:01 AM EDT (#113139925)** **Reply (#)**

tillman's *reply:*

Sour grapes ….

Posted on **Aug 31, 2012 | 9:24 AM EDT (#113143591)** **Reply (#)**

Sammael's *reply:*

not an argument

Posted on **Aug 31, 2012 | 3:39 PM EDT (#113181768)** **Reply (#)**

messem's *reply:*

You can patent ideas.

Posted on **Aug 31, 2012 | 8:03 AM EDT (#113139972)** **Reply (#)**

Timmmm's *reply:*

That's a stupid thing to say. All patents are ideas. The problems with the patent system are:

1. The novelty test doesn't seem to be applied at all.
2. 20 year patents aren't suited to fast moving industries like software and mobile phones.
3. Its too easy for patent trolls to exist.
4. There are too many patents – searching for possible infringements is virtually impossible.
5. Submarine patents on well-established standards, and companies reneging on their frand obligations.

Posted on **Aug 31, 2012 | 9:25 AM EDT (#113143642)** via mobile **Reply (#)**

messem's *reply:*

Yes all patent are ideas.

But here I mean you can patent an idea even if it's not functional.
You can patent and idea event if it doesn't bring an innovation or something new to the industry.

And I agree to your points.

Posted on **Aug 31, 2012 | 9:59 AM EDT (#113145346)** **Reply (#)**

Sir_Brizz's *reply:*

No, they aren't. 100 years ago, you never would have gotten a patent on an idea. In fact, in 1911 a court ruled that you couldn't patent "the idea of an automobile" and the car industry was better off for it.

100 years ago you got patents for unique, novel, non-obvious *methods*. They were very specific and it was easy to tell two patents apart.

Today we have patents on thousands of ideas and infringing on these patents is based on "look alike" and not "function alike". We are absolutely not better off for it. The software industry is not better off for it. There are so many software patents right now that it's almost impossible to build something and *not* infringe, not vice versa. That will remain true until at least 2016.

Posted on **Aug 31, 2012 | 12:51 PM EDT (#113160700)** **Reply (#)**

MichaelY's *reply:*

Feeding the troll because this is actually a useful question:

It's broken because:
1) The patent system assures that no **small** newcomer will ever enter the phone market. In order to do so, they would need a small fortune (or, in this case, a BIG fortune) to handle **potential** litigation. This isn't a choice — ANY company wanting to enter the market would need to spend millions on patent attorneys and researchers before they even produced anything. Also, patents get invalidated all the time, but can you imagine how much money you would need to get one of Apple's or Samsung's or Google's patents invalidated? More than you have.

2) The patent system allows companies to hold patents and not actually produce anything, ever. Does that seem like a good thing to you?

As far as fixing it, that's the job of people who get paid a lot more than me. Of course, they get paid by billionaire IP holders NOT to fix it, so what's the point of even speculating? Maybe addressing our corrupt lobbying system is the best first step.

Posted on **Aug 31, 2012 | 3:19 PM EDT (#113178887)** **Reply (#)**

2003aaa's *reply:*

Do you?

Posted on **Aug 31, 2012 | 11:39 AM EDT (#113152542)** **Reply (#)**

ken27238 *says:*

"Except for my family, **it was the high spot of my career," Hogan said about the trial.**

What?!?!?!

Posted on **Aug 31, 2012 | 7:49 AM EDT (#113139680)** **Reply (#)**

Ferriswheeler's *reply:*

His family are androids.

Posted on **Aug 31, 2012 | 8:19 AM EDT (#113140422)** **Reply (#)**

TheANARCHY's *reply:*

That guy must have one pathetic family life.

Posted on **Aug 31, 2012 | 8:43 AM EDT (#113141419)** **Reply (#)**

Droosh's *reply:*

He did say, “Except for my family.” This means that he holds his family experiences higher.

Posted on **Aug 31, 2012 | 8:46 AM EDT (#113141581)** via Android app **Reply (#)**

TheANARCHY's *reply:*

So his next most important event in his life is serving on a jury? Again that says to me he hasn't got much to celebrate.

Posted on **Aug 31, 2012 | 8:50 AM EDT (#113141758)** **Reply (#)**

vanglorious's *reply:*

it's his life. who are you to judge. let the man be.

Posted on **Aug 31, 2012 | 2:01 PM EDT (#113169087)** **Reply (#)**

r0lct's *reply:*

I think he's referring to his family not liking him being on the jury probably due to time tied up in it.

Posted on **Aug 31, 2012 | 9:53 AM EDT (#113145266)** **Reply (#)**

Super Tino's *reply:*

He probably meant his family didn't consider it a high point because of his long days at the trail?

Posted on **Aug 31, 2012 | 9:16 AM EDT (#113143135)** via mobile **Reply (#)**

TheANARCHY's *reply:*

Wait, what?

He says that his family, next to this trial, is the high point of his life right? I'm referring to his own admitted outlook at what he considers important in life. A trial that I served on a jury doesn't meet the test of life altering.

Posted on **Aug 31, 2012 | 9:24 AM EDT (#113143573)** **Reply (#)**

Sir_Brizz's *reply:*

The high point of his career.

In other words, his family is the product of his career.

LOL.

Posted on **Aug 31, 2012 | 12:52 PM EDT (#113160801)** **Reply (#)**

Christopher Malone *says:*

Very interesting how they went about it.

Posted on **Aug 31, 2012 | 7:50 AM EDT (#113139682)** **Reply (#)**

Jewell *says:*

Hogan seems to be regretting the verdict. No? Or he is just more sensible than we are giving him credit for.

Posted on **Aug 31, 2012 | 7:50 AM EDT (#113139689)** **Reply (#)**

thegreatino *says:*

This guy is an idiot.

Posted on **Aug 31, 2012 | 7:53 AM EDT (#113139757)** **Reply (#)**

Christopher Malone's *reply:*

That's nice.

Posted on **Aug 31, 2012 | 7:54 AM EDT (#113139766)** **Reply (#)**

DoctorSprite *says:*

Sounds like one guy decided everything for everyone – one who considered this the highlight of his life. No wonder he wanted to "punish" the loser.

Posted on **Aug 31, 2012 | 7:55 AM EDT (#113139791)** **Reply (#)**

dirtydave0221's *reply:*

he seems to have had another person in the Jury that served as a 'de facto technical expert', two people saying the same thing is far more persuasive than just one. That sounds like a dangerous combination.

Posted on **Aug 31, 2012 | 7:59 AM EDT (#113139876)** **Reply (#)**

Formul's *reply:*

Dangerous? Why? Because there were more people with unpopular opinion in the jury?

Posted on **Aug 31, 2012 | 8:03 AM EDT (#113139960)** **Reply (#)**

dirtydave0221's *reply:*

Dangerous because two people can cause normal though processes to go out the window, if you have two people who are declared 'technical experts' when they are not formally given that title or the ability to be calling themselves as such, they could ignore evidence within a trial in order to put their own opinion of a company or patent or idea in the mind of other jurors…whether it is right or not.

Posted on **Aug 31, 2012 | 8:09 AM EDT (#113140157)** **Reply (#)**

Formul's *reply:*

You know nothing about this other juror. You have only marginaly more information about the foreman. Yet because they came up with a conclusion different than yours you presume it was a wrong conclusion that spoiled the whole jury.

Posted on **Aug 31, 2012 | 8:38 AM EDT (#113141196)** **Reply (#)**

Droosh's *reply:*

On the contrary, because of all the interviews he has given, we know quite a lot about this juror, the role he played, and the methodology used to make their decisions.

Posted on **Aug 31, 2012 | 9:09 AM EDT (#113142721)** **Reply (#)**

EC8CH's *reply:*

and they only deliberated for a day and a half…

Based on what Hogan has said the first half day they got "stuck" deliberating on the merits of prior art. That night he has his questionable ah-ha moment. The next morning he brings that logic in with him and convinces the rest of the juror that none of the patent claims should be invalidated and they move onto determining infringement and damages.

Posted on **Aug 31, 2012 | 9:25 AM EDT (#113143615)** **Reply (#)**

Andy H's *reply:*

They deliberated for 22 hours.

Posted on **Aug 31, 2012 | 3:18 PM EDT (#113178741)** **Reply (#)**

dirtydave0221's *reply:*

No, because they came to a conclusion so fast with a jury of 9 people, I assume that the jury was spoiled

Posted on **Aug 31, 2012 | 9:25 AM EDT (#113143633)** **Reply (#)**

Andy H's *reply:*

How many jury trials have you tried?

Posted on **Aug 31, 2012 | 3:18 PM EDT (#113178788)** **Reply (#)**

chesterharry's *reply:*

The other guy was a 20 year old kid who disagreed with him and was a hold out about the prior art issues.

Posted on **Aug 31, 2012 | 12:33 PM EDT (#113158640)** **Reply (#)**

Sir_Brizz's *reply:*

Until his magical “a-ha moment”.

Posted on **Aug 31, 2012 | 12:53 PM EDT (#113160994)** **Reply (#)**

QJ's *reply:*

So the rest of the jury are dumb and receptive then? How do you see it? Can you command 8 random people? If you convince them instead of commanding then that’s exactly what should happen in the deliberations.

Posted on **Aug 31, 2012 | 7:59 AM EDT (#113139889)** **Reply (#)**

Strand0410's *reply:*

Have you *seen* Twelve Angry Men?

Posted on **Aug 31, 2012 | 8:12 AM EDT (#113140236)** **Reply (#)**

bootareen's *reply:*

I was thinking of this but I couldn’t remember the name of the movie. Good movie by the way.

Posted on **Sep 04, 2012 | 9:58 PM EDT (#113592028)** **Reply (#)**

TheANARCHY's *reply:*

You obviously have never served on jury have you? if there is a dominating personality in that room they can literally take it over a swing the whole deliberations process to fit their own notions.

Posted on **Aug 31, 2012 | 8:45 AM EDT (#113141525)** **Reply (#)**

QJ's *reply:*

In every gathering is a leader. That’s what deliberation always was.

Posted on **Aug 31, 2012 | 10:23 AM EDT (#113145665)** **Reply (#)**

dba7's *reply:*

No disrespect but the rest of the jurors consisted of:
HR person,
bike shop manager,
municipal worker,
…
…

Posted on **Sep 04, 2012 | 12:18 PM EDT (#113537739)** **Reply (#)**

SoulDeLa's *reply:*

This is how i feel. Its almost as if he was on a crusade. And the fact he holds a patent just seems to give him a chip on his shoulder. Obviously, I dont have all the info that the jury had so i can only go so far. It just feels wrong when i hear him describe how he “helped” people understand the nuances and such, like it was a guiding hand.

Posted on **Aug 31, 2012 | 8:01 AM EDT (#113139920)** **Reply (#)**

Urkel's *reply:*

> Hogan said he was one of a pair of jurors that served as the de facto technical experts of the nine-person panel

Velvin Hogan is 67 year old engineer and doesn't own an iphone or smartphone but does hold a patent and considers himself an "expert" that should lead the jury into determining a verdict for an emerging market that it barely in its infancy stage?

It definitely feels that Hogan overstated himself as an "expert" which made it easy for the jury to blindly trust his voice over the lawyers. And that's why they were able to make such important decisions at such a rapid pace. This was never about the phones or the brands. This was ONLY about his determination to enforce all patents regardless of validity, prior art or relevance.

In other words, Velvin Hogan led the jury as if he himself was on trial. And that's not how the system is supposed to work.

Posted on **Aug 31, 2012 | 9:35 AM EDT (#113144229)** **Reply (#)**

jayfehr's *reply:*

The lawyers were supposed to explain that. Neither side did, so he used his own experiences. As long as they followed the jury instructions provided by the judge, they can interpret the evidence anyway they want.

Posted on **Aug 31, 2012 | 2:46 PM EDT (#113174483)** **Reply (#)**

dba7's *reply:*

I don't know how you can follow 100-page instructions while deliberating. Just reading and understanding would take better part of a week.

Posted on **Sep 04, 2012 | 12:20 PM EDT (#113537838)** **Reply (#)**

madskills's *reply:*

I wonder why the judge has now put off various decisions until later in the year. This juror seems to be adding to the confusion. If what he says is true they didn't really look at prior art and correct that problem first because you can't make verdicts on what something did or used if the act itself isn't illegal. This doesn't feel right…..

Posted on **Aug 31, 2012 | 10:20 AM EDT (#113145572)** **Reply (#)**

jayfehr's *reply:*

The judge is as other cases on the go as well. She made this clear when she schduled the followups

Posted on **Aug 31, 2012 | 2:46 PM EDT (#113174566)** **Reply (#)**

Peacen1k *says:*

The guy who patented a DVR several years after it was available on the market argues for a decision in support of other patents with clear prior art. What a surprise.

Posted on **Aug 31, 2012 | 7:59 AM EDT (#113139883)** **Reply (#)**

Formul's *reply:*

Making same stupid simplistic claims as there are tons of for Apple patents. At least you are consistent in your ignorance.

Posted on **Aug 31, 2012 | 8:04 AM EDT (#113139998)** **Reply (#)**

Civil *says:*

The "high point" of his career was being on a jury? Sounds to me he enjoyed being one of the "technical experts"(who's advice was entirely wrong and misguided the jury) and he's loving all the attention. Wonder what his reaction will be when at least part of the decision has to be retried because of his faulty thinking. Probably blame Samsung for muddying his words and insist he's right.

Posted on **Aug 31, 2012 | 7:59 AM EDT (#113139891)** **Reply (#)**

EC8CH *says:*

Why did you not ask him to further explain his ah-ha moment that he described as the turning point in deliberations? He said during his Bloomberg interview that since apple software could not be placed on the

prior art processor and vise versa that it was not interchangeable. He seems to think this means it should not invalidate the claims based on that.

Posted on **Aug 31, 2012 | 8:00 AM EDT (#113139896)** via mobile **Reply (#)**

SoulDeLa's *reply:*

I was curious about that too. although, i think he described the ah-ha moment as, if he could defend those patents as if they were his, and then moved on to the interchange-ability. (i would have to go back to the video to be sure though.)

Posted on **Aug 31, 2012 | 8:04 AM EDT (#113139990)** **Reply (#)**

sabret00the *says:*

EVERYTHING that this dude has said since the trial only underlines the fact he shouldn't have been on the jury. His ineptitude is there for all to see, between quotation marks.

Posted on **Aug 31, 2012 | 8:04 AM EDT (#113140010)** **Reply (#)**

Formul's *reply:*

Everything? He cleared several issues people had with the jury verdict.

Posted on **Aug 31, 2012 | 8:10 AM EDT (#113140196)** **Reply (#)**

Techno *says:*

Just a little tip: please provide source/little texts under each picture to describe it for quick article scanning. (i.e. What is that drawing, whose is that guy in the picture..)

Posted on **Aug 31, 2012 | 8:09 AM EDT (#113140149)** **Reply (#)**

Techno's *reply:*

*who is that.

I'm starting to think The Verge are just screwing with us by not having an edit button. lol

Posted on **Aug 31, 2012 | 8:11 AM EDT (#113140200)** **Reply (#)**

nexus *says:*

I'm sure an iPhone 5 and other Apple crap will accidentally show up on his door step if it hasn't already. Oops.

Posted on **Aug 31, 2012 | 8:10 AM EDT (#113140179)** via mobile **Reply (#)**

Formul's *reply:*

So now its jury that is corrupt. It was the judge just a few weeks ago. Apple is really evil! /s

Posted on **Aug 31, 2012 | 8:12 AM EDT (#113140246)** **Reply (#)**

tillman's *reply:*

Samesung fans have become more pathetic as the trial has progressed.
1. They claim Apple is trying to patent rectangle
Fact: It is not.
2. Rectangle with rounded corner
Fact: It is not.
3. Judge is is biased for not allowing Samesung to submit an evidence after the deadline had passed
Fact: It was submitted after the deadline had passed.
4. Jury is stupid and biased – they must have had Apple stocks or iphones at home
Fact: none of them owned an iphone – ever.
5. Jury didn't follow instructions – they didn't invalidate Apple patents
Fact: they did look into that and found no prior art for any of apple's patent – and were really surprised
6. Jury batted for the company with HQs in their country:
Fact: Only US allows protection against copycat designs. And, the jury followed the law there were to follow. So, it is possible that Apple may not win this case in any other country but, in the US.

Posted on **Aug 31, 2012 | 9:20 AM EDT (#113143383)** **Reply (#)**

TheANARCHY's *reply:*

1. They claim Apple is trying to patent rectangle
Fact: It is not.
2. Rectangle with rounded corner
Fact: It is not.
3. Judge is is biased for not allowing Samesung to submit an evidence after the deadline had passed
Fact: It was submitted after the deadline had passed.
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6. Jury batted for the company with HQs in their country:
Fact: Only US allows protection against copycat designs. And, the jury followed the law there were to follow. So, it is possible that Apple may not win this case in any other country but, in the US.

1 & 2. Fact: Apple does claim ownership of the rectangle with rounded corners as part of their trade dress. They used the claims in this trial.
3. Fact: The judge refused to let Samsung admit evidence one day, ONE DAY, after she extended the deadline for Apple.
4 Fact: Got any proof they don't? Or are we going on their claims?
5. Fact: The foreman's own statements admit to only doing a cursory exam of Samsung's claims & then after seeing it couldn't run on the same hardware, which should have resulted in this whole case being tossed out for lack of merit, they still give Apple a win? Right there is no bias there.
6. Fact: Keep dreaming that this jury didn't give major cred to Apple sitting within sight of the court house. Location is always one of the key fights leading up to a trial. Samsung was quite stupid to allow it to be held in San Hose… Much less in the state of California.

Facts debunked. Go read the case info again.

Posted on **Aug 31, 2012 | 9:33 AM EDT (#113144062)** **Reply (#)**

tillman's *reply:*

In your mind, even this is not a copy.

Posted on **Aug 31, 2012 | 11:18 AM EDT (#113150212)** **Reply (#)**

Droosh's *reply:*

Looks like Sony's pioneering keyboard. Right?

Posted on **Aug 31, 2012 | 11:34 AM EDT (#113151925)** **Reply (#)**

tillman's *reply:*

Btw, Apple logo has prior art too. Just so you know, you can buy it in grocery stores.

Posted on **Aug 31, 2012 | 4:23 PM EDT (#113187501)** **Reply (#)**

sonicmerlin's *reply:*

No…?

Posted on **Sep 01, 2012 | 9:28 PM EDT (#113347898)** **Reply (#)**

Fysi's *reply:*

Chiclet Keyboards says hi: **http://en.wikipedia.org/wiki/Chiclet_keyboard (http://en.wikipedia.org/wiki/Chiclet_keyboard)**

Posted on **Aug 31, 2012 | 11:36 AM EDT (#113152155)** **Reply (#)**

sonicmerlin's *reply:*

The first example is from a Macbook. The rest look nothing like the Macbook's keyboards. The issue is not that it's a chiclet keyboard. You know that, but you're being intentionally obtuse. IMO this is a form of trolling, and moderators should enforce punishment based on such ill-advised behavior. Numerous tech site discussion forums have gone down the path of futile teeth-gnashing as the level of intelligence dropped due to this form of trolling.

Posted on **Sep 01, 2012 | 9:30 PM EDT (#113348246)** **Reply (#)**

bootareen's *reply:*

How is that a copy? The trackpad on the Samsung is closer to the keyboard.

Posted on **Sep 04, 2012 | 10:00 PM EDT (#113592266)** **Reply (#)**

tillman's *reply:*

1&2. Trade dress is much more than rectangle with rounded corners. Your puny mind can't understand that.
3. She gave Samesung the same chance on the same day. But, they didn't. Their whole ploy was to keep it out for grounds of appeal. The court noted that.
4. Re-read the transcript of the interview or better, watch it. Samesung and Apple both would have done background checks.
5. They spent good part of first day arguing prior art. Watch the whole interview on bloomberg
6. Sour grapes.

Posted on **Aug 31, 2012 | 11:24 AM EDT (#113150875)** **Reply (#)**

TheANARCHY's *reply:*

Keep trying. You have convinced nobody. We know you believe Apple is responsible for the air you breath. You have to let that go at some point. Go outside. take a walk. Smell the fresh air. Apple will be fine with one less delusional supporter.

Posted on **Aug 31, 2012 | 11:39 AM EDT (#113152462)** **Reply (#)**

mishichan's *reply:*

Keep trying, you too :P

At least Samesung fanboi should check Apple's design patent.

Posted on **Aug 31, 2012 | 12:26 PM EDT (#113157883)** **Reply (#)**

dsp4's *reply:*

Did I just fall into the alternate dimension where Samsung is called Samesung?

Posted on **Aug 31, 2012 | 1:33 PM EDT (#113165542)** **Reply (#)**

fr33z33's *reply:*

It's a parallel dimension of the one wher Apple is called Crapple ..

Posted on **Sep 01, 2012 | 6:32 AM EDT (#113258378)** **Reply (#)**

sonicmerlin's *reply:*

No it's always been Samesung. Samsung was a typo.

Posted on **Sep 01, 2012 | 9:33 PM EDT (#113348906)** **Reply (#)**

BC2009's *reply:*

Its all a conspiracy by Apple!!!! They have managed to brainwash million of American consumers and now they are brainwashing jurors too! I'm so glad TheANARCHY can save us from the madness. I'm keeping my tin foil hat on tight so the mind control waves emanating from Apple devices won't trick me into being a delusional supporter.

/s

Every forum has a village idiot. Now I know his name is TheANARCHY.

Posted on **Aug 31, 2012 | 12:43 PM EDT (#113159802)** **Reply (#)**

philanpolicar's *reply:*

wah wah. I lost my argument and have nothing more to say but need to have the last word so i say absolute nonsense that makes it seem like im beyond this argument when really, im very much over-ridden by it.

Posted on **Aug 31, 2012 | 12:50 PM EDT (#113160570)** **Reply (#)**

tillman's *reply:*

Haha…You seem to be delusion here. For the record, I own HTC One X and unlike crap that Samesung puts HTC doesn't copy stuff. Only an idiot like you can think in terms of "black and white". Android is inspired from iOS but, that is not necessarily a bad thing. Samesung blatantly rips off.

Posted on **Aug 31, 2012 | 4:01 PM EDT (#113184690)** **Reply (#)**

Force Close's *reply:*

***Sam*sung**, not Samesung. You sound like a little child and in my (and many other people's) eyes lose any credibility you may have when you do that. **Please stop.**

Posted on **Aug 31, 2012 | 4:30 PM EDT (#113188518)** **Reply (#)**

Section VIII's *reply:*

Same with the people who use crApple.

Posted on **Aug 31, 2012 | 7:21 PM EDT (#113206260)** **Reply (#)**

Scannall's *reply:*

I see. Just another internet coward using very old and stale material. I'm sure your life is just **wonderful**!

Posted on **Sep 01, 2012 | 6:06 PM EDT (#113317848)** **Reply (#)**

sonicmerlin's *reply:*

Oh yes, you are yet another user, along with Bender'sback and theamarchy who should be banned for their endless trolling.

Posted on **Sep 01, 2012 | 9:32 PM EDT (#113348731)** **Reply (#)**

sonicmerlin's *reply:*

If people like you and babybackbender were banned, the level of discussion in these comment sections would dramatically improve IMO. There are too many android trolls gunking up the system and drowning out all intelligent intellectual debate.

Posted on **Sep 01, 2012 | 9:32 PM EDT (#113348542)** **Reply (#)**

BC2009's *reply:*

1 & 2 Fact: “Part of their trade dress” by its very nature means that there are more elements and trade dress requires you look at the WHOLE of it.

3 Fact: The Judge refused MANY Apple motions because of deadlines including the motion to bring the Galaxy Nexus into this lawsuit.

4 Fact: The Jury is not on trial, but each of them answered questions from the lawyers under oath before being selected by Samsung and Apple lawyers. Not one of them owns an iPhone according to their admission. Don’t believe it? Then you can go tighten your tin foil hat and scream conspiracy, but in no way have you “debunked” any fact.

5 Fact: Prior art is a very tedious thing. The burden is on Samsung’s lawyers to make something plain for the jury regarding prior art because the patent has already been issued. If the method described by the prior art is not the same as the method in the patent then there is a difference. At that point you are arguing the “obviousness” of the difference and obvious in retrospect is very different than taking the perspective of the inventor when the innovation is being created. Apple did a great job providing the perspective into their innovative process and the kind of things they were facing. It showed that there was an innovative leap in coming up with their patent and saved them from invalidation based on obviousness — clearly this does not prove bias which you so boldly claim.

6 Fact: The “home turf” of Apple is also the “home turf” of Google. The folks on that jury were just as likely to be Google fans as Apple fans. In reality they were objective people with their own opinions.

Misinformation debunked. Go get some better arguments before you try to sound like an authority. You come off as an authority on sour grapes more than anything.

It’s funny how the same people who believe that the folks who buy Apple products are a bunch of mindless sheep rather than informed customers now believe that even the people who don’t buy Apple products (or at least iPhones) are also mindless hypnotized sheep with an Apple bias. It is apparently all a conspiracy propagated by Apple to perform mind control on the American consumer and now the American juror. Its a good thing we have people like you to save us from this madness.

Posted on **Aug 31, 2012 | 12:40 PM EDT (#113159490)** **Reply (#)**

Andy H's *reply:*

Also, at first the problem was that a jury of laymen couldn’t understand this case. Then when people remembered that the jury contained two engineers (one with a patent), a software engineer, and several other people who worked in tech, the story is that the foreman was biased because he had a patent.

And there’s no evidence for the claim that the foreman railroaded the jury; not in his statements, and not in the statements of the other juror who has spoken out on deliberations. It’s just another made up sour grapes reason by people unhappy with the verdict. And generally too lazy to even look at factual information relating to the trial.

Posted on **Aug 31, 2012 | 3:23 PM EDT (#113179493)** **Reply (#)**

Type Angel *says:*

It doesn’t matter what the guy says. He voted in Apple’s favor and is therefore BIAS!

Seriously though, it is sour grapes. People are upset that they didn’t get the verdict they wanted. He is right too. Don’t rely on a juries and activist judges to change the law. Rely on the court of popular opinion. In other words, call and write your representatives, the people who actually do make the laws, and demand action on patent law. Rally up others to do so too. When enough people do, something might actually get done.

Posted on **Aug 31, 2012 | 8:13 AM EDT (#113140258)** via mobile **Reply (#)**

sabret00the's *reply:*

The SGS1 is a blatant rip-off and given that it enabled Samsung to become relevant in the phone space

and build a huge brand off of it, should they have awarded Apple a huge pay-out for that and the derivatives, I'd have not batted an eyelid whether it $1bn or $10bn.

However, that is about the only valid thing in this entire case and the fact that this foreman wanted to send a message or didn't bother to go through the patents properly is an issue. The fact that he believes this trial he got randomly selected for as the biggest day of his career only goes to further underlines how terrible he was for this.

Posted on **Aug 31, 2012 | 8:41 AM EDT (#113141295)** **Reply (#)**

Kaggy's *reply:*

SGS 1 definitely had some design copying, but i find it sad that some of the design patents was allowed to stay.
The one with the borders rectangular design and stuff.

But the overall trade dress, Samsung had it coming.

Posted on **Aug 31, 2012 | 9:29 AM EDT (#113143882)** **Reply (#)**

gewcimano *says:*

He should add middle name Velvin "Moron" Hogan…

Posted on **Aug 31, 2012 | 8:16 AM EDT (#113140347)** **Reply (#)**

loldog's *reply:*

His classmates used to call him that.

Posted on **Aug 31, 2012 | 8:30 AM EDT (#113140830)** **Reply (#)**

EC8CH *says:*

Does it seem silly to anyone else they thought it was important to view the UI with the lights in the room both on and off. Seriously… how is that going to make any difference?

Posted on **Aug 31, 2012 | 8:21 AM EDT (#113140503)** via mobile **Reply (#)**

thewildman's *reply:*

I guess that with lights off the phones are indistinguishable, so then only the UI matters.

Posted on **Aug 31, 2012 | 8:32 AM EDT (#113140905)** **Reply (#)**

EC8CH's *reply:*

if that's the reason, they might as well skip turning the lights off on the Galaxy S then :-P

Posted on **Aug 31, 2012 | 9:08 AM EDT (#113142707)** **Reply (#)**

bagel *says:*

I don't understand how you can argue that you *didn't* do a shitty job when you spent, on average, less than 2 minutes on each question you were supposed to answer.

Posted on **Aug 31, 2012 | 8:30 AM EDT (#113140844)** **Reply (#)**

EC8CH's *reply:*

Yes, the complexity and number of patent claims involved along with all the prior art submitted would make you think a proper review would take substantially longer. He can say they were thorough all he wants, but the math doesn't really add up.

Posted on **Aug 31, 2012 | 9:11 AM EDT (#113142849)** **Reply (#)**

Sweeney's *reply:*

I'm pretty sure he answered that one in the interview above. There were only actually 33 questions covering 12 patents. Once you've decided if a patent is valid and infringed its pretty easy to check which of the 28 devices it covers.

Posted on **Sep 01, 2012 | 4:27 AM EDT (#113257298)** **Reply (#)**

dba7's *reply:*

But you see, they decided to 'move' on when discussing a prior art was bogging them down.

Posted on **Sep 04, 2012 | 12:22 PM EDT (#113538009)** **Reply (#)**

cooldoods *says:*

Oh my, this guy is so full of himself. He wanted to make sure it's his decision that gets carried out no matter how flawed it is.

Posted on **Aug 31, 2012 | 8:36 AM EDT (#113141099)** **Reply (#)**

Formul's *reply:*

You sound exactly like the guy you describe.

Posted on **Aug 31, 2012 | 8:39 AM EDT (#113141219)** **Reply (#)**

cooldoods's *reply:*

you think so? how do you figure that?

Posted on **Aug 31, 2012 | 5:17 PM EDT (#113194042)** **Reply (#)**

cooldoods's *reply:*

well?

Posted on **Sep 01, 2012 | 7:39 AM EDT (#113259059)** **Reply (#)**

durangojim *says:*

Someone really wants his 15 minutes of fame. Looks like this guy finally gets to show the world how smart and important he is, just a sad little man.

Posted on **Aug 31, 2012 | 8:41 AM EDT (#113141301)** **Reply (#)**

Type Angel's *reply:*

He's a little less sad than all the people taking a verdict against Samsung personally.

Posted on **Aug 31, 2012 | 8:47 AM EDT (#113141621)** via mobile **Reply (#)**

dsp4's *reply:*

The bad part is not Samsung losing, it's Apple winning.

Posted on **Aug 31, 2012 | 1:36 PM EDT (#113166020)** **Reply (#)**

CodeMonkeyUpstairs *says:*

The amount of assumptions being made in this comment thread is insane. You'd think you were all actually involved the deliberations.

Posted on **Aug 31, 2012 | 8:48 AM EDT (#113141660)** **Reply (#)**

TheANARCHY *says:*

This guys 15 minutes should be coming to a close real soon. Considering that his family life is the only other thing he holds dear, & not by much according to him, he might be unable to cope with anonymity again.

Posted on **Aug 31, 2012 | 8:48 AM EDT (#113141685)** **Reply (#)**

Andy H's *reply:*

You don't like the verdict, so now you are trashing the man personally.

Classy.

Posted on **Aug 31, 2012 | 3:26 PM EDT (#113179815)** **Reply (#)**

Droosh *says:*

Bryan,
Good job scoring an interview! I would have really liked it if you could have really taken a deep dive and follow-up into his ingrained bias and flawed rational however. Perhaps you could get him for a follow-up based upon reader feedback?

In particular please pressure him to really explain the nuance for his rational he touched on in his Bloomberg TV interview. His statement at 3:09 minutes in he states,

> "… I realized that the software on the Apple side could not be placed into the processor on the "prior art" and vice versa. And that means that they're not interchangeable – and that just changed everything."

That moment does appear to have "changed everything." The jury decided not to invalidate anything for prior art based upon this absurd standard.

Posted on **Aug 31, 2012 | 9:03 AM EDT (#113142401)** **Reply (#)**

EC8CH's *reply:*

This This a thousand times This!

Will someone please ask Mr Hogan to further explain this!

Or ask another member of the Jury what rational was described to them that made them decide none of the prior art invalidated any of the patent claims!

Posted on **Aug 31, 2012 | 9:14 AM EDT (#113142991)** **Reply (#)**

theaolway's *reply:*

So it can not be prior art because it doesn't use an ARM cpu?

Posted on **Aug 31, 2012 | 9:16 AM EDT (#113143146)** **Reply (#)**

EC8CH's *reply:*

Apparently to this guy.

http://www.bloomberg.com/video/jury-foreman-discusses-apple-samsung-trial-verdict-ikNjTofgRRecKM4cFXZoZA.html (http://www.bloomberg.com/video/jury-foreman-discusses-apple-samsung-trial-verdict-ikNjTofgRRecKM4cFXZoZA.html)

It would be nice if someone would do some followup reporting on this, but so far no one has asked him to elaborate on that statement he made during his Bloomberg interview.

Posted on **Aug 31, 2012 | 9:20 AM EDT (#113143362)** **Reply (#)**

TheANARCHY's *reply:*

Thank you!!!!! Yes yes yes. Why has he not been cornered on this ridiculous logic?

Posted on **Aug 31, 2012 | 9:37 AM EDT (#113144355)** **Reply (#)**

r0lct's *reply:*

This seemed like more of a press release than an interview. Where were any "tough" questions on his failure to explore prior art and his ridiculous "ah ha" moment as you mentioned?
Other than 'this is my life's highlight' comment that shows he's was probably not the right guy for the job this didn't really provide anything new.

Posted on **Aug 31, 2012 | 10:15 AM EDT (#113145465)** **Reply (#)**

EC8CH's *reply:*

http://www.bbc.co.uk/news/technology-19425051 (http://www.bbc.co.uk/news/technology-19425051)

Here finally the BBC asked for some clarification.

Yep to him unless the software is "interchangeable" prior art does invalidate anything.

So Blatantly FALSE. This verdict is a shame, proves patent trials should not be decided by laymen juries and that the recent patent reform got at least one thing right.

Posted on **Aug 31, 2012 | 1:40 PM EDT (#113166414)** **Reply (#)**

Droosh's *reply:*

So can Samsung legally use these statements in their appeal? And how much weight will they carry? It's truly amazing how Samsung's attorneys' decision to have this guy on the jury cost them so much! cost

Posted on **Sep 04, 2012 | 9:30 AM EDT (#113527713)** **Reply (#)**

brbubba *says:*

"but you're making judgements that the process failed"

Yeah, we're making those judgements because you guys F-ed up the verdict form and had to have the judge correct it for you.

Posted on **Aug 31, 2012 | 9:08 AM EDT (#113142700)** **Reply (#)**

> **tillman's** *reply:*
>
> Sour grapes ….
>
> Posted on **Aug 31, 2012 | 9:23 AM EDT (#113143543)** **Reply (#)**
>
> > **Section VIII's** *reply:*
> >
> > Not necessarily. If they truly spent time deliberating like he says they did, then mistakes like that should have been corrected on the spot.
> >
> > I am baffled as to how they found the Tab to be non-infringing and the smartphones to be infringing.
> >
> > Posted on **Aug 31, 2012 | 7:26 PM EDT (#113206941)** **Reply (#)**

ilostmypistons *says:*

The more the jurors talk the better it gets for invalidating the verdict. This guy really should have Apples lawyers prepare his next statement

Posted on **Aug 31, 2012 | 9:15 AM EDT (#113143058)** via mobile **Reply (#)**

> **tillman's** *reply:*
>
> Sour grapes….
>
> Posted on **Aug 31, 2012 | 9:24 AM EDT (#113143567)** **Reply (#)**
>
> > **Sir_Brizz's** *reply:*
> >
> > I have an idea, you should post this in response to everything you disagree with. That would be great!
> >
> > Posted on **Aug 31, 2012 | 1:55 PM EDT (#113168277)** **Reply (#)**
>
> **Andy H's** *reply:*
>
> You can't invalidate the verdict on the basis of juror statements.
>
> Posted on **Aug 31, 2012 | 3:27 PM EDT (#113179948)** **Reply (#)**
>
> > **Section VIII's** *reply:*
> >
> > Wouldn't that help the argument that our justice system is a little out of whack?
> >
> > Posted on **Aug 31, 2012 | 7:27 PM EDT (#113207081)** **Reply (#)**
> >
> > > **Scannall's** *reply:*
> > >
> > > Not at all. You can't have one juror invalidate the decision by shooting their mouth off later. Kinda defeats the purpose.
> > >
> > > Posted on **Sep 01, 2012 | 6:08 PM EDT (#113318116)** **Reply (#)**

90r *says:*

Hasn't it become clear through various interviews that Hogan didn't read/understand the jury instructions…

> In discussing the first patent on the list, he says they got into a discussion about the prior art that was presented at trial. Here's why they discounted it:
>
> > The software on the Apple side could not be placed into the processor on the prior art and vice versa. That means they are not interchangeable. That changed everything right there.
>
> That isn't disqualifying for prior art. It doesn't have to run on the same processor. It doesn't have to

run at all. It can be words on a piece of paper.

http://www.groklaw.net/article.php?story=20120828225612963 (http://www.groklaw.net/article.php?story=20120828225612963)

Posted on **Aug 31, 2012 | 9:40 AM EDT (#113144552)** **Reply (#)**

jayfehr's *reply:*

the only reason to ever to link to groklaw is to get access to court documents. The reporting is nothing more than biased journalism, there is nothing neutral about it

Posted on **Aug 31, 2012 | 2:50 PM EDT (#113175068)** **Reply (#)**

Section VIII's *reply:*

And the problem with looking at multiple sources is…..?

I was satisfied with the verdict (although surprised about the Tab) until he started doing the interviews.

Posted on **Aug 31, 2012 | 7:30 PM EDT (#113207374)** **Reply (#)**

TigerMSTR *says:*

Ouuu… the Samsung fanboys are pissed.

Posted on **Aug 31, 2012 | 10:19 AM EDT (#113145560)** **Reply (#)**

Empyrean Glow *says:*

Android fans **will not** be satisfied, no matter what is posted, unless it is a clear-cut victory for their platform of choice. Reminds me of a group of stubborn children stomping their feet, with their fingers in their ears, screaming “I’m not listening! Lalalalalala!”.

Posted on **Aug 31, 2012 | 11:15 AM EDT (#113149925)** **Reply (#)**

sfox8's *reply:*

Ask any person here, Android fan or not, and most will probably say the GSI and II copied Apple in some way. People are upset about the patent section. This is about the jury completely overlooking Apple’s overly broad patents.

Posted on **Aug 31, 2012 | 4:20 PM EDT (#113187227)** **Reply (#)**

Sycus's *reply:*

Why stop at Android? The same can be said for, Apple, Microsoft, Sports Teams, etc. etc. Welcome to human psychology, is this your first time around?

The “fandroid”/“crapple” etc. fanboy agruments are old useless drivel that contribute nothing.

Posted on **Aug 31, 2012 | 5:21 PM EDT (#113194548)** **Reply (#)**

sonicmerlin's *reply:*

No, not really. I almost never see an Apple fan trolling theverge forums, or a throng of fanboys invading websites and drowning out intelligent discussion the way I see with Android fanboys.

Posted on **Sep 01, 2012 | 9:41 PM EDT (#113350436)** **Reply (#)**

tillman *says:*

There are clearly different. One says ‘macbook pro’ and the other doesn’t.

Posted on **Aug 31, 2012 | 11:17 AM EDT (#113150073)** **Reply (#)**

TheANARCHY's *reply:*

You keep showing the same pic. Who invented Chiclet keyboards again? I'm quite positive it WASN'T Apple.

Posted on **Aug 31, 2012 | 11:42 AM EDT (#113152862)** **Reply (#)**

renmedalhkg's *reply:*

You can thank Apple for the way we all use our notebooks now. Before this came out in 1991:

Everything looked like this:

And before this arrived in 1995:

they were still copying the PB 100's trackball – poorly:

Posted on **Aug 31, 2012 | 2:26 PM EDT (#113172080)** **Reply (#)**

jayfehr's *reply:*

It was Sony, and that was only one element of the design. The laptop issue is moot anyway, no ones a design patent on laptops. It's a red herring by the Fanboys.

Posted on **Aug 31, 2012 | 2:54 PM EDT (#113175537)** **Reply (#)**

messem's *reply:*

OH !!! they use the same alphabet AND in the same order!

Posted on **Aug 31, 2012 | 11:52 AM EDT (#113153999)** **Reply (#)**

vinrouge's *reply:*

No lawsuit by Apple means zero infringement is there.

Posted on **Aug 31, 2012 | 4:51 PM EDT (#113191080)** **Reply (#)**

sind784 *says:*

You get an interview with this guy and you don't even ask him about the prior art issue and his ridiculous belief that prior art was invalidated because it wouldn't run on the device? Epic journalism fail.

Posted on **Aug 31, 2012 | 11:23 AM EDT (#113150764)** **Reply (#)**

2003aaa *says:*

Well, the appeals court will decide if this guy and the rest of the jury members did their jobs correctly or not. If I were the judge, I would most certainly call BS.

Posted on **Aug 31, 2012 | 11:42 AM EDT (#113152807)** **Reply (#)**

nonesuch's *reply:*

No, the appeals court will not decide if this jury did their job correctly.

Samsung's appellate lawyers might choose (on discrete issues) to raise the issue that it was impossible for any reasonable to jury (an idealized jury) to return this verdict, based on the record, but that's real hard. Most appellate issues will be about mistakes of law.

What does this mean? You can't argue that this jury made a mistake. You would have to argue that based on the record (what was presented in the trial), no conceivable jury could have reached that conclusion. In

other words, even if this jury reached a conclusion for the wrong reasons, if it is possible to imagine a jury reaching the same conclusion for the right reasons, that issue will fail on appeal.

This is why you want to win the trial. Appeals are hard.

Posted on **Aug 31, 2012 | 2:38 PM EDT (#113173592)** **Reply (#)**

2003aaa's *reply:*

This is a well informed comment, thanks. Indeed, one would like to win the trial if possible, but I am interested in seeing how Samsung is going to get out of this mess.

Posted on **Aug 31, 2012 | 2:54 PM EDT (#113175522)** **Reply (#)**

nonesuch's *reply:*

My honest opinion (and this is an opinion only)- they won't get out of this mess.

They won't get a new trial (although they'll try). For all the people talking about prior art (invalidation of Apple's patents), that's a major hurdle to overcome. They would have to show that either as a matter of law they were right (and I'm not sure how they'd do that), or that, based on the evidence presented (the record), no possible jury could have found that Apple's patents were valid. IIRC, patents are only invalid by clear and convincing evidence (not preponderance of the doubt). Absent the USPTO invalidating some of them (possible, but very unlikely), I don't see it.

They might get a bone here or there, they might a few technical victories, but the majority of the verdict will stand (again, IMO), unless they have something really clever I'm missing. Moreover, they still have the damage enhancement- it won't be treble damages, but given the finding of willful damages, it will likely be 1.3x-2.0x, at the judge's discretion.

Posted on **Aug 31, 2012 | 3:14 PM EDT (#113178230)** **Reply (#)**

msl86's *reply:*

Well, with statements like
"Prior art didn't mean that the prior art wasn't valid. **It was valid.** But the stipulation under the law is for the prior art to be sufficient to negate or invalidate the Apple patents in this case, it had to be **sufficiently similar** or, more importantly, it had to be interchangeable.

And in example after example, when we put it to the test, the older prior art was just that. Not that there's anything [wrong] with older prior art – but **the key was that the hardware was different**, the software was an entirely different methodology, and the more modern software **could not be loaded onto the older example and be run without error**."

Source (http://www.bbc.co.uk/news/technology-19425051)

Something went seriously wrong here, and I do not believe another jury could come to this conclusion as to how the law is to be applied. It would mean that any invention and software could be re-patented on every new platform.

Posted on **Aug 31, 2012 | 5:12 PM EDT (#113193425)** **Reply (#)**

nonesuch's *reply:*

sigh

You are completely missing the point. Let me give you an analogy-

Let's say there was a murder trial. The defendant was convicted. After the trial, one of the jurors said that "for me, the key was that the defendant had shifty eyes. Once I saw that, everything fell into place, and I didn't bother worrying about the affirmative defense put forth by the defense."

Can you appeal this? No. This doesn't matter. Do you get this? What matters is that the jury found him guilty. What the appellate court reviews is the record (what happened at the trial) and the verdict. If **any jury** could have reached that result based on the verdict, he's screwed.

You are confusing how (you think) this jury deliberated with the relevant standards. Let me say this again- this is why appeals are hard, and people try to win trials. Appealing issues of law is easier, and can be done de novo, but those are less likely to pop up. But claiming that the jury just didn't do it right? That's not an appellate issue. You got your trial. That's how our system works.

Posted on **Aug 31, 2012 | 5:38 PM EDT (#113196449)** **Reply (#)**

Section VIII's *reply:*

> Which sucks….to put it bluntly.
>
> However, this is different from a murder trial. It takes years to actually execute someone…which in all the famous cases….should not. In my opinion.

Posted on **Aug 31, 2012 | 7:37 PM EDT (#113208203)** **Reply (#)**

gpmoo7 *says:*

> oh by the way, you didn't even sit on the jury, you didn't sit in the courtroom, you didn't hear all the evidence, but you're making judgements that the process failed.

oh by the way, since we weren't inside the courtroom, we have access to even more evidence.

As a patent holder, you had personal interest in making sure not all patents were invalidated.

How did you found that some Samsung devices were infringing on the pinch-to-zoom and over-scroll patents some other Samsung devices were not whereas they all have the these features implemented the same way? Or did you use the patents as an excuse to sanction your personal feeling that these devices were looking "too close in their feel and function"?

Posted on **Aug 31, 2012 | 11:42 AM EDT (#113152849)** **Reply (#)**

> **Sweeney's** *reply:*
>
> Except that they DON'T all have the same features implemented in the same way. The jury had the full set of evidence (phones with the ROM version current when the case was raised, source code, the whole shebang), the Nexus S for example had stock Android 2.3.3 on it whereas most of the other phones had various versions of TouchWiz on them.
>
> Posted on **Sep 01, 2012 | 4:44 AM EDT (#113257476)** **Reply (#)**

yu.qiu1 *says:*

He talked about his aha moments again in his interview with BBC. Although something is still unclear, but he DID think that "interchangable" is the key to prior arts.
http://www.bbc.co.uk/news/technology-19425051 (http://www.bbc.co.uk/news/technology-19425051)

Posted on **Aug 31, 2012 | 11:50 AM EDT (#113153747)** **Reply (#)**

adnan.pirota *says:*

Mr. Hogan : f*&^# you

Posted on **Aug 31, 2012 | 12:10 PM EDT (#113156084)** **Reply (#)**

Marzell *says:*

Will you guys shut the F up! Samsungs own documents proved they copied. Get over it and move on. Innovate instead of taking someone else's ideas. Why is that so hard to deal with??

Posted on **Aug 31, 2012 | 12:14 PM EDT (#113156644)** via mobile **Reply (#)**

> **Sir_Brizz's** *reply:*
>
> No one has even tried to claim that Samsung did not infringe in specific ways, at least on trade dress. You might want to figure out what people are complaining about before you make a post complaining about the complaining.
>
> Also, the Samsung document *proved* nothing of the sort.
>
> Posted on **Aug 31, 2012 | 1:58 PM EDT (#113168595)** **Reply (#)**
>
> > **vanglorious's** *reply:*
> >
> > no, but it made a severely damaging impression and lent credence to the theory that theory did copy.
> >
> > Posted on **Aug 31, 2012 | 2:06 PM EDT (#113169676)** **Reply (#)**
> >
> > > **msl86's** *reply:*
> > >
> > > Apple does the same kind of market research, just look at the Jony phone. Get over yourself, this stuff is normal in all industries.
> > >
> > > Posted on **Aug 31, 2012 | 4:56 PM EDT (#113191561)** **Reply (#)**

vanglorious's *reply:*

piss off with your “get over yourself” nonsense.

everyone does market research, but how alarmingly rigorous was samsung’s comparison galaxy-to-iphone comparison document — they more or less broke-down every feature in the iOS UI. if this is something they did with other competitors, they could have shown examples of other market research in court…

the jony phone, meanwhile, actually makes apple look good. because it was inspired by the sony aesthetic but it wasn’t a rip-off of anything.

Posted on **Aug 31, 2012 | 6:32 PM EDT (#113201773)** **Reply (#)**

jayfehr's *reply:*

Why were there no similar documents produced for MS, Nokia, or RIM? Those were the top three dogs at the time the iPhone came out. All Samsung would have had to do to discredit that report was show that they did the same for all manufacturers. They didn’t prove that. The only phone they examined in that much detail was the iPhone. Coupled with the minutes detailing Google’s objections to the appearance the jury found it pretty evident that it was infringement.

Now as for the Jony phone. That was an Apple designed phone, based on an Apple designed exercise: “what would the Sony of the 80’s have done to design a phone”. Sony of the 80’s never designed a phone. There was nothing to copy. Apple was role playing. All the devices that came out of that were Apple devices. Which are moot anyway since none of those devices actually made it into production, and the prototypes that each became the 3G and the iPhone 4 were both developed before the Jony.

Posted on **Aug 31, 2012 | 11:04 PM EDT (#113239636)** **Reply (#)**

Sir_Brizz's *reply:*

Because none of those companies had anything to do with this case so why would Samsung even try to subpoena them for information that would have added nothing to this case?

Posted on **Sep 01, 2012 | 6:06 PM EDT (#113317761)** **Reply (#)**

jayfehr's *reply:*

It would have been their own documentation. The argument here is that Samsung would have made the same 130 odd page document on any competitors phone, not just Apple’s. All they had to do to discredit that document, which the jury stated was one of two pieces of evidence that convinced them of the infringement, was produce similar docs that they had made for MS, Nokia, and RIM stating the advantages of those phones and how to compete with them. Guess what Samsung didn’t have, yes that’s right, documentation to show they did that for all competitors.

Why do you guys have to grasp at so many straws.

Posted on **Sep 01, 2012 | 6:14 PM EDT (#113319195)** **Reply (#)**

nonesuch's *reply:*

You might want to re-examine what “proved” means, what evidence is, and what the standard in civil litigation is (preponderance of the evidence).

Posted on **Aug 31, 2012 | 3:16 PM EDT (#113178520)** **Reply (#)**

vertig0 *says:*

Wow. 150 comments in and I know this much: Hogan’s absolutely right about the “sour grapes” issue. The patent system wasn’t on trial here, Samsung and Apple were. If you want change, popular opinion can translate into legislative pressure, which can finally move the needle on the patent system. Problem with that is all tech companies pay for their own and industry lobbying efforts in order to preserve the system or flip it to their advantage. Change is not going to come easy, and it’s not going to happen with a single landmark case – in either direction.

Posted on **Aug 31, 2012 | 12:14 PM EDT (#113156685)** **Reply (#)**

Sir_Brizz's *reply:*

Nobody ever said the patent system *was* on trial. What everyone is saying is that the prior art for at least two of the patents in question was compelling if not damning. It seems the jury spent most of their time deciding not to spend any time on prior art issues, which means they spent far less than 2 minutes on

each question they were asked to answer and without the jury instructions on hand which would have at least helped to prevent them from making the mistakes they made.

Posted on **Aug 31, 2012 | 1:59 PM EDT (#113168781)** **Reply (#)**

Empyrean Glow's *reply:*

So, all you guys are essentially throwing a tantrum…not about Samsung being found guilty, since they were actually guilty, it's to what degree of guilty they were?

So, Samsung infringed, but just a teeny bit. To be deserving of the judgement they received, they'd have to have been infringing a whole buncha lots more. That how it works?

Posted on **Aug 31, 2012 | 2:30 PM EDT (#113172523)** **Reply (#)**

Sir_Brizz's *reply:*

What?

No. You clearly don't even understand what I wrote. It's not the "level to which they infringed". It's that the infringement shouldn't have mattered on most points.

Posted on **Sep 01, 2012 | 6:07 PM EDT (#113318002)** **Reply (#)**

jayfehr's *reply:*

But it did matter. Coulda, shoulda, woulda, doesn't matter. They were found to have infringed. Samsung's lawyers were not able to prove otherwise.

Posted on **Sep 01, 2012 | 6:15 PM EDT (#113319352)** **Reply (#)**

nonesuch's *reply:*

"Everyone" is not saying that for prior art. Moreover, many of these "everyone[s]" have, until recently, been unable to articulate (let alone understand) the difference between the patents actually asserted and what they believe the patents to be.

Samsung had an opportunity to present their narrative to the jury about prior art. They either explained it poorly, that narrative was rejected, or it was never very good to begin with. Choose your scenario.

Posted on **Aug 31, 2012 | 3:19 PM EDT (#113178803)** **Reply (#)**

Sir_Brizz's *reply:*

The jury didn't spend any time worrying about prior art after Hogan convinced them it didn't matter.

Posted on **Sep 01, 2012 | 6:08 PM EDT (#113318081)** **Reply (#)**

jayfehr's *reply:*

That's not what he said at all. He said they got caught up arguing about prior art on one phone, moved on then came back to it later and came to a unanimous decision.

Posted on **Sep 01, 2012 | 6:16 PM EDT (#113319552)** **Reply (#)**

sonicmerlin's *reply:*

You've ignored countless opposing viewpoints in numerous threads. Why the devil isn't this considered trolling and grounds for banning by the mods?

Posted on **Sep 01, 2012 | 9:53 PM EDT (#113352273)** **Reply (#)**

msl86's *reply:*

Question is, even under the current patent system, did the jury make the right decision?

Posted on **Aug 31, 2012 | 4:55 PM EDT (#113191456)** **Reply (#)**

Craysh *says:*

I guess this guy has never heard of Jury Nullification…

Posted on **Aug 31, 2012 | 12:20 PM EDT (#113157315)** **Reply (#)**

> **jayfehr's** *reply:*
>
> you know that although Jury Nullification exists, it's a rarely used tool right? There was no hope for it here.
>
> Posted on **Aug 31, 2012 | 3:02 PM EDT (#113176613)** **Reply (#)**

> **Andy H's** *reply:*
>
> You have heard of it but don't seem to understand it. It only applies in criminal cases.
>
> Posted on **Aug 31, 2012 | 3:29 PM EDT (#113180283)** **Reply (#)**

eat_bacon *says:*

what a tool.

Posted on **Aug 31, 2012 | 12:24 PM EDT (#113157738)** **Reply (#)**

Madfrisbee *says:*

Guys, a jury is always going to be imperfect, because you don't get a jury of people with graduate degrees on the topic or years of experience on it. Jurors in murder trials aren't usually experienced criminologists, and few have law degrees. But it's as good a system as we've come up with, and it seems to work better than most of the alternatives.

Samsung had the chance to object to this guy's presence on the jury, and they let it go. I think he seems intelligent and articulate, so of course he was able to influence the opinions of other jurors. Accusing him of having some sinister ulterior motive in this case doesn't seem like an argument that will stand up to scrutiny, but of course many of you will disagree with my opinion on that.

Posted on **Aug 31, 2012 | 12:28 PM EDT (#113158145)** **Reply (#)**

> **msl86's** *reply:*
>
> Why do you think it works better than the alternatives? It is an old system, and an outdated one, as this case shows. It is more about the show, the smooth-talking of the lawyers, picking the right jury, and prejudices within the jury than it is about justice. An independent, well-informed judge would make better decisions.
>
> Posted on **Aug 31, 2012 | 4:53 PM EDT (#113191299)** **Reply (#)**

robblog *says:*

you're biased and you're wrong.
a total disgrace

Posted on **Aug 31, 2012 | 12:45 PM EDT (#113160057)** **Reply (#)**

philanpolicar *says:*

funny that as soon as this apple v. samsung case is in the spotlight – countless patent law know-it-alls appear left right and centre in tech gadget sites.

Posted on **Aug 31, 2012 | 12:52 PM EDT (#113160840)** **Reply (#)**

evildog *says:*

Just wish this would go to the top, and stop these shitty little county judges from dicking around.

Posted on **Aug 31, 2012 | 1:00 PM EDT (#113161745)** **Reply (#)**

> **nonesuch's** *reply:*
>
> County judge?
>
> You mean a federal judge. N.D. California.
>
> Also, you probably don't want it to go to "the top". Federal Circuit might do a good job. You don't want the Supreme Court touching patent cases with a 10' pole. Scalia may know less about patents than the jury foreman.
>
> Posted on **Aug 31, 2012 | 1:50 PM EDT (#113167705)** **Reply (#)**

truename *says:*

Apple biggest mistake in this trial is NOT paying Hogan to keep his mouth shut AFTER the verdict.
Yup, keep talking Mr.Hogan, the star you are.

Lol.

Posted on **Aug 31, 2012 | 1:22 PM EDT (#113164258)** **Reply (#)**

> **Andy H's** *reply:*
>
> Why do you think that paying a juror would be good for Apple?
>
> Posted on **Aug 31, 2012 | 3:31 PM EDT (#113180533)** **Reply (#)**
>
> > **Section VIII's** *reply:*
> >
> > I'm beginning to think they should have.
> >
> > Posted on **Aug 31, 2012 | 7:41 PM EDT (#113208776)** **Reply (#)**
> >
> > **truename's** *reply:*
> >
> > Hogan's already said enough to have a basis for overturning the verdict. And he keeps talking.
> >
> > Posted on **Sep 01, 2012 | 12:00 AM EDT (#113245861)** **Reply (#)**
> >
> > > **Scannall's** *reply:*
> > >
> > > And you would be wrong.
> > > **http://en.wikipedia.org/wiki/United_States_courts_of_appeals (http://en.wikipedia.org/wiki/United_States_courts_of_appeals)**
> > >
> > > Posted on **Sep 01, 2012 | 6:11 PM EDT (#113318550)** **Reply (#)**

Cruzz563 *says:*

Contrary to what most people believe, a jury does NOT have to take the law into account per se, they can decide on what's the right thing to do in a given situation. That's when new laws get created, when a jury makes a decision like that. Like your good samaritan laws. That's the point of the jury, otherwise you wouldn't need a jury. You could read the law and say "Was this law broken? No, you're free to go."

Posted on **Aug 31, 2012 | 2:26 PM EDT (#113172078)** **Reply (#)**

> **bytehead's** *reply:*
>
> Wrong. Jurors are supposed to be the finders of fact. **That** is job of the jury. Some people, such as you, are under the impression that juries can nullify laws. It hasn't gone through the SCOTUS yet, so (pardon the pun) the jury is still out on whether that is so.
>
> Posted on **Aug 31, 2012 | 2:36 PM EDT (#113173346)** **Reply (#)**

bytehead *says:*

The guy shouldn't have gotten past voir dire, but then, how many times are there where a patent holder is juror on a patent case?

Still, he went with his own prejudices and became his own unvetted expert.

Posted on **Aug 31, 2012 | 2:33 PM EDT (#113172847)** **Reply (#)**

> **Andy H's** *reply:*
>
> Both sides wanted him and knew about his patents.
>
> Posted on **Aug 31, 2012 | 3:32 PM EDT (#113180666)** **Reply (#)**
>
> > **Sir_Brizz's** *reply:*
> >
> > I think that's a little strong.
> >
> > Both sides were okay with him.
> >
> > Posted on **Sep 01, 2012 | 6:09 PM EDT (#113318272)** **Reply (#)**
> >
> > > **unclethursday's** *reply:*
> > >
> > > Both sides were probably hoping that because he held a patent, that he would work for their own case. Since both sides were arguing patent issues, they hoped that having someone who owned a patent would be able to understand their side of the patent case. Whereas a layman with no patents has no idea about the patent system in general, prior art, obviousness, etc., a patent holder supposedly should have at least some knowledge of this based on his/her dealings with the

USPTO.

Unfortunately, in this case, it seems the foreman had no idea as to how prior art is meant to be established. And he was able to get his view of interchangeability being necessary to sway the other jurors.

Posted on **Sep 07, 2012 | 2:46 AM EDT (#113804175)** **Reply (#)**

GuntherW *says:*

The more this foreman runs his mouth the better Samsung's appeal gets

Posted on **Aug 31, 2012 | 3:42 PM EDT (#113182234)** **Reply (#)**

Scannall's *reply:*

Not even close to true. Try reading Tanner vs United States sometime.

http://en.wikipedia.org/wiki/Tanner_v._United_States (http://en.wikipedia.org/wiki/Tanner_v._United_States)

This was a case before the Supreme Court. The salient parts quoted here.

[quote] Tanner v. United States, 483 U.S. 107 (1987),**1 (#fn1)** was a case in which the United States Supreme Court held that a jury verdict would not be overturned when the jury had been consuming copious amounts of alcohol, marijuana and cocaine during the course of the trial and deliberations.

After the defendant was found guilty of mail fraud, his attorneys filed several motions in which it was discovered that seven of the jurors drank alcohol during the noon recess. Four jurors consumed between them "a pitcher to three pitchers" of beer during various recesses.**2 (#fn2)** Of the three other jurors who were alleged to have consumed alcohol, one stated that, on several occasions, he observed two jurors having one or two mixed drinks during the lunch recess, and one other juror, who was also the foreperson, having a liter of wine on each of three occasions.**3 (#fn3)** Juror Hardy also stated that he and three other jurors smoked marijuana quite regularly during the trial.**4 (#fn4)** Moreover, Hardy stated that, during the trial, he observed one juror ingest cocaine five times and another juror ingest cocaine two or three times. **5 (#fn5)** One juror sold a quarter pound of marijuana to another juror during the trial, and took marijuana, cocaine, and drug paraphernalia into the courthouse.**6 (#fn6)**

The court held that under Federal Rule of Evidence 606(b), the lower courts were correct in denying a hearing on juror misconduct.**7 (#fn7)** The court noted that "the near-universal and firmly established common-law rule in the United States flatly prohibited the admission of juror testimony to impeach a jury verdict."**8 (#fn8)** [/quote]

Posted on **Sep 01, 2012 | 6:21 PM EDT (#113320214)** **Reply (#)**

msl86 *says:*

Sounds like he was biased, and they went by a pretty shitty process to determine the result.

Posted on **Aug 31, 2012 | 4:50 PM EDT (#113190910)** **Reply (#)**

levelm *says:*

"Use their ability to your advantage, and you just might be innovative enough to come up with something better than Apple."

It's apparent this guy clearly believes Apple is a superior product, and that my friends wreaks of bias. Ha, come up with something better than Apple. Apple's been living in the past for years. They're just now implementing technology and design that Samsung has had in their phones for over a year. Poor guy.

Posted on **Aug 31, 2012 | 5:09 PM EDT (#113193137)** **Reply (#)**

jayfehr's *reply:*

Watch his video's. He owns an Android phone, and is a self-proclaimed PC guy with no Apple products. How is he in any way biased towards Apple.

Posted on **Aug 31, 2012 | 11:06 PM EDT (#113239894)** **Reply (#)**

wonshikee *says:*

"And vice versa of that was also true. So the point being, at the 40,000 foot-level, even though the outcome of the two seemed similar, the internal methodology of how you got there was entirely different. "

By this logic, you can't just "install" Android on an iPhone or vice versa – therefore Android can never infringe on IOS.

Posted on **Aug 31, 2012 | 5:38 PM EDT (#113196463)** **Reply (#)**

> **wonshikee's** *reply:*
>
> Here's the actual quote I meant to quote
>
> And in example after example, when we put it to the test, the older prior art was just that. Not that there's anything [wrong] with older prior art – but the key was that the hardware was different, the software was an entirely different methodology, and the more modern software could not be loaded onto the older example and be run without error.
>
> And vice versa of that was also true. So the point being, at the 40,000 foot-level, even though the outcome of the two seemed similar, the internal methodology of how you got there was entirely different.
>
> Posted on **Aug 31, 2012 | 5:39 PM EDT (#113196531)** **Reply (#)**

Section VIII *says:*

Mr Hogan should probably not do any more interviews.

The jury has spoken and the verdict made. However, it appears (to me anyway) that each time he does an interview, it adds doubt about the verdict. While that may not change the verdict, it DOES influence anyone (scratch that—some) who may be following this trial.

I wanted Samsung to be "fined" for copying iPhone's UI with TouchWhiz to make Samsung remove it. However, Mr Hogan has tainted the trial/deliberations if what he says is true. I'm trying to give him the benefit of the doubt but each time he says something, I end up wanting to slap him to get him back to his senses.

Posted on **Aug 31, 2012 | 7:50 PM EDT (#113209943)** **Reply (#)**

Section VIII *says:*

Apparently, a $1B verdict in Apple's favor isn't good enough for Apple:

(http://www.groklaw.net/article.php?story=20120831002313526#c1001065)

Posted on **Aug 31, 2012 | 9:12 PM EDT (#113221981)** **Reply (#)**

> **Section VIII's** *reply:*
>
> Don't know why the url tag didn't work….
>
> **Link (http://www.groklaw.net/article.php?story=20120831002313526#c1001065)**
>
> Posted on **Aug 31, 2012 | 9:14 PM EDT (#113222184)** **Reply (#)**
>
> > **jayfehr's** *reply:*
> >
> > Can people please stop linking to Groklaw.
> >
> > Posted on **Aug 31, 2012 | 11:07 PM EDT (#113240024)** **Reply (#)**
> >
> > > **ldrn's** *reply:*
> > >
> > > They make me think, I'd rather just believe.
> > >
> > > Posted on **Aug 31, 2012 | 11:29 PM EDT (#113242745)** **Reply (#)**
> > >
> > > > **Sweeney's** *reply:*
> > > >
> > > > They make ME think "what a load of biased Android fanbois", not "what an excellent and impartial job of analysis", that's the problem. Things have gone right down hill since PJ left.
> > > >
> > > > Posted on **Sep 01, 2012 | 5:00 AM EDT (#113257666)** **Reply (#)**
> > > >
> > > > > **jayfehr's** *reply:*
> > > > >
> > > > > PJ came back, however they've just became another Fanboy blog. Initially it was pro-open source. Fanboish, yes, but well reasoned and the law was well explained. However since the end of the SCO trial it's just anti whatever (Apple, MS, Oracle). In Groklaw's view Samsung

uses Android, and Android is open source, so Samsung is correct. That is not logical thinking. Anyone who has done any research on Samsung knows that they are one of the most corrupt corporations out there. Not only that, but Apple's suit against them wasn't even against core Android, it was nearly all about TouchWiz and designs that were arguably too close. Groklaw has lost all objectivity.

Posted on **Sep 01, 2012 | 11:44 AM EDT (#113270581)** **Reply (#)**

Sir_Brizz's *reply:*

Except groklaw never made the case that Samsung was right.

Posted on **Sep 01, 2012 | 6:10 PM EDT (#113318505)** **Reply (#)**

jayfehr's *reply:*

Fuck off with that. Read any article they have written on the case, they are most definitely taking Samsung's side.

Posted on **Sep 01, 2012 | 6:11 PM EDT (#113318642)** **Reply (#)**

Section VIII's *reply:*

What's wrong with linking to a source that has trial documents?

Posted on **Sep 01, 2012 | 11:47 AM EDT (#113270855)** **Reply (#)**

jayfehr's *reply:*

Then link to the documents, not the biased reporting

Posted on **Sep 01, 2012 | 11:48 AM EDT (#113270921)** **Reply (#)**

Section VIII's *reply:*

The link I posted had the documents?

Posted on **Sep 01, 2012 | 11:48 AM EDT (#113270965)** **Reply (#)**

jayfehr's *reply:*

Your link goes to a comments section of the article arguing over the validity of a survey. If it was just a copy/paste mistake I apologize.

Posted on **Sep 01, 2012 | 11:56 AM EDT (#113271613)** **Reply (#)**

Section VIII's *reply:*

Ah…wasn't meant to go to the comments section…was meant to go to the actual article which referenced (and had a link) to the document.

If you ignore the comments by scrolling up to the top of the page, the information is there.

Posted on **Sep 01, 2012 | 11:59 AM EDT (#113271881)** **Reply (#)**

chipbutty *says:*

The lawsuits is all about $ & cents..and Apple is trying to benefits from the back of others such as multi-touch, slide to unlock, bounce back that they did not invent. The icons by Xerox years ago, including the scrollbar etc that had since been adopted and enhanced since . Steve Jobs went on stage and declared they invented multi-touched and had patented it shows the integrity of the company, if any. Not to mentioned he is on record as having said " we have always been shameless in stealing great ideas" It saddens me to see Apple is down to this level to compete with competitors.

Posted on **Sep 01, 2012 | 12:11 AM EDT (#113246925)** **Reply (#)**

darkcrayon's *reply:*

Can you link me to the minute and second in the iPhone keynote where Jobs said that Apple "invented multi-touch"?

Posted on **Sep 01, 2012 | 8:28 AM EDT (#113259859)** **Reply (#)**

chipbutty's *reply:*

Just over half way thru the video, Steve was on stage " ….and we had invented a new technology

called multi-touch....", the video went on to show Jeff Hans showing off multi-touch that was around a year earlier. An eye opener video.

Posted on **Sep 01, 2012 | 8:58 AM EDT (#113260448)** **Reply (#)**

chipbutty's *reply:*

darkcrayon…apologies…forgot the link
http://www.ted.com/talks/kirby_ferguson_embrace_the_remix.html (http://www.ted.com/talks/kirby_ferguson_embrace_the_remix.html)

Posted on **Sep 01, 2012 | 8:54 PM EDT (#113342364)** **Reply (#)**

BobJohson *says:*

There's no way this clown should have been on this jury. "Highlight of his CAREER"? You serve on a jury because it's your DUTY as a citizen. You don't do it for self-edification.

Posted on **Sep 01, 2012 | 1:28 PM EDT (#113280691)** **Reply (#)**

Thereasoner *says:*

This interview was a huge fail on the verg's part if it took place after the Bloomberg interview as the date would suggest. This jury forman has been putting his foot in his mouth ever since this case ended. He clearly stated in the Bloomberg interview a rather twisted and apparently completely made up understanding of what constitutes prior art. He said he convinced the jury to ignore Samsungs valid prior art claims, the same claims that have held up the world over, by incorrectly telling other jurors that if the older tech that Apple copied dosen't "run on" Apples processor and vice versa then the prior art is irrelevant! Everyone who has written about this interview since is astonished at the level of this mans ignorance as evidenced for prior art only needs to establish that the idea was demonstrated before and that said idea was in the 'public domain'. The idea that the older tech needs "to run" on the newer tech and vice versa is absolutely ludicrous and to use this incorrect interpretation of the law to sway the jury be through ignorance or bias, is a travesty of justice. FACT: Samsung clearly proved Apples patents r pinch to zoom and bounce e back to be variations of prior art and this jury was conned into ignoring this fact by a jury foreman who took to "defending these patents as if they were my own"! Added to this fiasco is the fact that this jury incorrectly awarded damages for devices that DID NOT infringe and had to be sent back to correct that mistake, another juror statement claiming that there minds were made up on" day one" rendering the rest of the trial mute and a judge who withheld evidence that "proves" Samsung did not copy the iphone before this circus of a trial even started. While Samsung will not get the mistrial they deserve the jury interviews have all but guaranteed an appeal. This trial has been a complete farce and a huge embarrassment to the American legal system, i'm surprised the verg would miss it's opportunity to shed some light on what really happened.

Posted on **Sep 01, 2012 | 3:26 PM EDT (#113294421)** **Reply (#)**

Dr.Nemmo *says:*

I don't have anything against that foreman, but he doesn't realize the flood he opened the gates to.

Posted on **Sep 01, 2012 | 10:15 PM EDT (#113355709)** **Reply (#)**

trevmase *says:*

well i live in South Africa and we find this ridiculousness. nobody finds apple as the it device or android devices as the it device. so long as you have functionality and strong features. though blackberry's and android devices (not low end android devices) are common place here. mind my English, not in the mood to be correct.

Posted on **Sep 03, 2012 | 1:40 PM EDT (#113460770)** **Reply (#)**