

Estrich Declaration

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Jury didn't want to let Samsung off easy in Apple trial: foreman

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By Dan Levine

SAN FRANCISCO (Reuters) - Jurors felt Samsung Electronics Co Ltd should pay significant damages in the landmark patent trial against Apple Inc, even though they viewed Apple's demands as too high, according to the foreman.

Apple won a sweeping victory against Samsung on Friday in a federal courtroom in San Jose, California.

A nine-member jury found the Korean company had infringed on several Apple features and design patents and awarded the iPhone maker \$1.05 billion in damages, which could be tripled because the jury also decided the Korean firm had acted willfully.

Apple said it intends to seek sales bans against Samsung mobile products, which Samsung will oppose.

In an interview on Saturday, jury foreman Velvin Hogan, 67, said Apple's arguments about the need to protect innovation were persuasive in the jury room. He also said video testimony from senior Samsung executives made it "absolutely" clear to them that the infringement was purposeful.

"We didn't want to give carte blanche to a company, by any name, to infringe someone else's intellectual property," Hogan told Reuters a day after the verdict.

However, Hogan said Apple's damages demand of up to \$2.75 billion were "extraordinarily high," partly because it was unclear whether Apple had enough component supply to sell more phones even if it had wanted to.

FIGURING DAMAGES

Apple's damages expert testified that Samsung earned margins of roughly 35.5 percent on the products at issue in the lawsuit, on \$8.16 billion in revenue. However, Hogan said they thought Apple's percentage did not properly take into account many other costs identified by Samsung.

Samsung's damages expert testified the margin should be closer to 12 percent, and the jury picked a number slightly above that, Hogan said.

"We wanted to make sure the message we sent was not just a slap on the wrist," Hogan said. "We wanted to make sure it was sufficiently high to be painful, but not unreasonable."

Hogan worked as an engineer for decades before he retired, and holds a patent of his own. He said jurors were able to complete their deliberations in less than three days - much faster than legal experts had predicted - because a few had engineering and legal experience, which helped with the complex issues in play.

Once they determined Apple's patents were valid, jurors evaluated every single device separately, he said.

"We didn't just go into a room and start pitching cards into a hat," he said.

At one point during the second day of deliberations, jurors turned off the lights in the room to settle a debate about the potential influence screen brightness might have on Apple's graphics interface. Their verdict: Apple's designs were unique.

"All of us feel we were fair, that we can stand by our verdict and that we have a clear conscience in that we were totally not biased one way or another," Hogan said.

The case in U.S. District Court, Northern District of California, is Apple Inc v. Samsung Electronics Co Ltd et al, No. 11-1846.

(Editing by Vicki Allen and Bill Trott)



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