

EXHIBIT 8

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

APPLE, INC.,) CV-11-1846-LHK
)
PLAINTIFF,) SAN JOSE, CALIFORNIA
)
VS.)
) JANUARY 19, 2012
SAMSUNG ELECTRONICS, CO.,)
LTD., ET AL,)
) PAGES 1-276
DEFENDANT.)

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE PAUL S. GREWAL
UNITED STATES DISTRICT JUDGE

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

FOR THE PLAINTIFF: MORRISON & FOERSTER, LLP
BY: MICHAEL JACOBS
JASON BARTLETT
HAROLD MCELHINNY
MIA MAZZA
425 MARKET STREET, 34TH FL
SAN FRANCISCO, CA 94105

FOR THE DEFENDANT: QUINN EMANUEL
BY: DIANE HUTNYAN
865 S. FIGUEROA ST., 10TH FL
LOS ANGELES, CA 90017

(APPEARANCES CONTINUED ON THE NEXT PAGE)

OFFICIAL COURT REPORTER: SUMMER FISHER, CSR, CRR
CERTIFICATE NUMBER 13185

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FOR THE PLAINTIFF: WILMER HALE
BY: MARK SELWYN
CALVIN WALDEN
950 PAGE MILL ROAD
PALO ALTO, CA 94304

FOR THE DEFENDANT: QUINN EMANUEL
BY: VICTORIA MAROULIS
RACHEL KASSABIAN
JOBY MARTIN
KEN SUH
SCOTT HALL
555 TWIN DOLPHIN DRIVE, 5TH FL
REDWOOD SHORES, CA 94065

ALSO PRESENT: CHRISTOPHER KELLY

1 PRIVILEGED EVENT.

2 THE DIRECTION FROM A MANAGER TO AN
3 ENGINEER CREATES THE BLUE GLOW EFFECT, IS NOT A
4 PRIVILEGED EVENT. IT MAY BE THERE WAS LEGAL ADVICE
5 IN REACHING THE DECISION TO IMPLEMENT THE DESIGN
6 AROUND, AND SOME DAY WE WILL GET TO PRIVILEGE LOGS,
7 BUT THAT CAN'T BE RIGHT.

8 AND THEN, OF COURSE, IF THEY'RE GOING TO
9 ARGUE NON INFRINGING ALTERNATIVES AND THAT THEY
10 HAVE SOMETHING IN THE WORKS AND IT WOULD HAVE BEEN
11 TRIVIAL TO DESIGN OF THE PATENTS, THAT SHOULD BE
12 DOCUMENTED.

13 THE ISSUE OF FINANCIAL DOCUMENTS IS A
14 KNOTTY ONE. IT'S KNOTTY BECAUSE OUR BURDEN IN ONE
15 SENSE IS FAIRLY EASY, AND IN ANOTHER SENSE IT'S
16 FAIRLY CHALLENGING.

17 WE ARE ENTITLED, FOR DESIGN PATENT
18 INFRINGEMENT, TO SAMSUNG'S PROFITS. BUT SAMSUNG IS
19 A GLOBAL COMPANY WITH LOTS OF OPPORTUNITY TO MOVE
20 REVENUES INTO A SUBSIDIARY IF IT'S TAX ADVANTAGED
21 OR NOT OR ALLOCATE COSTS IN PARTICULAR WAYS.

22 AND WE HAVE TO REVERSE ENGINEER THAT FROM
23 THE UNDERLYING DOCUMENTATION AND WE HAVE TO CREATE
24 A DAMAGES MODEL THAT CREATES AN APPROPRIATELY
25 ALLOCATED MODELLING OF SAMSUNG'S PROFITS.

1 IT'S NOT MERELY WHAT SAMSUNG REPORTS AS,
2 SAY, PROFITS FOR THE HANDSET DIVISION, BECAUSE SOME
3 PRODUCTS INFRINGE THE DESIGN PATENTS, WE ALLEGE,
4 AND SOME PRODUCTS DO NOT. SO WE NEED TO GET DOWN
5 TO A FAIRLY GRANULAR LEVEL HERE.

6 NOW AGAIN, WE ARE NOT EXACTLY SURE WHAT
7 SAMSUNG HAS PROMISED TO DO BUT IT DOES HAVE TO BE
8 QUITE COMPLETE, IT DOES HAVE TO BE GLOBAL AND IT
9 DOES HAVE TO BE DOWN TO THE PRODUCT IN A
10 MONTH-BY-MONTH LEVEL.

11 THE COURT: DOESN'T THE CHAN DECLARATION,
12 OR EXHIBIT 1 TO IT, LAY OUT THAT JANUARY 10TH
13 LETTER WHAT THEY'VE AGREED TO PRODUCE?

14 MR. JACOBS: YES.

15 AND I THINK IT'S THE -- THE SHORT ANSWER
16 IS IT'S INCOMPLETE.

17 SO I DON'T THINK WE ARE TRULY GETTING --
18 AMONG THE THINGS THAT WE'VE SPOTTED, WE NEED TO GET
19 THIS FROM ALL THE ENTITIES THAT ARE INVOLVED IN THE
20 SALES.

21 SO WE NEED IT AT THE SUBSIDIARY AND AT
22 THE PARENT LEVEL. WE NEED IT AT THE MONTH-BY-MONTH
23 LEVEL BECAUSE PRODUCTS ARE BEING ROLLED IN AND OUT.
24 WE NEED IT AT THE PRODUCT LEVEL BECAUSE IT'S A
25 PRODUCT-BY-PRODUCT ASSESSMENT. WE NEED THE BUILD

1 OF MATERIALS, WE NEED THE GNA ALLOCATION. WE NEED
2 A PRETTY COMPREHENSIVE VIEW OF THE INCOME AND COSTS
3 STRUCTURE OF SAMSUNG'S MOBILE PHONE GROUP DOWN TO
4 THOSE LEVELS OF GRANULARITY.

5 THE COURT: YOU ARE ASKING FOR THE BILL
6 OF MATERIALS FOR EACH OF THE INDIVIDUAL UNITS THAT
7 INFRINGE?

8 MR. JACOBS: OH, YES. AND WE HAVE GIVEN
9 THAT ON THE APPLE'S SIDE, YOUR HONOR.

10 THE COURT: HOW MANY BILLS OF MATERIAL
11 ARE THERE?

12 MR. JACOBS: WELL, THERE ARE A NUMBER OF
13 ACCUSED PRODUCTS. FOR THIS PURPOSE, I DON'T THINK
14 IS THAT HUGE.

15 SO THAT'S AN AREA THAT'S PROBABLY WORTH A
16 LITTLE FURTHER EXPLORATION.

17 THOSE ARE THE ONES I WANTED, THAT I
18 THOUGHT IMPORTANT TO HIGHLIGHT, YOUR HONOR.

19 WE'VE ACTUALLY, WE COVERED A LOT OF
20 TOPICS WITH THIS MOTION. WE THINK IT'S IMPORTANT
21 THAT WE GET AN ORDER FROM YOUR HONOR ORDERING
22 SAMSUNG TO DO WHAT IN MANY CASES, NOW ON THE EVE OF
23 THE LAST MINUTE IT SAID IT WAS WILLING TO DO,
24 BECAUSE ONLY WITH AN ORDER DO WE REALLY GET THEIR
25 ATTENTION.

1 DEAL WITH THIS. SO IT'S AN AMBUSH TO SHOW UP AT
2 LEAD COUNSEL MEET AND CONFER WHEN WE, THE LOWER
3 LEVEL LAWYERS, HAVEN'T EVEN HAD A CHANCE TO DISCUSS
4 IT.

5 THAT'S ALL I MEANT, YOUR HONOR. I'M NOT
6 SAYING THEY SHOULDN'T BE, INVOLVED THEY MUST BE
7 INVOLVED. BUT IT'S NOT EFFICIENT AND IT SEEMS LIKE
8 IT'S A CHECK THE BOX, OKAY, LEAD COUNSEL HAS MET
9 AND CONFERRED, WE GET TO BOTHER JUDGE GREWAL ABOUT
10 THIS.

11 THAT'S NOT HOW IT SHOULD WORK. THERE
12 SHOULD BE A MEANINGFUL DISCUSSION AND IF WE ARE
13 LEARNING ABOUT SOMETHING AT THE FIRST TIME LEAD
14 COUNSEL MEET AND CONFER, WE HAVE NO TIME TO CONSULT
15 WITH OUR CLIENT, NO TIME TO REACH AGREEMENT.

16 SO LET ME QUICKLY MOVE ON. FINANCIAL
17 DOCUMENTS.

18 MR. JACOBS MENTIONED THREE THINGS.
19 SUBSIDIARY AND PARENT, HE SAID, I'M FINE WITH
20 SAMSUNG'S PROPOSAL BUT IT'S MISSING THREE THINGS.
21 HE SAID, WE WANT A BREAKDOWN BETWEEN SUBSIDIARIES
22 AND PARENTS.

23 I'M NOT SURE WHAT HE'S TALKING ABOUT. I
24 DON'T THINK ANYONE HAS MADE THAT DISTINCTION. WE
25 CERTAINLY HAVEN'T. I DON'T RECALL SEEING APPLE

1 MEET AND CONFER LETTERS TALKING ABOUT THAT.

2 BUT THERE CERTAINLY IS AN AGREEMENT AND
3 WE'VE MADE CLEAR OUR OFFER THAT FOR THE ACCUSED
4 DEFENDANTS WHICH WOULD INCLUDE STA WHICH IS A
5 SUBSIDIARY OF SCC, THAT ALL THOSE FINANCIAL
6 DOCUMENTS ARE GOING TO BE PRODUCED AND HAVE BEEN
7 AND WE HAVE AGREED TO PRODUCE THEM.

8 SO I DON'T UNDERSTAND THAT POINT BUT I
9 DON'T THINK THAT IT MATTERS BECAUSE THERE'S NOT
10 BEEN A REFUSAL ON SAMSUNG'S PART TO PRODUCE
11 DOCUMENTS RELATING TO THE FINANCIAL CATEGORIES
12 INVOLVED FOR THE THREE NAMED DEFENDANTS.

13 HE ALSO SAID, WE WANT INFORMATION AT THE
14 PRODUCT LEVEL AND SAMSUNG HASN'T OFFERED THAT, AND
15 THAT'S JUST COMPLETELY NOT TRUE.

16 IN OUR BRIEF IT LISTS OUT THE EXACT
17 CATEGORIES THAT HAVE BEEN AGREED TO AND IT INCLUDES
18 AT THE PRODUCT LEVEL.

19 SO I'M NOT SURE WHERE HE GOT THAT BUT
20 IT'S DEFINITELY NOT SOMETHING THAT WE REFUSED TO
21 PRODUCE.

22 THE NEXT THING HE IDENTIFIED IS BILLS OF
23 MATERIALS. I AGREE WITH YOU THAT I THINK THAT'S
24 OVERKILL BY A LARGE MARGIN WHEN THERE ARE SUMMARY
25 FINANCIAL DOCUMENTS AT COMPANIES THIS LARGE. BUT

1 TO TRY TO STAVE OFF A MOTION, WE AGREED TO DO IT,
2 AND WE ARE GOING TO TRY TO GET TO THOSE AND LOOK
3 FOR THEM.

4 SO THAT'S TOO -- HE'S INCORRECT THAT THAT
5 WAS MISSING FROM OUR OFFER. SO EVERYTHING HE'S
6 SAYING IS WRONG WITH OUR OFFER, I DON'T AGREE WITH.
7 AND I THINK THE OFFER SPEAKS FOR ITSELF WHICH IS IN
8 THE JANUARY 10TH LETTER AND ALSO LISTED AGAIN IN
9 OUR OPPOSITION BRIEF.

10 THE COURT: DOES YOUR OFFER INCLUDE SALES
11 DATA, REVENUE DATA OUTSIDE THE UNITED STATES?

12 MS. KASSABIAN: FOR THE PRODUCTS THAT ARE
13 SOLD OUTSIDE, YES, WE AGREED TO THAT AND STILL THIS
14 MOTION WAS FILED.

15 MOST OF THESE PRODUCTS AREN'T SOLD
16 ANYWHERE ELSE, BUT THINGS LIKE THE TAB ARE. SO
17 YES, IF IT'S SOLD -- AGAIN, I DON'T KNOW WHY WE ARE
18 HERE ON THIS ISSUE.

19 THE COURT: WELL, IF IT'S NOT SOLD
20 OUTSIDE THE U.S. THERE IS NO DATA.

21 MS. KASSABIAN: THAT'S RIGHT.

22 SO WE CAN'T AGREE TO PRODUCE ANYTHING
23 THAT DOESN'T EXIST. BUT FOR THE PRODUCTS SOLD
24 ABROAD, WE AGREED TO PRODUCE WORLDWIDE DATA FOR
25 THOSE PRODUCTS WHICH THE TAB IS AN EXAMPLE.

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CERTIFICATE OF REPORTER

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

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

SUMMER A. FISHER, CSR, CRR
CERTIFICATE NUMBER 13185