

EXHIBIT 12

CONFIDENTIAL SUBJECT TO PROTECTIVE ORDER

Page 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

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APPLE INC., A CALIFORNIA)
CORPORATION,)
PLAINTIFF,) No. 11-CV-01846-LHK
vs.)
SAMSUNG ELECTRONICS CO.,)
LTD., A KOREAN BUSINESS)
ENTITY; SAMSUNG ELECTRONICS)
AMERICA, INC., A NEW YORK)
CORPORATION; SAMSUNG)
TELECOMMUNICATIONS AMERICA,)
LLC, A DELAWARE LIMITED)
LIABILITY COMPANY,)
DEFENDANTS.)

VIDEOTAPED DEPOSITION OF RICO ZORKENDORFER
CONFIDENTIAL SUBJECT TO PROTECTIVE ORDER

Redwood Shores, California

Friday, October 21, 2011

Reported By:
KATHLEEN WILKINS, CSR #10068, RPR, CRR, CCRR, CLR
JOB NO. 42998

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Friday, October 21, 2011

Videotaped Deposition of RICO

ZORKENDORFER, held at the offices of QUINN, EMANUEL,
URQUHART & SULLIVAN, LLP, 555 Twin Dolphin
Drive, Suite 560, Redwood Shores, California,
pursuant to Agreement before Kathleen A. Wilkins,
CSR, RPR, CRR, CCRR, CLR, of the State of
California.

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

2 For APPLE INC.:

3 MORRISON & FOERSTER

4 425 Market Street

5 San Francisco, CA 94105

6 Telephone: (415) 268-6615

7 E-mail: jasonbartlett@mofo.com

8 BY: JASON R. BARTLETT, ESQ.

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11 For SAMSUNG ELECTRONICS CO. LTD.:

12 QUINN EMANUEL URQUHART & SULLIVAN

13 865 South Figueroa Street

14 Los Angeles, California 90017

15 Telephone: (213) 443-3000

16 E-mail: michaelzeller@quinnemanuel.com

17 BY: MICHAEL T. ZELLER, ESQ.

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1 A P P E A R A N C E S (Continued):

2

3 QUINN EMANUEL URQUHART & SULLIVAN

4 555 Twin Dolphin Drive

5 Redwood Shores, California 94065

6 Telephone: (650) 801-5000

7 E-mail: annaneill@quinnemanuel.com

8 BY: ANNA T. NEILL, ESQ.

9

10 ALSO PRESENT:

11 Tom Vigdal, Apple litigation counsel

12 Jake Krohn, Videographer

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1 MR. BARTLETT: Same objections.

2 THE WITNESS: Again, I can't make -- I
3 can't make a judgment on that.

4 BY MR. ZELLER:

5 Q. Focusing your attention on Figure 1 of the
6 '889 design patent, you'll see on the -- that's an
7 interior rectangular set of -- of lines that appear
8 to be somewhat broken.

9 Do you see that?

10 A. Which one are you referring to?

11 Q. This is the rectangular --

12 A. Yeah.

13 Q. -- set of lines that run on the interior
14 of the front surface on Figure 1 that appears to be
15 somewhat broken, although it's hard to tell.

16 A. Mh-hmm.

17 Q. Do you see that?

18 A. Yeah.

19 Q. Do you know what that is?

20 MR. BARTLETT: Objection. Calls for a
21 legal conclusion.

22 THE WITNESS: I don't feel I have the
23 expertise to -- to comment on -- or to speak to the
24 drawing in front of me.

25 BY MR. ZELLER:

1 Q. Well, I'm not asking if you -- if you have
2 an expertise.

3 My question is, do you know or have an
4 understanding as to what this interior rectangular
5 line represents?

6 MR. BARTLETT: Same objections.

7 THE WITNESS: I don't.

8 BY MR. ZELLER:

9 Q. Do you know if that interior rectangular
10 line that we're discussing shown here in Figure 1 is
11 part of the design that's depicted here in the
12 '889 design patent?

13 MR. BARTLETT: Objection. Calls for a
14 legal conclusion. Calls for speculation.

15 THE WITNESS: I -- I don't know.

16 BY MR. ZELLER:

17 Q. Are those broken lines?

18 MR. BARTLETT: Same objection.

19 THE WITNESS: I'm not sure which lines
20 you're referring to.

21 BY MR. ZELLER:

22 Q. Again, we're talking about the same lines
23 that we've -- that I've been asking questions about,
24 which are the lines -- rectangular lines that run on
25 the inner portion of the -- of Figure 1.

1 MR. BARTLETT: Same objection.

2 THE WITNESS: I don't know.

3 BY MR. ZELLER:

4 Q. If you can please take a look at Figure 2
5 of the '889 design patent. You'll see that there
6 are those diagonal lines in the interior of that
7 back surface.

8 A. Yes.

9 Q. And there are three sets of those diagonal
10 lines?

11 A. Mh-hmm.

12 Q. You see that?

13 A. Yes.

14 Q. Please take a look at Figure 4. You'll
15 see that there are no diagonal lines depicted in --
16 in Figure 4?

17 A. Yes.

18 Q. Do you know why Figure 2 has those
19 diagonal lines but Figure 4 doesn't?

20 MR. BARTLETT: Objection.

21 THE WITNESS: No.

22 MR. BARTLETT: Calls for -- I do want to
23 caution the witness to give me a chance to interpose
24 my objections before responding. Thanks.

25 Calls for a legal conclusion. Calls for

1 expert testimony.

2 BY MR. ZELLER:

3 Q. Do you have an understanding as to why
4 Figure 2 has those diagonal lines that represent a
5 flat surface, but Figure 2 -- excuse me -- Figure 4
6 does not?

7 MR. BARTLETT: Same objections.

8 THE WITNESS: No.

9 BY MR. ZELLER:

10 Q. Does the '889 design patent show a design
11 that has a back surface that is -- that is flat --

12 MR. BARTLETT: Same objection --

13 BY MR. ZELLER:

14 Q. -- meaning --

15 MR. BARTLETT: I'm sorry. I didn't mean
16 to speak over your question, Counsel, I apologize.

17 Same objections.

18 MR. ZELLER: Actually, I'll rephrase it.

19 Q. Does -- does -- by your understanding,
20 from everything you can see here in these drawings
21 in the '889 design patent, does this design show a
22 substantially flat back panel?

23 MR. BARTLETT: Objection. Calls for a
24 legal conclusion. Calls for expert testimony.

25 THE WITNESS: I -- I can't make a judgment

1 based on these drawings.

2 BY MR. ZELLER:

3 Q. Directing your attention to Figure 6.

4 You'll see on the right portion of
5 Figure 6 -- and this is a profile of a device -- a
6 generally circular shape there.

7 Do you see that?

8 A. Mh-hmm. Yes.

9 Q. What's that depict?

10 MR. BARTLETT: Objection. Calls for a
11 legal conclusion. Calls for expert testimony.

12 THE WITNESS: I can't -- I can't depict
13 that. I can't -- yeah. I don't know.

14 BY MR. ZELLER:

15 Q. Directing your attention to Figure 9,
16 you'll see that Figure 9 depicts the side of the
17 device as well as part -- the part of the front
18 surface.

19 Do you see that?

20 A. Yes.

21 Q. But you'll see that that -- that circular
22 shape that's part of Figure 6 is not shown on the
23 side of Figure 9.

24 Do you see that?

25 A. Yes, I see that. Yeah.

1 Q. Do you have an explanation as to why that
2 is?

3 A. I don't know. Sorry.

4 MR. BARTLETT: It's okay.

5 Objection. Vague. Also calls for
6 speculation and calls for expert testimony. Calls
7 for a legal conclusion.

8 THE WITNESS: I don't know.

9 BY MR. ZELLER:

10 Q. Is this circular shape we've been
11 discussing that's depicted in Figure 6 part of the
12 claim design of the '889 design patent?

13 MR. BARTLETT: Calls for a legal
14 conclusion. Calls for expert testimony. Calls for
15 speculation.

16 THE WITNESS: I don't know.

17 BY MR. ZELLER:

18 Q. Directing your attention to Figure 9,
19 you'll see that it shows the top portion of the
20 device, as it's being held by the individual who's
21 shown here, as somewhat of a wedge shape.

22 Do you see that?

23 MR. BARTLETT: Objection. Calls for a
24 legal conclusion. Calls for expert testimony.

25 THE WITNESS: I'm sorry. Wedge -- wedge

1 Q. Do you have -- are you aware of any
2 drawings, whether they are handwritten drawings or
3 sketches or CAD drawings, that depict that groove or
4 gap?

5 A. I don't remember.

6 Q. Show you what was previously marked as
7 Exhibit 6, which is United States Design Patent 0 --
8 excuse me -- 593,087.

9 A. Thank you.

10 Q. Please let me know when you've had a
11 chance to look at Exhibit 6.

12 Do you recognize this document as United
13 States Design Patent 593,087?

14 A. Yes.

15 Q. Did you see this patent prior to the time
16 that you became aware that there was a dispute
17 between Apple and Samsung?

18 A. I -- I must have, yes.

19 Q. What is it that is shown in the '087
20 design patent that was new or original?

21 MR. BARTLETT: Objection. Calls for
22 expert testimony. Calls for a legal conclusion.

23 THE WITNESS: I -- I can't comment on
24 that, or I can't make a judgment on that based on
25 what I see here.

1 BY MR. ZELLER:

2 Q. You don't know?

3 A. I don't know.

4 Q. You're named as an inventor on the
5 '087 design patent?

6 A. Yes.

7 Q. What is it that you invented that's
8 depicted here in '087?

9 MR. BARTLETT: Objection. Calls for a
10 legal conclusion.

11 THE WITNESS: I don't know. I can't make
12 a specific -- I can't put out a specific detail.

13 BY MR. ZELLER:

14 Q. Can you tell us generally?

15 MR. BARTLETT: Same objection.

16 THE WITNESS: Well, I am part of the team
17 that came up with the design for the iPhone, so my
18 contribution was as a member of the team. You know,
19 a variety of ideas and designs and shapes.

20 BY MR. ZELLER:

21 Q. Can you tell us any more specifically?

22 MR. BARTLETT: Objection. Vague.

23 THE WITNESS: Not really, no.

24 BY MR. ZELLER:

25 Q. Can you tell us any more specifically as

1 to what any of the other named inventors did?

2 MR. BARTLETT: Objection. Vague.

3 BY MR. ZELLER:

4 Q. -- in connection with this design?

5 MR. BARTLETT: Objection. Calls for a
6 legal conclusion. Calls for expert testimony.

7 THE WITNESS: No.

8 BY MR. ZELLER:

9 Q. I want to show you what was previously
10 marked as Exhibit 7. For the record, it is United
11 States Design Patent 617,677.

12 And please let me know when you've had an
13 opportunity to review the '677 design patent.

14 THE WITNESS: Yes.

15 BY MR. ZELLER:

16 Q. Prior to the time of your first awareness
17 of a dispute between Samsung and Apple, had you seen
18 the '677 design patent?

19 A. I must have, yes.

20 Q. What is it that was new or original about
21 the design that's shown in the '677 design patent?

22 MR. BARTLETT: Objection. Calls for a
23 legal conclusion. Calls for expert testimony.
24 Calls for speculation.

25 THE WITNESS: I don't know.

1 BY MR. ZELLER:

2 Q. You're named as an inventor on the
3 '677 design patent?

4 A. Yes.

5 Q. What did you invent?

6 MR. BARTLETT: Same objections.

7 THE WITNESS: Again, I can't give you any
8 specifics other than I was the team -- part of the
9 team that came up with the original design for --
10 for the iPhone.

11 BY MR. ZELLER:

12 Q. Are there any portions of what's depicted
13 here in the '677 design patent or any part of it
14 that you can point to and say that that was
15 something you came up with or something that you put
16 down into some kind of fixed form?

17 MR. BARTLETT: Same objections.

18 THE WITNESS: Again, I can't.

19 BY MR. ZELLER:

20 Q. Do you know what it was that you and the
21 team invented here that was different from phone
22 designs that were already in existence?

23 MR. BARTLETT: Same objections.

24 BY MR. ZELLER:

25 Q. Or electronic device -- electronic device

1 designs that were already in existence?

2 MR. BARTLETT: Same objections. Also
3 compound.

4 THE WITNESS: I can't.

5 BY MR. ZELLER:

6 Q. Comparing the '677 design patent to the
7 '087 design patent, is there anything that is new or
8 original that's shown in the '677 design patent
9 as -- when it's compared to the '087 design patent?

10 MR. BARTLETT: Same objections.

11 THE WITNESS: Yeah, I can't interpret
12 design patents, so I -- I can't tell.

13 BY MR. ZELLER:

14 Q. Can you identify anything in the
15 '677 design patent that is substantially different
16 from what's already shown in the '087 design patent?

17 MR. BARTLETT: Same objections. Asked and
18 answered.

19 THE WITNESS: Again, I -- I can't
20 interpret the design patents.

21 BY MR. ZELLER:

22 Q. There's nothing you can identify, right?

23 A. No.

24 Q. That's correct?

25 MR. BARTLETT: Same objections.

1 BY MR. ZELLER:

2 Q. I'm sorry. That's correct, that there's
3 nothing you can identify?

4 A. Based -- I can't interpret these design
5 patents here, so I cannot identify that.

6 Q. Show you what was previously marked as
7 Exhibit 429, which is a copy of United States Design
8 Patent 622,270. And for the record, this is a
9 version of the design patent that has certain
10 markings and labelings on it by hand that I'll be
11 asking about.

12 MR. BARTLETT: Thank you.

13 BY MR. ZELLER:

14 Q. And if you could please take a look at
15 what we've marked here as Exhibit 429, which is a
16 copy of the '270 design patent.

17 Have you had a chance to look at what
18 we've marked as Exhibit 429?

19 A. Yes.

20 Q. Ignoring the handwriting that's on it for
21 a moment. I'm going to ask you about that
22 specifically in a minute.

23 Do you recognize this document as the
24 '270 design patent that you're a named inventor on?

25 A. Yes.

1 Q. What is it that was new or original in the
2 design that's depicted here in the '270 design
3 patent?

4 MR. BARTLETT: Objection. Calls for a
5 legal conclusion. Calls for expert testimony.
6 Calls for speculation.

7 THE WITNESS: Again -- again, I can't -- I
8 don't know, based on what I have in front of me.

9 BY MR. ZELLER:

10 Q. Well, do you know based on all the
11 information that's available to you?

12 MR. BARTLETT: Same objections. Also
13 overbroad and vague.

14 THE WITNESS: No.

15 BY MR. ZELLER:

16 Q. Do you have any knowledge or information
17 as to what you and the other named inventors
18 invented here that's shown in the '270 design patent
19 that's different from the prior art for electronic
20 devices that was in existence at the time?

21 MR. BARTLETT: Same objections.

22 THE WITNESS: I don't know.

23 BY MR. ZELLER:

24 Q. Is there anything in particular you can
25 identify in this design that is shown in the

1 record at 1:08.

2 MR. ZELLER: So I don't have anything
3 further for you at this point. Thank you very much.

4 THE WITNESS: Thank you.

5 EXAMINATION BY MR. BARTLETT

6 BY MR. BARTLETT:

7 Q. Mr. Zorkendorfer, just a few questions.

8 You were asked a series of questions
9 earlier today about various patent drawings.

10 Do you recall that?

11 A. Yes.

12 Q. And you were asked, for example, what
13 certain patent drawings depict to you.

14 Do you recall that?

15 A. Yes.

16 Q. And in some instances you said you
17 couldn't make that judgment based on the drawings.

18 Do you recall that?

19 A. Yes.

20 Q. Why is that, sir?

21 A. I -- I can't -- I can't interpret patent
22 drawings.

23 Q. Why is that?

24 A. That's -- that's not what my -- my
25 training is. That's not my expertise.

1 MR. BARTLETT: That's all I have.

2 FURTHER EXAMINATION BY MR. ZELLER

3 BY MR. ZELLER:

4 Q. You just said that it wasn't your training
5 or expertise to interpret patent drawings, but you
6 know that questions that I asked you in terms of the
7 meaning of -- of patent drawings that you were an
8 inventor on or what certain aspects of it depict, I
9 asked whether you had an understanding.

10 Do you recall that?

11 A. Yes.

12 Q. So regardless of whether the
13 interpretation of patent drawings was part of your
14 training or whether you consider yourself an expert
15 on patent drawings, do you have any understanding --
16 I'm talking about your own understanding, whether
17 expert or not -- as to what those patent drawings
18 mean or what they depict --

19 MR. BARTLETT: Objection. Calls --

20 BY MR. ZELLER:

21 Q. -- with respect to those questions I asked
22 you earlier today?

23 MR. BARTLETT: Objection. Calls for a
24 legal conclusion. Calls for expert testimony.
25 Calls for speculation.

1 THE WITNESS: I -- I can't speak to the
2 patent drawings.

3 BY MR. ZELLER:

4 Q. Just to be clear, you don't have in your
5 own mind a sufficiently clear understanding of what
6 those drawings show or what they depict for you to
7 be able to say in good faith, in testimony, what
8 those drawings mean or what they depict, right?

9 MR. BARTLETT: Same -- same objections.

10 THE WITNESS: Yes.

11 BY MR. ZELLER:

12 Q. And if I phrased all the questions in
13 saying do you have an understanding as to what the
14 portions of the patent drawings or any of the patent
15 drawings that I showed you here today mean or what
16 they depict, you would give me the same answers,
17 right?

18 MR. BARTLETT: Objection. Calls for
19 speculation. Overbroad.

20 THE WITNESS: Yes.

21 BY MR. ZELLER:

22 Q. Other than the testimony that you've given
23 here today, do you have any information or knowledge
24 as to the meaning or what any portions of the
25 '667 design patent depict, or do I have your

1 complete testimony as to your understanding of -- of
2 what that -- what those drawings mean and what they
3 depict?

4 MR. BARTLETT: Objection. Vague.

5 THE WITNESS: Could you -- could you
6 repeat the question? I'm not sure.

7 BY MR. ZELLER:

8 Q. Sure.

9 Focusing your attention for the moment on
10 the '677 design patent --

11 A. This one here (indicating).

12 Q. -- which is Exhibit 7.

13 A. Mh-hmm.

14 Q. Other than what you've testified about, so
15 I'm not asking you to repeat your testimony from
16 earlier, but I'm saying, other than what you've
17 already testified about here today, do you have any
18 other knowledge or information about what the
19 drawings in the '677 design patent mean or what they
20 depict, or do I have your complete testimony on
21 that?

22 MR. BARTLETT: Objection. Vague.

23 Compound. Calls for speculation. Calls for expert
24 testimony. Calls for a legal conclusion.

25 THE WITNESS: I'm -- I'm not sure -- I'm

1 not sure if I fully understand.

2 BY MR. ZELLER:

3 Q. Well, let's step back for a moment.

4 You'll recall that I asked you questions
5 about the '677 design patent?

6 A. Mh-hmm.

7 Q. Do you recall that?

8 A. Yes.

9 Q. And I -- I have asked you questions about
10 your understanding or what you believe certain
11 portions of the '677 design patent cover or what was
12 new or original about the design in the '677 design
13 patent.

14 Do you recall those questions?

15 A. Yes.

16 Q. And so my question is simply, do I -- do
17 you have any other knowledge or information about
18 the drawings that are shown here in the '677 design
19 patent, including what they mean or what they
20 depict, other than what we've -- we've already
21 discussed?

22 MR. BARTLETT: Same objections.

23 THE WITNESS: No.

24 BY MR. ZELLER:

25 Q. And if I asked you the same questions with

1 respect to the '889 design patent, you'd give me the
2 same answer?

3 MR. BARTLETT: Same objections.

4 THE WITNESS: Yes.

5 BY MR. ZELLER:

6 Q. And if I asked you the same questions with
7 respect to the '270 design patent, you'd give me the
8 same answers?

9 MR. BARTLETT: Same objections.

10 THE WITNESS: Yes.

11 BY MR. ZELLER:

12 Q. And if I asked you the same questions with
13 respect to the 80 -- excuse me, the '087 design
14 patent, you'd give me the same answers?

15 MR. BARTLETT: Same objections.

16 THE WITNESS: Yes.

17 MR. ZELLER: Thank you. That's all I have
18 at this point.

19 THE WITNESS: Thank you.

20 MR. BARTLETT: Nothing further.

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