

# **EXHIBIT 2**

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14 AMERICA, INC. and SAMSUNG  
TELECOMMUNICATIONS AMERICA, LLC  
15

16 UNITED STATES DISTRICT COURT

17 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

18 APPLE INC., a California corporation,

19 Plaintiff,

20 vs.

21 SAMSUNG ELECTRONICS CO., LTD., a  
Korean business entity; SAMSUNG  
22 ELECTRONICS AMERICA, INC., a New  
York corporation; SAMSUNG  
23 TELECOMMUNICATIONS AMERICA,  
LLC, a Delaware limited liability company,

24 Defendants.  
25

CASE NO. 11-cv-01846-LHK

**SAMSUNG'S PATENT LOCAL RULE  
3-3 AND 3-4 DISCLOSURES**

26  
27  
28

1 **VII. THE '163 PATENT**

2 **A. Local Patent Rule 3-3(a): Identification of Prior Art**

3 At this time, Samsung contends that at least the following prior art references anticipate or  
4 render obvious, either alone or in combination, the asserted claims of the '163 Patent:

5 1. **Patent References**<sup>18</sup>

Chart No(s).	Country of Origin	Patent Number	Date of Issue
S-1	United States	6,211,856	April 3, 2001
S-2	United States	7,327,349	February 5, 2008
S-3	United States	5,615,384	March 25, 1997
S-4	United States	5,579,037	November 26, 1996
S-5	United States	4,899,292	February 6, 1990
S-6, U	United States	5,877,751	March 2, 1999
U	United States	7,933,632	April 26, 2011
U	United States	7,089,507	August 8, 2006
U	United States	6,054,990	April 25, 2000
U	United States	7,289,102	October 30, 2007
U	United States	6,157,935	December 5, 2000
U	United States	5,463,725	October 31, 1995
U	United States	7,138,983	November 21, 2006
U	United States	7,522,198	April 21, 2009
U	United States	7,852,357	December 9, 2010
U	United States	7,327,932	February 5, 2008
U	Japan	20000163031A	June 16, 2000

16 2. **Publications**<sup>19</sup>

Chart No(s).	Title	Date of Publication	Author	Publisher
S-7, U	AppLens and LaunchTile: Two Designs for One-Handed Thumb Use on Small Devices	2005 (submitted to CHI Conference by Sep. 13, 2004)	Karlson, Amy; Bederson, Benjamin, SanGiovanni, John	Association for Computing Machinery
S-8	West: A Web Browser for Small Terminals	1999	Bjork	Association for Computing Machinery
S-6	2002/0030699 Hand-Held with Auto-Zoom for Graphical Display of Web Page	March 14, 2002	Jan Van Ee (Inventor)	United States Patent Office
S-2	ZoneZoom: Map Navigation for	January 2004	Robbins, Daniel C.; Cutrell,	Association for Computing

18 <sup>18</sup> Samsung incorporates by reference all prior art references cited in the patents listed herein  
19 and/or their file histories.

20 <sup>19</sup> Samsung incorporates by reference all prior art references identified in the publications  
21 listed herein.

Chart No(s).	Title	Date of Publication	Author	Publisher
	Smartphones with Recursive View Segmentation		Edward; Sarin, Raman; Horvitz, Eric	Machinery
S-9	2005/0195221 System and Method for Facilitating the Presentation of Content via Device Displays	September 8, 2005	Berger et al.	United States Patent Office
U	2004/0107403 Presenting HTML Content on a Small Screen Terminal Display	June 3, 2004	Jon Stephenson Von Tetzchner	United States Patent Office
U	2006/0048051 Method for Rendering Formatted Content on a Mobile Device	March 2, 2006	Mihal Lazaridis	United States Patent Office
U	2002/0069220 Remote Data Access and Management System Utilizing Handwriting Input	June 6, 2002	Bao Q. Tran	United States Patent Office
U	2009/0135162 System and Method for Detecting the Location, Size, and Shape of Multiple Objects that Interact with a Touch Screen Display	May 28, 2009	Wijdeven et al.	United States Patent Office
U	2006/0101354 Gesture inputs for a Portable Display Device	May 11, 2006	Hashimoto et al.	United States Patent Office
U	2006/0026535 Mode Based Graphical User Interfaces for Touch Sensitive Input Devices	February 2, 2006	Hotelling et al.	United States Patent Office
U	2004/0236790 Systems and Methods for Digital Document Processing	November 25, 2004	Majid Anwar	United States Patent Office
U	2002/0060701 Graphical user interface for displaying and navigating in a directed graph structure	May 23, 2002	Patrick J. Naughton et al.	United States Patent Office

3. Systems<sup>20</sup>

All versions of the following prior art systems commercially sold, publicly known or used before the priority date of the '163 Patent, including documents and source code describing the same:

Chart No(s).	System	Date Offered/Known	Offering Entity
S-7	LaunchTile Software <sup>21</sup>	September 2004	Ben Bederson <i>et al.</i>
S-2	ZoneZoom Flash Prototype	At least as early as January 2004	Microsoft <sup>22</sup>
S-2	SmartPhlow Traffic Monitoring Application	At least as early as January 2004	Microsoft <sup>23</sup>
S-10	XNav	At least as early as August 25, 2005	Ben Bederson <i>et al.</i>
U	Jeff Han's Breakthrough Touchscreen, <i>See</i> <a href="http://blog.ted.com/2006/08/01/jeff_han_on_ted">http://blog.ted.com/2006/08/01/jeff_han_on_ted</a>	At least as early as August 1, 2006	Jeff Han

Additional prior art that that is relevant to the invalidity of the '163 Patent is listed in Exhibit T. Samsung reserves the right to amend these invalidity contentions to assert these references depending on the claim construction and infringement positions Apple may take as the case proceeds. Moreover, Samsung reserves the right to use these references in combination with

<sup>20</sup> Discovery, and in particular, third party discovery is ongoing. As discovery is in the early stages, Samsung is not yet in possession of all evidence regarding the systems that invalidate the '163 patent. Where possible, Samsung has cited to documentation that evidences the systems' practicing of the invention. However, Samsung anticipates amending these contentions as discovery progresses.

<sup>21</sup> The LaunchTile software is described in AppLens and LaunchTile: Two Designs for One-Handed Thumb Use on Small Devices, *Bederson et al.*, CHI 2005, ACM, Apr. 2-7, 2005 (Exhibits A-C to the Bederson Declaration filed Aug. 22, Dkt. No. 165); Video Demonstration of LaunchTile (Exhibit D to the Bederson Declaration filed Aug. 22, Dkt. No. 165); PowerPoint slides displayed at the CHI conference (Exhibit E to the Bederson Declaration filed Aug. 22, Dkt. No. 165); Executable version of LaunchTile (Exhibit F to the Bederson Declaration filed Aug. 22, Dkt. No. 165). In addition to being attached the Bederson declaration filed on August 22, these documents have been previously produced in this litigation.

<sup>22</sup> *See* ZoneZoom: Map Navigation for Smartphones with Recursive View Segmentation, Robbins *et al.*, ACM Press (Jan. 2004) at 4.1.

<sup>23</sup> *See* ZoneZoom: Map Navigation for Smartphones with Recursive View Segmentation, Robbins *et al.*, ACM Press (Jan. 2004) at 4.2. Samsung is seeking third party discovery on these products. Also relevant is "ZoneZoom: map navigation for smartphones with recursive view segmentation", Robbins et al., AVI '04 Proceedings of the working conference on advanced visual interfaces.

1 other references to render the claims of the '163 Patent obvious in the event Apple takes the  
2 position that certain claim limitations are missing from the references charted in Exhibits S and U.

3 **B. Local Patent Rule 3-3(b): Whether Each Item Anticipates or Renders**  
4 **Obvious the Asserted Claims**

5 Plaintiff asserts claims 2, 4-13, 17-18, 27-42, and 47-52 of the '163 Patent against  
6 Samsung in this lawsuit. All of those claims are invalid because the '163 Patent fails to meet one  
7 or more of the requirements for patentability. The individual bases for invalidity are provided  
8 below and in the claim charts attached as Exhibits S and U. Each of the foregoing listed prior art  
9 documents, the underlying work, and/or the underlying apparatus or method qualifies as prior art  
10 under one or more sections of 35 U.S.C. § 102 and/or 35 U.S.C. § 103.

11 Although Samsung has identified at least one citation per limitation for each reference,  
12 each and every disclosure of the same limitation in the same reference is not necessarily identified.  
13 Rather, in an effort to focus the issues, Samsung has cited representative portions of identified  
14 references, even where a reference may contain additional support for a particular claim element.  
15 In addition, persons of ordinary skill in the art generally read a prior art reference as a whole and  
16 in the context of other publications and literature. Thus, to understand and interpret any specific  
17 statement or disclosure within a prior art reference, such persons would rely on other information  
18 within the reference, along with other publications and their general scientific knowledge.  
19 Samsung may rely upon uncited portions of the prior art references and on other publications and  
20 expert testimony to provide context, and as aids to understanding and interpreting the portions that  
21 are cited. Samsung may also rely on uncited portions of the prior art references, other disclosed  
22 publications, and the testimony of experts to establish that a person of ordinary skill in the art  
23 would have been motivated to modify or combine certain of the cited references so as to render the  
24 claims obvious.

25 **4. Anticipation**

26 Some or all of the asserted claims of the '163 Patent are invalid as anticipated under 35  
27 U.S.C. § 102 in view of each of the prior art references identified above and in the claim charts  
28 included in Exhibit S, which identify specific examples of where each limitation of the asserted

1 claims is found in the prior art references. As explained above, the cited portions of prior art  
2 references identified in the attached claim charts are exemplary only and representative of the  
3 content and teaching of the prior art references, and should be understood in the context of the  
4 reference as a whole and as they would be understood by a person of ordinary skill in the art.

#### 5                   5.       **Obviousness**

6           To the extent any limitation is deemed not to be exactly met by an item of prior art listed  
7 above and in Exhibit S, then any purported differences are such that the claimed subject matter as  
8 a whole would have been obvious to one skilled in the art at the time of the alleged invention, in  
9 view of the state of the art and knowledge of those skilled in the art. The item of prior art would,  
10 therefore, render the relevant claims invalid for obviousness under 35 U.S.C. § 103(a).

11           In addition, the references identified above render one or more asserted claims of the '163  
12 Patent obvious when the references are read in combination with each other, and/or when read in  
13 view of the state of the art and knowledge of those skilled in the art. Each and every reference  
14 identified is also relevant to the state of the art at the time of the alleged invention. Any of the  
15 references disclosed above may be combined to render obvious (and therefore invalid) each of  
16 Plaintiff's asserted claims. Samsung may rely upon a subset of the above identified references or  
17 all of the references identified above, including all references in Exhibits S, T, and U, for purposes  
18 of obviousness depending on the Court's claim construction, positions taken by Apple during this  
19 litigation, and further investigation and discovery.

20           Moreover, to the extent the foregoing references are found not to anticipate the asserted  
21 claims, the foregoing references render the asserted claims obvious either alone or in combination  
22 with one or more of the other references identified above pursuant to P.R. 3-3(a). As explained  
23 herein and/or in the accompanying charts, it would have been obvious to a person of skill in the art  
24 at the time of the alleged invention of the asserted claims of the '163 Patent to combine the various  
25 references cited herein so as to practice the asserted claims of the '163 Patent.

26           In accordance with P.R. 3-3(b), prior art references rendering the asserted claims obvious,  
27 alone or in combination with other references, are outlined below and included in Exhibits S and  
28

1 U, which includes exemplary claim charts for the asserted claims of the '163 Patent showing  
2 specifically where in each reference or combinations of references each asserted claim is found,  
3 and an explanation of why the prior art renders the asserted claim obvious.

4 In particular, Samsung contends that the asserted claims of the '163 patent would have  
5 been obvious in view of the prior art references identified above and in Exhibits S, T and U. For  
6 example, Exhibits S and U include exemplary claim charts that describe how the asserted claims  
7 of the '163 Patent would have been obvious in view of the following references alone or in  
8 combination:  
9

- 10 • All references identified above and in the claim charts in Exhibit S, if found not to  
11 anticipate the claims of the '163 Patent, render the claims of the '163 patent  
12 obvious alone;
- 13 • Any reference identified above and in the claim charts in Exhibit S, if found not to  
14 anticipate the claims of the '163 patent, can be combined with any other reference  
15 identified above and in the claim charts in Exhibit S to render the claims of the  
16 '163 patent obvious;
- 17 • To the extent any element is found to be missing from any reference charted in  
18 Exhibit S, that reference can be combined with any reference or combination of  
19 references disclosing the allegedly missing element and identified in Exhibit U to  
20 render the claims of the '163 patent obvious.
- 21 • Any reference identified in Exhibit U may be combined with any other reference or  
22 combination of references identified in Exhibit U to render the claims of the '163  
23 patent obvious.

24 In addition to these specific combinations of prior art and the specific combinations of  
25 groups of prior art disclosed, Samsung reserves the right to rely on any other combination of any  
26 prior art references disclosed herein. Samsung further reserves the right to rely upon combinations  
27 disclosed within the prosecution history of the references cited herein. These obviousness  
28



1 combinations reflect Samsung's present understanding of the potential scope of the claims that  
2 Plaintiff appears to be advocating and should not be seen as Samsung's acquiescence to Plaintiff's  
3 interpretation of the patent claims.

4 Samsung also reserves the right to amend or supplement these contentions regarding  
5 anticipation or obviousness of the asserted claims, in view of further information from Plaintiff,  
6 information discovered during discovery, or a claim construction ruling by the Court. Plaintiff has  
7 not identified what elements or combinations it alleges were not known to one of ordinary skill in  
8 the art at the time. Therefore, for any claim limitation that Plaintiff alleges is not disclosed in a  
9 particular prior art reference, Samsung reserves the right to assert that any such limitation is either  
10 inherent in the disclosed reference or obvious to one of ordinary skill in the art at the time in light  
11 of the same, or that the limitation is disclosed in another of the references disclosed above and in  
12 combination would have rendered the asserted claim obvious.

13 **C. Local Patent Rule 3-3(c): Charts Identifying where Specifically in each**  
14 **Alleged item of Prior Art each Asserted Claim is Found**

15 Pursuant to Local Patent Rule 3-3(c), charts identifying where specifically in each alleged  
16 item of prior art each limitation of each asserted claim is found, including for each limitation that  
17 Apple contends is governed by 35 U.S.C. § 112(6), the identity of the structure(s), act(s), or  
18 material(s) in each item of prior art that performs the claimed function is attached in Exhibits S  
19 and U.

20 **D. Local Patent Rule 3-3(d): Other Grounds for Invalidity**

21 Samsung identifies the following grounds for invalidity of the asserted claims of the '163  
22 Patent based on 35 U.S.C. §§ 101 and/or 112. Samsung reserves the right to supplement these  
23 disclosures based on further investigation and discovery.

24 **1. Invalidity Based on 35 U.S.C. § 101**

25 The asserted claims of the '163 patent are invalid under 35 U.S.C. § 101 because they only  
26 claim abstract ideas. For example, each asserted claim of the '163 Patent contains the limitations  
27 "detecting a first gesture at a location on the displayed portion of the structured electronic  
28

1 document” and “determining a first box in the plurality of boxes at the location of the first  
2 gesture.” Furthermore, the claims merely contain abstract software instructions.

3 **2. Invalidity Based on Enablement or Written Description Under 35**  
4 **U.S.C. § 112(1) and/or Indefiniteness Under 35 U.S.C. § 112(2)**

5 Based on Samsung's present understanding of Plaintiff's infringement contentions,  
6 Samsung asserts that claims 2, 4-13, 17-18, 27-42, & 47-52 of the '163 Patent are invalid for  
7 reciting at least the following claim terms/phrases:

- 8 • “at least a portion of a structured electronic document”
- 9 • “boxes of content,” “first box,” and “second box”
- 10 • “translating”
- 11 • “substantially centered”
- 12 • “enlarging and translating the structured electronic document so that the first box is  
13 substantially centered on the touch screen display”
- 14 • “while the first box is enlarged, detecting a second gesture on a second box other  
15 than the first box; and translating the structured electronic document so that the  
16 second box is substantially centered on the touch screen display”
- 17 • “the plurality of boxes are defined by a style sheet language”
- 18 • “the width of the first box is substantially the same as the width of the touch screen  
19 display”
- 20 • “means for displaying at least a portion of a structured electronic document on the  
21 touch screen display, wherein the structured electronic document comprises a  
22 plurality of boxes of content”
- 23 • “means for detecting a first gesture at a location on the displayed portion of the  
24 structured electronic document”
- 25 • “means for determining a first box in the plurality of boxes at the location of the  
26 first gesture”
- 27 • “means for enlarging and translating the structured electronic document so that the  
28 first box is substantially centered on the touch screen display”
- “means for, while the first box is enlarged, a second gesture is detected on a second  
box other than the first box”

- “means for, in response to detecting the second gesture, the structured electronic document is translated so that the second box is substantially centered on the touch screen display”

These claim terms/phrases as apparently construed by Apple violate the written description, enablement, and/or definiteness requirements of 35 U.S.C. § 112.

Based on Samsung's present understanding of Plaintiff's infringement contentions, at least one or more of these claim terms/phrases are indefinite because they are inconsistent with and broader than the alleged invention disclosed in the specification and given Plaintiff's apparent constructions of the claims, any person of ordinary skill in the art at the time of the invention would not understand what is claimed, even when the claims are read in light of the specification. Moreover, based on Samsung's present understanding of Plaintiff's infringement contentions, each of the asserted claims in which these claim terms/phrases appear lack written description because the specification of the '163 Patent demonstrates that the patentee neither conceived of nor demonstrated possession of all that Apple now contends the claims cover. In addition, based on Samsung's present understanding of Plaintiff's infringement contentions, each of the asserted claims in which these claim terms/phrases appear are invalid because the specification fails to provide sufficient disclosure to enable any person of ordinary skill in the art to which it pertains, or with which it is most nearly connected, to implement the invention without undue experimentation. Therefore, the claims fail to satisfy the requirements of § 112 ¶¶ 1 and 2.

## VIII. THE '129 PATENT

### A. Local Patent Rule 3-3(a): Identification of Prior Art

At this time, Samsung contends that at least the following prior art references anticipate or render obvious, either alone or in combination, the asserted claims of the '129 Patent:

#### 1. Patent References<sup>24</sup>

Chart No(s).	Country of Origin	Patent Number	Date of Issue	Priority Date
V-1	US	4,571,454	2/18/1986	11/11/1982
V-2	US	5,083,118	1/21/1992	4/16/1990
V-3	US	5,113,041	5/12/1992	12/28/1990

<sup>24</sup> Samsung incorporates by reference all prior art references cited in the patents listed herein and/or their file histories.