

EXHIBIT 11

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION
4

5 APPLE INC., a California
6 corporation,

7 Plaintiff,

8 vs.

CASE NO. 11-cv-01846-LHK
12-cv-00630-LHK

9 SAMSUNG ELECTRONICS CO.,
10 LTD., a Korean business
11 entity; SAMSUNG ELECTRONICS
12 AMERICA, INC., a New York
13 corporation; SAMSUNG
14 TELECOMMUNICATIONS AMERICA,
15 LLC, a Delaware limited
16 liability company,
17 Defendants.

18 _____/

19 H I G H L Y C O N F I D E N T I A L
20 A T T O R N E Y S ' E Y E S O N L Y

21 VIDEOTAPED DEPOSITION OF STEVEN SINCLAIR
22 REDWOOD SHORES, CALIFORNIA
23 WEDNESDAY, APRIL 4, 2012

24 BY: ANDREA M. IGNACIO HOWARD, CSR, RPR, CCRR, CLR
25 CSR LICENSE NO. 9830
JOB NO. 47582

1 WEDNESDAY, APRIL 4, 2012

2 10:04 A.M.

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6 VIDEOTAPED DEPOSITION OF STEVEN SINCLAIR,

7 taken at QUINN EMANUEL URQUHART & SULLIVAN,

8 LLP, 555 Twin Dolphin Drive, Redwood Shores,

9 California, pursuant to Notice, before me,

10 ANDREA M. IGNACIO HOWARD, CLR, CCRR, RPR,

11 CSR License No. 9830.

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

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

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4 FOR SAMSUNG ELECTRONICS CO. LTD:

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15 ALSO PRESENT: Benjamin Gerald, Videographer

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1 A Yes, I do.

2 Q And -- and why do you regard that -- I mean,
3 why is ease of use an important aspect of its appeal?

4 A Because it's -- it's a key element of -- of
5 any product. If it's easy to use, then customers are
6 going to have a connection with that product. They're
7 going to use more features of that product, they're
8 going to be more tied to that product, and they're
9 going to want to buy more or feature versions of that
10 product. They're also going to want to recommend that
11 product to their friends.

12 Q Do you have an understanding that with
13 respect to Apple products in particular, that they are
14 regarded as easy to use, and that fact -- that factor
15 is important in terms of sales of Apple products?

16 A I believe that's the case.

17 Q And what is the basis for your belief that
18 the ease of use of Apple products is an important
19 factor in the -- in the sales of Apple products?

20 A Obviously, I talk to customers, so I get that
21 feedback directly from them. We also do surveys of
22 buyers of our products. So I look at -- oftentimes
23 will look at iPhone buyer surveys where they rank what
24 their decision-making process was, what some of the
25 elements were that went into that. And ease of use

1 generally comes out on top or close to on top every
2 time.

3 Q In fact, is ease of use -- is that one of the
4 choices that a consumer is given in completing one of
5 these Apple surveys as to whether that's something
6 that they regard as important?

7 A I haven't seen the details of -- of how the
8 questions are asked, but I believe it is an option.

9 Q That is to say, that's one category that a
10 surveyed consumer can select to identify why they
11 bought the product or why they like it?

12 A Sure.

13 Q And that category being, quote-unquote, ease
14 of use?

15 A I don't know if those are the exact words,
16 but in general, yes.

17 Q I mean, you've seen that. That's a common
18 phrase --

19 A Uh-huh. Yes, I have.

20 Q -- ease of use?

21 A Yes.

22 Q And that's used a lot within Apple with
23 reference to Apple products; correct?

24 A We think about it a lot.

25 Q And -- and I asked you, what's the basis for

1 your belief that ease of use is an important factor
2 in -- in determining Apple's sales?

3 And you've mentioned two things to me so far.
4 You've mentioned the fact that you talk to customers
5 and that you're aware of surveys that are done of
6 buyers --

7 A Yes.

8 Q -- those two things; right?

9 A Those two things.

10 Q Is there anything else that you're aware of
11 on which you base your belief that ease of use is an
12 important factor in -- in sales of Apple products,
13 other than those two things?

14 A Certainly, we see reviews that come from
15 analysts and from technology media types that will
16 compare our products to other products, and -- and
17 also comment on how easy they are to use compared to
18 other products. So that's feedback that we get that
19 validates our belief that that's important.

20 Q All right.

21 So I've got customer, talking at your own --
22 talking to customers, surveys, then reviews that you
23 review of Apple products.

24 Is there any other data or information that
25 you're aware of on which you base your belief that

1 ease of use is an important factor in Apple sales?

2 A Well, I think it's my own personal experience
3 in using the products and how -- how easy it is to use
4 a feature, how intuitive -- intuitive a feature seems
5 to be. And, you know, we build products that we
6 ourselves think are -- are easy to use and that we
7 like to use and are beautiful. And -- and -- and so
8 those -- those translate into sales. We've seen that.

9 Q All right.

10 Anything else? I want to make sure I get a
11 complete list of the things on which you base your
12 opinion that ease of use is an important factor in
13 sales of Apple products.

14 Do I -- do I have everything now?

15 A Those are the ones I can think of right now.

16 Q All right.

17 Have you seen surveys or any type of studies
18 which indicate what features of Apple products
19 contribute to ease of use?

20 A I don't believe we've broken down features in
21 a way that tie directly to ease of use. We try and --
22 ease of use is a -- is an attribute of every feature.
23 So every feature we work on, we ask ourselves: Is
24 this easy to use? Does this contribute to the overall
25 ease of use of this product?

1 Q So would you say that it would be true to say
2 that every feature contributes to ease of use?

3 MR. PLUNKETT: Objection; vague.

4 MR. STONE: Argumentative.

5 THE WITNESS: I can say -- we're talking
6 software -- software features for the most part, yes,
7 contribute to ease of use; not every -- not every
8 feature. There are certain features that can -- can
9 degrade ease of use, but you still have to do them.

10 MR. QUINN: All right.

11 THE WITNESS: So security feature, for
12 example --

13 MR. QUINN: Okay.

14 THE WITNESS: -- might -- might make ease of
15 use harder. But you do your best to minimize its
16 impact on ease of use.

17 MR. QUINN: Q. Can you identify any features
18 of Apple products other than this security feature you
19 just identified which in your own mind do not
20 contribute to this phenomenon of ease of use?

21 MR. PLUNKETT: Objection; vague.

22 THE WITNESS: Well, certainly there are a lot
23 of settings that you have to put into the device to
24 give customers choice on how to -- how the product
25 functions. And the more settings you add, the more

1 complicated it gets, and so that does not contribute
2 to ease of use.

3 MR. QUINN: Q. Anything else? Any other
4 features which in your own mind are not included in
5 this phenomenon of ease of use?

6 MR. PLUNKETT: Objection; vague.

7 THE WITNESS: So I'd probably have to put
8 some more thought into it. I'm sure there are others.

9 MR. QUINN: Q. But as of -- the only ones
10 you can think of right now are security and settings;
11 is that true?

12 A Those are the two I can think of right now.
13 And I'm sure in two minutes' time I'll probably think
14 of a couple more.

15 Q If you do, will you let me know?

16 A Sure.

17 Q Do you have -- I think you -- I think you
18 told me that you don't actually survey customers to
19 find out which particular features contribute to this
20 ease of use; is that true?

21 MR. STONE: Objection; lacks foundation.

22 THE WITNESS: We don't -- I don't believe we
23 phrase it in that way. We don't -- we don't talk --
24 we don't ask, Does Siri make using this product
25 easier?

1 MR. QUINN: Q. I mean, do you -- are you
2 aware of Apple undertaking any type of research or
3 surveys to determine what individual features
4 contribute or don't contribute to ease of use?

5 A Not in those specific terms, no.

6 Q Well, I don't want to get hung up on those
7 specific terms.

8 A Okay.

9 Q Conceptually, are you aware of any survey or
10 research that Apple has done to determine what
11 features contribute or don't contribute to ease of
12 use, whether or not it uses that particular phrase or
13 not?

14 MR. STONE: Objection; lacks foundation.

15 THE WITNESS: So I'm not aware of a survey
16 that's phrased in a way that asks, Does this feature
17 make this product easier to use?

18 MR. QUINN: All right.

19 Q Are you aware of any surveys that ask similar
20 questions using slightly different words, but really
21 asks -- is asking about ease of use?

22 MR. STONE: Objection; lacks foundation;
23 vague.

24 THE WITNESS: So we ask questions about
25 features and whether or not they influence someone's

1 purchase decision for the product.

2 For us, every feature that we market -- not
3 every, but I'd say 90-plus percent of every feature
4 that we market, we assume that we've -- we've done our
5 homework and we've built ease of use into that
6 feature.

7 So if a consumer likes a particular feature
8 or it was a purchase driver for them, we -- we equate
9 that with, Well, we did a good job. It's easy to use.
10 It does what it says it's supposed to do. Customers
11 like it. Therefore, that's why they were interested
12 in our product.

13 So it's -- it's not a direct question and
14 answer like you're stating, but it's more of an
15 implied, they like this feature. It contributes to
16 ease of use. Therefore, the product is easy to use.

17 MR. QUINN: Q. The ease of use part being
18 sort of your conclusion, based on the fact that they
19 like the feature?

20 A It's one of the conclusions, that obviously,
21 the feature probably has functionality that they like,
22 too.

23 Q All right.

24 Let me see if I can ask the question in a
25 different way.

1 A Okay.

2 Q Do you have any information at all about what
3 features consumers associate with ease of use?

4 A It's all of the features. All of the
5 features contribute to ease of use, either in the
6 most -- for the most part, for our products,
7 positively; in a few cases, like the examples I gave
8 you, negatively.

9 Q You made -- you made a comment that you do do
10 surveys or some type of research to determine what
11 features influence purchase decisions. Did I
12 understand that correctly?

13 A Yes.

14 Q What research are you referring to? Could
15 you describe that, please.

16 A So periodically, our research team does what
17 we call buyer surveys. And so we usually do a buyer's
18 survey shortly after we launch a product, and then a
19 more complete version of that same survey several
20 months down the road from product launch and ask
21 questions about, you know, What -- what product did
22 you buy? Why did you buy it? Where did you buy it?
23 What influenced your decision to buy it? And -- and
24 other details. What country are you in? So we can
25 break it down by country and demographics, that sort

1 of thing.

2 Q And how -- are these surveys referred to
3 internally within Apple as buyer surveys?

4 A That's how we talk about them in my group.

5 Q And who is in charge of conducting these
6 buyer surveys?

7 A So that group is managed by Art Rangel,
8 R-A-N-G-E-L.

9 Q And what's the name of that group?

10 A We just call it the marketing research group.
11 I don't know if they have an official title.

12 Q All right. Okay.

13 Other than these buyer surveys which you've
14 described to me, are you aware of any other research
15 that Apple does in order to determine what features
16 influence buying decisions?

17 A I'm not aware of any others.

18 Q And in terms of these buyer surveys, are
19 these -- have you actually seen these buyer surveys
20 yourself?

21 A I've seen the results that come out. They're
22 usually a file that gets distributed to the teams.

23 Q All right.

24 And is -- and do these have choices that
25 buyers can select in terms of, you know, what factors

1 influence their buying decision?

2 A There are -- it's a question and answer. So
3 there will be a question, then a multiple choice, and
4 then a place for them to add their own answer if it's
5 not one of the choices.

6 Q All right.

7 So is -- is one of the choices slide to
8 unlock?

9 A I don't recall seeing a question like that.

10 Q Okay. You know, is one of the choices the
11 ability to, you know, search data across multiple
12 databases in applications? Is that one of the
13 choices?

14 A Not in those terms. It would be Siri which
15 does that, so we asked a question about Siri.

16 Q All right.

17 But other than that, I take it you don't ask
18 the question about, you know, the ability to perform
19 searches across multiple --

20 A Customers --

21 Q -- applications and --

22 A -- customers wouldn't understand that.

23 Q -- and databases? You don't ask that?

24 A Customers wouldn't understand a question like
25 that. We'd ask them about Siri, which does those

1 sorts of things.

2 Q All right.

3 We've heard of a -- you've told me that you
4 understood your -- your declaration was going to be
5 submitted in connection with -- related to some
6 patents as well.

7 You're -- you're familiar with an issue
8 regarding a patent regarding linking structures to
9 actions? Is that a phrase you've heard before?

10 A I think that would be data detectors.

11 Q All right.

12 So when you told me data detectors earlier --

13 A That's what I -- that's my nomenclature for
14 that feature.

15 Q So in other words, like, if there is a phone
16 number that's embedded in an e-mail, you can click on
17 that or swipe it or touch it or something and make a
18 phone call?

19 A That's -- that would be an example of a data
20 detector.

21 Q All right.

22 Or linking structures to actions?

23 A I suppose so, if that's the lingo.

24 Q And would another example of that be if there
25 were, like, a web address that was in the body of a

1 text, and you could, you know, touch on that, swipe
2 that, activate that, and it would go to the web
3 address? Would that be another example of a data
4 detector, in your mind?

5 A It could be, although we generally use it to
6 imply things that aren't -- aren't necessarily just
7 web addresses, because web addresses are really easy.
8 It's much harder to figure out a person's correct
9 phone number, an address, a date. That's usually what
10 we mean by data detector.

11 Q I mean, we'll get to that. My question --

12 A Okay.

13 Q -- at this point isn't, like, which is the
14 hardest and which is the easiest.

15 A Okay.

16 Q The question really is kind of before that.

17 Is another example of a linking structure to
18 action or data detector the ability to click on or
19 touch an embedded web address and go to that address?

20 A That would be a simplified version of that.

21 Q Right.

22 And I think you've already told me going to a
23 phone number and making a call, that's an example?

24 A That would be an example.

25 Q And another example would be -- I've got some

1 notes here -- like, you could click on an e-mail
2 address or swipe or touch an e-mail address and go
3 right to composing an e-mail to that address; would
4 that be another example?

5 A That could be another example.

6 Q So in these buyer surveys, do they -- do you
7 have one where, in substance or effect, one of the
8 choices in the multiple choice is data detectors or
9 linking structures to actions, that's -- that's the
10 reason or one of the reasons why I bought this?

11 A Not specifically that sort of thing. That
12 would fall under the ease of use category. All of
13 those things, things like slide to unlock and data
14 detectors, contribute to the overall ease of use of
15 the product.

16 Q All right.

17 And -- and so ease of use is one of the
18 things -- one of the boxes that a consumer can check;
19 is that true?

20 A On some of the questions, yes.

21 Q All right.

22 And you include, I think you've told us, all
23 those different -- many different features in ease of
24 use; right?

25 A Uh-huh, that's true.

1 MR. STONE: John, we've been going over an
2 hour. Whenever you get to a good breaking point.

3 MR. QUINN: Let me just -- let me just do a
4 little bit and we'll break; okay?

5 Q And similarly, word recommendations -- we've
6 heard, you know, in one of the patents -- you're aware
7 that your declaration -- you said you knew it related
8 to some patent issues. You know there is an issue
9 relating to word recommendations when you're typing;
10 do you know that?

11 A Now, you just reminded me of the fourth one I
12 couldn't think of.

13 Q All right.

14 And is that one of the things that in -- in
15 surveys, the buyers -- one of the things -- the
16 options you can check as to why I bought the product
17 because of the -- this feature where you'll get word
18 recommendations when you're composing a message?

19 A We don't ask that specific question. That
20 falls, again, under ease of use of the product.

21 Q Right.

22 Can you give me a complete list of all the
23 features that fall under ease of use.

24 A I could go through a phone and -- and point
25 to many, many, many different features.

1 Q Would it be fair to say that there are more
2 than five features that would be included within this
3 concept of ease of use?

4 A I think that's fair to say.

5 Q Would it be fair to say that there are more
6 than ten?

7 A There are a lot of features that contribute
8 to ease of use, and if not done correctly, those
9 features can detract from ease of use.

10 Q When you say there are many, many features
11 that are included under the category of ease of use,
12 can you give me an approximation of how many features
13 there are.

14 A No, I can't.

15 MR. QUINN: Okay. Let's break.

16 THE VIDEOGRAPHER: This marks the end of Disc
17 No. 1 in the deposition of Steven Sinclair.

18 The time is 10:36 a.m., and we are off the
19 record.

20 (Recess taken.)

21 THE VIDEOGRAPHER: This marks the beginning
22 of Disc No. 2 in the deposition of Steven Sinclair.

23 The time is 10:47 a.m., and we are back on
24 the record.

25 MR. QUINN: Q. For how long have you worked

1 in the marketing profession or occupation?

2 A About seven or eight years.

3 Q Do you have any professional training in that
4 area?

5 A I have an MBA where I took a class.

6 Q And where is your MBA from?

7 A University of Michigan.

8 Q You're aware that there are particular -- let
9 me start over again.

10 It's true, isn't it, that if a manufacturer
11 of a product wants to find out specifically what
12 features caused a consumer to purchase the product,
13 there are techniques by which a manufacturer could do
14 that?

15 A Sure.

16 Q And -- and what would some of those be?

17 A Primary one would be to -- to ask customers,
18 "Why did you buy the product?"

19 Q And if Apple wanted to find out what specific
20 features caused consumers to purchase Apple products,
21 that's something that Apple could presumably do by
22 doing those types of surveys?

23 A That's true.

24 Q So if Apple wanted to find out whether, you
25 know, a particular feature like slide to unlock or,

1 you know, the ability to suggest words in composing a
2 message, or the ability to search across multiple
3 databases and applications, or -- what's the fourth
4 one -- linking structures to actions or detectors, if
5 Apple wanted to find out specifically whether any of
6 those features caused consumers to purchase a product,
7 that -- or contributed to the purchase decision,
8 that's something that Apple could do?

9 A We could. In those specific examples, we
10 know that they contribute to ease of use, so we don't
11 have to ask that question of, "Did this contribute to
12 ease of use which caused you to buy this product?"

13 Q So let me go back and ask the question then
14 specifically.

15 A Okay.

16 Q Apple could specifically ask about those
17 features, that is to say, slide to unlock, linking
18 structures to actions, or detectors, word
19 recommendations, or unified search, that is to say,
20 the ability to search across applications or
21 databases.

22 Apple could survey consumers and find out
23 whether specifically those features contributed to the
24 decision to make purchases; true?

25 A We could, if that was the question.

1 Q All right.

2 And what you're telling me is, Apple knows or
3 Apple has the view that all those features contribute
4 to ease of use; correct?

5 A They all do.

6 Q Right.

7 And so that Apple then believes that when it
8 asks cons- -- Apple gives consumers a choice in the
9 surveys as to whether ease of use is a factor that
10 contributed to their buying decision; is that true?

11 A We do ask that question.

12 Q But it's true, isn't it, that Apple does not
13 break down the various features that it believes
14 contributes to ease of use to find out which
15 particular ones of those features might or might not
16 have driven a buying decision; is that true?

17 A We ask about the new features that we've
18 introduced recently that are built on top of the
19 operating system that comes on the product. Features
20 that we're talking about are pretty core to the
21 operating system itself and its ease of use, and we
22 ask questions about new features that we've recently
23 introduced.

24 Q All right.

25 Other than that, other than asking about new