

Estrich Declaration

Exhibit 8

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

APPLE INC., A CALIFORNIA CORPORATION,)	C-11-01846 LHK
)	
)	SAN JOSE, CALIFORNIA
PLAINTIFF,)	
)	AUGUST 14, 2012
VS.)	
)	VOLUME 8
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,)	PAGES 2321-2650
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DEFENDANTS.)	

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE LUCY H. KOH
UNITED STATES DISTRICT JUDGE

APPEARANCES ON NEXT PAGE

OFFICIAL COURT REPORTER: LEE-ANNE SHORTRIDGE, CSR, CRR
CERTIFICATE NUMBER 9595
IRENE RODRIGUEZ, CSR, CRR
CERTIFICATE NUMBER 8074

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

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INTERPRETERS: JAMES YIM VICTORY
ALBERT S. KIM
ANN PARK

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1 INTERROGATORIES. IT'S NOT IN THE EXPERT REPORT.

2 THE COURT: HE CAN'T GIVE ANY NEW -- I
3 AGREE WITH MR. LEE THAT WHAT'S IN HIS EXPERT REPORT
4 AND WHAT HE SAID DURING HIS DEPOSITION WAS VERY
5 CONCLUSORY AND DIDN'T SPECIFICALLY IDENTIFY EITHER
6 THE APPLET OR THE APPLICATION MODULE.

7 SO HE CAN'T NOW UNDO WHAT HE DID IN HIS
8 EXPERT REPORT OR IN HIS DEPOSITION TESTIMONY. SO
9 THAT'S WHY IT WAS STRICKEN.

10 BUT THE ONE QUESTION THAT YOU'VE RAISED
11 NOW WILL BE ALLOWED. OKAY?

12 MR. JOHNSON: YOUR HONOR, I WOULD JUST
13 ASK, HIS EXPERT REPORT --

14 THE COURT: ALL RIGHT. NOW I'M DOCKING
15 TIME. GO AHEAD. I'M DOCKING TIME. IT'S 10:30.
16 GO AHEAD. I RULED ON THIS SUNDAY NIGHT FOR
17 RECONSIDERATION YESTERDAY. GO FOR IT. 10:35. THE
18 TIME IS TICKING. GO AHEAD.

19 MR. JOHNSON: I DON'T HAVE ANYTHING
20 FURTHER.

21 THE COURT: GO AHEAD. I'M ALL EARS.

22 MR. JOHNSON: GO AHEAD.

23 THE COURT: 10:35.

24 SO WHAT ELSE, DO YOU WANT TO KEEP
25 FIGHTING ON THIS OR DO YOU WANT TO GO TO TRIAL?

1 I'M TALKING TO BOTH SIDES HERE.

2 MR. LEE: WE'RE READY TO GO.

3 MR. JOHNSON: WE'RE READY TO GO.

4 THE COURT: ALL RIGHT.

5 (WHEREUPON, A RECESS WAS TAKEN.)

6 (WHEREUPON, THE FOLLOWING PROCEEDINGS

7 WERE HELD OUT OF THE PRESENCE OF THE JURY:)

8 THE COURT: SO NEITHER INTEL NOR SAMSUNG
9 FILED ANYTHING. I GOT THE SELWYN DECLARATION
10 WITH -- PLEASE SIT DOWN -- THAT ATTACHES THE
11 E-MAILS AND OTHER EXPERTS BEING DISCLOSED IN MARCH
12 OF THIS YEAR.

13 WHAT'S HAPPENING WITH THAT? I SAID TO
14 FILE IT BY 10:30.

15 MR. SHVODIAN: YOUR HONOR, WE'RE HAVING
16 IT PRINTED RIGHT NOW. BUT I CAN LET YOU KNOW,
17 INTEL HAS DECIDED THAT THEY WILL REQUEST SANCTIONS
18 AND AN ORDER OF CONTEMPT, BUT ARE NOT GOING TO
19 REQUEST THAT DR. WILLIAMS BE PRECLUDED FROM
20 TESTIFYING.

21 THE COURT: I WAS NEVER GOING TO GRANT
22 THAT.

23 MR. SHVODIAN: OKAY.

24 THE COURT: THAT'S AN EXTREME AND
25 UNWARRANTED SANCTION, AND IT WOULD BE OVERLY

1 PREJUDICIAL.

2 MR. SHVODIAN: OKAY. THE PAPERS ARE
3 BEING COPIED NOW AND WILL BE ELECTRONICALLY FILE.

4 THE COURT: WHAT I WAS GOING TO SUGGEST
5 IS WHATEVER IT IS, WE'LL JUST DEAL WITH IT LATER.
6 WE'RE NOT GOING TO DEAL WITH IT RIGHT NOW.

7 MR. SHVODIAN: THANK YOU, YOUR HONOR.

8 THE COURT: ALL RIGHT. WHATEVER YOU'RE
9 GOING TO FILE, IT SHOULD STILL BE FILED, AND WE'LL
10 TAKE CARE OF IT LATER.

11 OKAY.

12 MR. JOHNSON: SO, YOUR HONOR, THE
13 QUESTION THAT I'M GOING TO ASK --

14 THE COURT: IT'S 10:52, GO AHEAD.

15 MR. JOHNSON: -- IS DID YOU LOOK AT THE
16 SOURCE CODE TO CONFIRM THAT THE DEVICES HAD THIS
17 ELEMENT? THAT'S RIGHT OUT OF THE PROFFER. THAT'S
18 THE ONE AND ONLY QUESTION I'LL ASK.

19 THE COURT: THAT'S FINE. YOU'LL JUST
20 HAVE TO CROSS HIM ON IT.

21 MR. JOHNSON: AND THEN CAN I MOVE 645
22 INTO EVIDENCE?

23 THE COURT: WHAT IS 645?

24 MR. JOHNSON: THAT'S THE SOURCE CODE.

25 THE COURT: THAT'S FINE.

1 ALL RIGHT. LET'S BRING IN THE JURY.

2 (WHEREUPON, THE FOLLOWING PROCEEDINGS
3 WERE HELD IN THE PRESENCE OF THE JURY:)

4 THE COURT: ALL RIGHT. PLEASE TAKE A
5 SEAT. IT'S 10:53. GO AHEAD, PLEASE.

6 MR. JOHNSON: RYAN, CAN WE BRING UP SDX
7 3967.034.

8 Q DR. YANG, DID YOU LOOK AT THE SOURCE CODE IN
9 EXHIBIT DX 645 TO CONFIRM THE ACCUSED DEVICES HAD
10 THIS ELEMENT?

11 A YES, I DID.

12 MR. JOHNSON: YOUR HONOR, WE ASK THAT DX
13 645 BE MOVED INTO EVIDENCE.

14 MR. LEE: NOTHING MORE THAN THE OBJECTION
15 PREVIOUSLY SUBMITTED.

16 THE COURT: UNDERSTOOD. THAT'S ADMITTED.
17 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER
18 645, HAVING BEEN PREVIOUSLY MARKED FOR
19 IDENTIFICATION, WAS ADMITTED INTO
20 EVIDENCE.)

21 MR. JOHNSON: YOUR HONOR, WE ALSO ASK
22 THAT EXHIBIT 3967.012, WHICH WAS THE VIDEO THAT WAS
23 USED ON THE '460 PATENT, ALSO BE MOVED INTO
24 EVIDENCE.

25 THE COURT: 012, I THOUGHT THAT WAS

1 ALREADY ADMITTED. THAT'S CLAIM 1 OF THE PRODUCTS
2 REGARDING THE '460.

3 MR. JOHNSON: YEAH. THERE WAS SOME
4 DEBATE AS TO WHETHER IT WAS ADMITTED OR NOT.

5 THE COURT: OKAY.

6 MR. JOHNSON: IT'S 3967.012.

7 THE COURT: THAT'S ADMITTED. IS THAT THE
8 ONE YOU'RE ASKING ABOUT?

9 MR. JOHNSON: YES.

10 THE COURT: THAT'S ADMITTED.

11 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER
12 3967.012, HAVING BEEN PREVIOUSLY MARKED
13 FOR IDENTIFICATION, WAS ADMITTED INTO
14 EVIDENCE.)

15 MR. JOHNSON: AND THEN ALSO THE
16 DEMONSTRATIVES THAT WERE REFERRED TO IN DR. YANG'S
17 DIRECT, 3967.002 THROUGH 43, JUST THE INDIVIDUAL
18 SLIDES, NOT THE VIDEOS. EVERYTHING EXCEPT SLIDE 16
19 AND 29 IN THAT RANGE. THEY WERE ALL REFERRED TO.

20 THE COURT: HANG ON ONE SECOND. 002 IS
21 HIS C.V. I HAVE NOT BEEN ADMITTING THAT FOR
22 ANYBODY.

23 MR. JOHNSON: THAT SHOULDN'T BE ON THERE,
24 THEN. 003 -- IT SHOULD START AT 003.

25 THE COURT: 003 IS JUST THE PATENTS WITH

1 THE DESCRIPTION OF THE PATENTS, I MEAN THE PATENTS
2 THEMSELVES ARE IN.

3 ANYWAY, IS THERE ANY OBJECTION TO THE --

4 MR. LEE: NO.

5 THE COURT: NO? ALL RIGHT. IF YOU WANT
6 THE C.V. IN --

7 MR. LEE: TO THE C.V., YES.

8 MR. JOHNSON: WE DON'T NEED THE C.V.

9 MR. LEE: NOT TO THE DEMONSTRATIVES OF
10 THE PATENTS.

11 THE COURT: SO 3967.003 IS IN, WHICH IS
12 THE COVER OF THE PATENTS. 005 AS WELL, IS THAT
13 WHAT YOU'RE REQUESTING?

14 MR. JOHNSON: YES, FOR 005 --

15 THE COURT: I DON'T HAVE 004. WHICH ONE
16 WAS THAT?

17 MR. JOHNSON: YOUR HONOR, JUST IN THE
18 INTEREST OF TIME, SINCE WE ALREADY HAVE THE VIDEOS
19 IN, I'M JUST GOING TO STICK WITH THE VIDEOS AT THIS
20 POINT.

21 THE COURT: ALL RIGHT. 003 IS ADMITTED
22 AND 005 IS ADMITTED.

23 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBERS
24 3967.003 AND 3967.005, HAVING BEEN
25 PREVIOUSLY MARKED FOR IDENTIFICATION,

1 WERE ADMITTED INTO EVIDENCE.)

2 MR. JOHNSON: OKAY. YOUR HONOR, I PASS
3 THE WITNESS. NO FURTHER QUESTIONS.

4 THE COURT: OKAY. THE TIME IS 10:56. GO
5 AHEAD.

6 MR. LEE: YOUR HONOR, THE BINDERS ARE ON
7 THEIR WAY. MAY I PROCEED, YOUR HONOR?

8 THE COURT: GO AHEAD.

9 **CROSS-EXAMINATION**

10 BY MR. LEE:

11 Q GOOD MORNING, DR. YANG.

12 GOOD MORNING, LADIES AND GENTLEMEN.

13 DR. YANG, YOU TESTIFIED ABOUT THREE
14 PATENTS, THE '460; CORRECT?

15 A YES.

16 Q THE '893; CORRECT?

17 A YES.

18 Q THE '711; CORRECT?

19 A YES.

20 Q I'M GOING TO ASK YOU ABOUT EACH OF THEM
21 INDIVIDUALLY, BUT LET'S SEE IF WE CAN AGREE UPON A
22 FEW THINGS THAT ARE TRUE FOR ALL THREE OF THESE
23 PATENTS. OKAY?

24 A OKAY.

25 Q FIRST, THERE ARE SIX NAMED INVENTORS ON ALL

1 DESIGNER.

2 THE INTERPRETER: THAT IS CORRECT, YOUR
3 HONOR.

4 JUROR: OKAY.

5 THE COURT: ANY OTHER THINGS?

6 JUROR: NOT AT THIS TIME.

7 THE COURT: OKAY. ALL RIGHT.

8 OKAY. IT'S 1:36. GO AHEAD, PLEASE.

9 MR. QUINN: THANK YOU, YOUR HONOR.

10 Q MS. WANG, WE'VE HEARD TESTIMONY FROM APPLE
11 WITNESSES ABOUT HOW HARD THEY WORKED TO BRING THE
12 IPHONE TO MARKET.

13 DID YOU -- WOULD YOU TELL US WHAT IT WAS
14 LIKE WORKING ON THE GALAXY PHONE, THE DESIGN
15 ASPECTS FOR THE USER EXPERIENCE THAT YOU WORKED ON?

16 A YES, I CAN. SAMSUNG IS A COMPANY THAT'S VERY
17 TOUGH TO WORK AT AND IN KOREA. IT'S A VERY HARD
18 WORKING TYPE OF COMPANY. ANYWAY, WHEN WE WERE
19 DESIGNING GALAXY SI, WE HAD PEOPLE FROM SEOUL AND
20 ALSO FROM SUWON, AND ALSO FROM GUMI. THE PEOPLE
21 FROM SUWON, THERE WERE HUNDREDS OF DEVELOPERS, AND
22 ALSO PEOPLE FROM GUMI, THERE WERE MULTIPLE OF TENS
23 WHO WERE INVOLVED IN VERIFICATIONS.

24 SO WITH ALL THOSE PEOPLE COMING FROM
25 DIFFERENT PLACES. THERE WAS AT ONE POINT WHERE WE

1 HAD ALL COME TOGETHER AND WORKED TOGETHER AS A TEAM
2 FOR ABOUT THREE MONTHS AND DURING THAT TIME PERIOD
3 OF THREE MONTHS, MY RECOLLECTION WOULD BE THAT I
4 SLEPT PERHAPS TWO HOURS OR THREE HOURS A NIGHT.
5 THAT WAS ABOUT IT.

6 AND ALSO DURING THAT TIME PERIOD, I
7 ACTUALLY ENCOUNTERED SOMETHING THAT WAS VERY
8 DIFFICULT FOR ME. BACK THEN I HAD JUST GIVEN BIRTH
9 TO A NEWBORN, AND I WAS FEEDING MOTHER'S MILK TO
10 THE BABY. BUT SINCE I WASN'T ABLE TO BE WITH THE
11 BABY SO MUCH, I HAD TO SAVE THE BREAST MILK.

12 BUT IT JUST HAPPENED THAT I WASN'T ABLE
13 TO DO THAT ON A CONSISTENT BASIS. SO MY
14 RECOLLECTION WAS THAT THE BREAST FEEDING HAD TO
15 COME TO A STOP BECAUSE I HAD -- MY BODY WOULD NOT
16 GIVE MILK ANY MORE.

17 Q SO IT WAS A DEVELOPING, THE USER INTERFACE,
18 THE ICONS, THAT MENU PAGE, WAS THAT A VERY INTENSE
19 PERIOD OF HARD WORK FOR YOU?

20 A THAT'S CORRECT. THOSE WERE DIFFICULT TIMES.

21 Q LET'S TALK ABOUT SOME -- LET'S TALK ABOUT
22 ICONS AND ICON DESIGN.

23 WHAT FACTORS DO YOU CONSIDER MOST
24 IMPORTANT IN DESIGNING AN EFFECTIVE ICON?

25 A THERE ARE A FEW THINGS THAT'S IMPORTANT WHEN

1 IT COMES TO DESIGNING AN ICON. THE FIRST THING
2 THAT COMES TO MIND IS THAT WHEN A USER IS LOOKING
3 AT AN ICON, THE USER SHOULD BE ABLE TO RECOGNIZE IT
4 AS SUCH RIGHT AWAY.

5 AND, SECONDLY, THE COLOR AND THE SHAPE
6 ARE ALSO IMPORTANT IN THAT THEY SHOULD BE GOOD OR
7 PRETTY TO LOOK AT.

8 AND ALSO, EASILY -- EASY TO GRASP.

9 THIRDLY, IT HAS TO BE SOMETHING THAT HAS
10 TO BE EASILY MEMORIZED OR MEMORABLE.

11 Q AND WHEN YOU'RE DESIGNING -- I'M SORRY. IS
12 THERE A CORRECTION?

13 THE INTERPRETER: NO, YOUR HONOR. NO,
14 SIR.

15 BY MR. QUINN:

16 Q ARE THERE ADDITIONAL SPECIAL CONSIDERATIONS
17 THAT HAVE TO BE TAKEN INTO ACCOUNT WHEN YOU DESIGN
18 AN ICON THAT'S GOING TO BE USED ON A TOUCHSCREEN?

19 A YES, OF COURSE. WHEN IT COMES TO TOUCHSCREEN,
20 IT HAS TO BE A CERTAIN AMOUNT OR A CERTAIN PART OF
21 THE SCREEN THAT WOULD ALLOW FOR THE TOUCHING TO
22 TAKE PLACE.

23 AND SO THERE HAS TO BE A CERTAIN SIZE,
24 SHALL WE SAY, AND ALSO THERE HAS TO BE A VIVID
25 COLOR THAT IS AVAILABLE FOR THE USER SO THE USER

1 WILL BE ABLE TO RECOGNIZE THE AREA AND USE THEIR
2 FINGER TO TOUCH.

3 Q LET'S TAKE A LOOK AT AN ICON. WE DON'T HAVE
4 TIME TO GO THROUGH VERY MANY OF THEM, BUT IF WE
5 COULD PUT UP, YOUR HONOR, DEMONSTRATIVE 3972.012,
6 3972.012, THE MENU SCREEN FOR THE GALAXY S, AND
7 LET'S JUST BEGIN WITH THAT PHONE ICON IN THE LOWER
8 LEFT.

9 ARE YOU THE ONE THAT SELECTED THIS ICON
10 FOR USE ON THE GALAXY PHONE?

11 A YES, THAT IS CORRECT.

12 Q WHY DID YOU CHOOSE THIS ONE?

13 MR. JACOBS: YOUR HONOR, OBJECTION.
14 PRIOR DISCUSSION. YOU WILL SEE AT PAGE 18.

15 THE COURT: OVERRULED.

16 GO AHEAD.

17 THE WITNESS: WELL, I DESIGNED IT AS SUCH
18 BECAUSE IT'S A PHONE, SO I DESIGNED IT AS A PHONE.
19 THE SAME GOES WITH THE CLOCK, AND ALSO THE CAMERA.

20 BY MR. QUINN:

21 Q HAVE YOU, IN THE PAST, HAS SAMSUNG
22 EXPERIMENTED WITH OTHER ICONS FOR PHONE ON
23 TELEPHONES?

24 A YES, WE HAVE.

25 Q AND WHAT OTHER ICONS HAVE YOU USED FOR PHONES

1 AND WHAT WAS YOUR EXPERIENCE WITH THEM?

2 A YES. WELL, WE HAVE TRIED QUITE A FEW
3 DIFFERENT ICONS AND THERE WERE EVEN CERTAIN
4 DIRECTIVES COMING FROM UP ABOVE TELLING US TO COME
5 UP WITH SOMETHING OF A DESIGN THAT'S MORE
6 SOPHISTICATED, SOMETHING THAT LOOKS MORE LIKE A
7 SMARTPHONE.

8 SO WE TRIED DIFFERENT ICONS. FOR
9 EXAMPLE, WE TRIED AN ICON THAT LOOKED LIKE A CELL
10 PHONE WITH AN ANTENNA, AND THEN WE ALSO TRIED AN
11 ICON THAT LOOKED MORE LIKE A SMARTPHONE.

12 BUT WHAT HAPPENED WAS THAT THE PEOPLE
13 WOULD ACTUALLY MISTAKE THESE ICONS. SOME PEOPLE
14 THOUGHT THIS WAS A GAME OR MAYBE A PDA OR EVEN A
15 CALCULATOR. SO WE HAD SOME PROBLEMS.

16 Q HOW LONG HAS SAMSUNG USED THIS PARTICULAR TYPE
17 OF MA BELL, WE'VE HEARD IT CALLED A MA BELL, I
18 DON'T KNOW IF THAT TRANSLATES INTO KOREAN, ICON ON
19 PHONES.

20 MR. JACOBS: OBJECTION, YOUR HONOR.
21 LEADING. HE'S GIVING THE WITNESS A NAME FOR THIS.

22 THE COURT: SUSTAINED. SUSTAINED.
23 THAT'S STRICKEN.

24 BY MR. QUINN:

25 Q DO YOU HAVE A NAME THAT YOU USE FOR THIS

1 PARTICULAR TYPE OF ICON FOR A PHONE?

2 A YEAH. IN OUR DESIGN TEAM, WE CALLED IT A MA
3 BELL.

4 THE INTERPRETER: YOUR HONOR, CORRECTION.

5 THE WITNESS: IN OUR DESIGN TEAM, WE
6 CALLED IT A DUMBBELL ICON.

7 BY MR. QUINN:

8 Q AND HOW LONG HAS SAMSUNG USED THIS DUMBBELL
9 STYLE ICON ON THE PHONES?

10 THE INTERPRETER: YOUR HONOR, MAY THE
11 WITNESS REPEAT HER ANSWER?

12 THE COURT: PLEASE.

13 THE WITNESS: THAT ICON WAS IN USE EVEN
14 BEFORE I HAD JOINED THE COMPANY IN 2002. AND THIS
15 WAS USED BY SAMSUNG. I'M SAYING THAT THE DUMBBELL
16 SHAPE HAD BEEN USED IN SAMSUNG EVEN PRIOR TO 2002.

17 BY MR. QUINN:

18 Q AND IT'S GREEN, OBVIOUSLY. DOES THE COLOR
19 GREEN HAVE ANY SIGNIFICANCE FROM A DESIGN
20 STANDPOINT IN THIS ICON?

21 A YES. WELL, THE GREEN WOULD HAVE A POSITIVE
22 CONNOTATION TO IT, MEANING GO OR DO OR MAKE THE
23 CALL.

24 LIKewise, A RED COLOR WOULD BE SOMETHING
25 LIKE "DON'T" OR "STOP" TYPE OF INFORMATION.

1 SO IN ORDER TO TELL THE USER TO MAKE THE
2 CALL OR ENABLE THE USER TO MAKE THE CALL, OF COURSE
3 IT HAS TO BE GREEN.

4 Q AND ARE YOU FAMILIAR -- ARE YOU FAMILIAR WITH
5 THE CONCEPT OF A VISUAL LANGUAGE?

6 A YES, I AM VERY WELL AWARE.

7 Q WHAT DOES A VISUAL LANGUAGE, WHAT DOES THAT
8 MEAN TO YOU AS AN ICON DESIGNER?

9 A VISUAL LANGUAGE WOULD MEAN TELLING THE PERSON
10 USING A PICTURE BY LOOKING AT A PICTURE OR AN ART,
11 ONE WOULD BE ABLE TO DISTINCTIVELY TELL WHAT IT
12 MEANS.

13 FOR EXAMPLE, A RESTROOM SIGN FOR THAT
14 WOULD BE A VISUAL COMMUNICATION, EVEN AN AIRPORT, A
15 SIGN FOR THAT, THAT WOULD ALSO BE A VISUAL
16 COMMUNICATION.

17 Q AND IN THE SMARTPHONE INDUSTRY, DO YOU SEE THE
18 DEVELOPMENT OF A VISUAL LANGUAGE FOR ICONS?

19 MR. JACOBS: OBJECTION. LEADING AN
20 EXPERT.

21 THE COURT: SUSTAINED.

22 BY MR. QUINN:

23 Q ARE THERE OTHER SMARTPHONE COMPANIES THAT USE
24 A SIMILAR IMAGE OF A HANDSET FOR A TELEPHONE?

25 MR. JACOBS: SAME OBJECTION, YOUR HONOR.

1 THE COURT: LAY A FOUNDATION, PLEASE.

2 BY MR. QUINN:

3 Q AS PART OF YOUR JOB, DO YOU PAY ATTENTION TO
4 WHAT ICONS OTHER COMPANIES ARE USING?

5 A NOT ONLY THE OTHER COMPANIES, I WOULD ALSO
6 LOOK AT THE ICONS THAT COME UP ON THE WEBSITES OR
7 WEBS, AND ALSO AIRPORT SIGN SYSTEMS, THINGS LIKE
8 THAT. SO I WOULD PAY ATTENTION TO ALL THESE
9 THINGS.

10 Q AND WHY IS -- IS THERE A REASON WHY THE
11 HANDSET IS TILTED AT AN ANGLE?

12 A WELL, AS I'VE INDICATED TO YOU EARLIER, THIS
13 IS FOR A TOUCHSCREEN, SO THERE HAS TO BE A CERTAIN
14 AMOUNT OF AREA THAT IS ALLOTTED FOR THE USER TO
15 ACTUALLY ACCESS THIS TYPE OF FUNCTION.

16 SO IT COULD NOT BE SOMETHING THAT IS MORE
17 OF A HORIZONTAL TYPE OF BOX OR SOMETHING THAT'S
18 MORE VERTICAL BECAUSE TO DO SO WOULD MEAN THAT
19 THERE WOULD NOT BE EITHER ENOUGH SPACE OR TOO MUCH
20 SPACE FOR THE FINGER TOUCHING.

21 AND ALSO, IT'S LEANING A LITTLE BIT
22 BECAUSE THAT'S HOW PEOPLE MAKE PHONE CALLS. WHEN
23 YOU MAKE A PHONE CALL AND SAY HELLO, WHEN YOU PICK
24 IT UP, YOU WOULD PICK IT UP AT AN ANGLE AND YOU
25 WOULD END THE PHONE CALL BY PLACING IT IN THIS

1 A SLIGHT CURVATURE.

2 Q SLIGHT CURVATURE AT THE VERY TOP AND BOTTOM OF
3 THE FRONT FACE.

4 DOES THAT -- IS THERE ANY CURVATURE ON
5 THE FRONT FACE KR-547?

6 A NO, IT'S ENTIRELY FLAT.

7 Q OKAY. AND, AGAIN, THIS SIDE VIEW HERE THAT WE
8 WERE SEEING IS IRRELEVANT TO YOUR ANALYSIS? IS
9 THAT RIGHT?

10 A IT IS IRRELEVANT AGAIN SINCE THE '677 AND '087
11 DO NOT CLAIM THE SIDE VIEWS.

12 MR. VERHOEVEN: YOUR HONOR, MAY I
13 APPROACH THE WITNESS WITH A PHYSICAL EXHIBIT?

14 THE COURT: PLEASE, GO AHEAD.

15 BY MR. VERHOEVEN:

16 Q I'M GOING TO HAND YOU PHYSICAL EXHIBIT JX
17 1093, WHICH ARE ALREADY IN EVIDENCE.

18 MS. KREVANS: MAY I SEE THIS, YOUR HONOR?

19 BY MR. VERHOEVEN:

20 Q DO YOU RECOGNIZE JX 1093?

21 A YES, THIS IS THE LG PRADA.

22 Q LET'S PUT UP 3970.08, WHICH ARE PHOTOGRAPHS OF
23 THE PRADA SO THE JURY CAN SEE. ARE THOSE
24 PHOTOGRAPHS OF WHAT YOU HAVE IN YOUR HAND, SIR?

25 A YES.

1 Q DO YOU KNOW WHEN THE LG PRADA WAS DISCLOSED
2 PUBLICLY?

3 A IT WAS DISCLOSED IN LATE 2006.

4 Q HOW DO YOU KNOW THAT?

5 A I READ ARTICLES ON THE FACT THAT --

6 MS. KREVANS: OBJECTION, YOUR HONOR, THIS
7 IS BEYOND THE SCOPE OF THE REPORT.

8 THE COURT: CAN YOU GIVE ME THE PARAGRAPH
9 NUMBER OR THE PAGE NUMBER? I HAVE HIS REPORT IN
10 FRONT OF ME.

11 MR. VERHOEVEN: AT PAGE 60, PARAGRAPH 2.

12 MS. KREVANS: PAGE 60, PARAGRAPH 2, YOUR
13 HONOR, WAS STRUCK. AND IN ADDITION, IT IS NOT --
14 IT DOES NOT RELATE TO ANY OF THE EVIDENCE THAT THE
15 WITNESS JUST CITED.

16 THE COURT: LET ME SEE YOUR PAGE 60,
17 PARAGRAPH 2, PLEASE, BECAUSE I HAVE THE OPENING
18 EXPERT REPORT. WHAT ARE YOU ALL REFERRING TO?
19 REBUTTAL?

20 MS. KREVANS: I THINK THAT MR. SHERMAN
21 GAVE ONLY ONE REPORT, YOUR HONOR, ON THE TOPIC OF
22 INVALIDITY.

23 THE COURT: OH, I HAVE THIS. I'M SORRY.
24 MINE DOESN'T HAVE NUMBERED PARAGRAPHS.

25 (PAUSE IN PROCEEDINGS.)

1 THE COURT: I DON'T SEE HERE ABOUT THE
2 DATES OF THE --

3 MR. VERHOEVEN: YOUR HONOR, IF I COULD
4 APPROACH.

5 THE COURT: -- DEVICE. OKAY. I SEE IT.
6 GO AHEAD.

7 MR. VERHOEVEN: THANK YOU.

8 MS. KREVANS: YOUR HONOR, I DIDN'T OBJECT
9 WHEN HE ASKED HIM IF HE THOUGHT HE KNEW WHEN IT WAS
10 RELEASED. IT WAS THE SUBSEQUENT QUESTION THAT I
11 OBJECTED TO, AND IF YOU LOOK AT THE ANSWER ON YOUR
12 LIVE NOTE, YOU WILL SEE WHY, BECAUSE WHAT THE
13 WITNESS WAS TRYING TO SAY IS NOT IN THIS DOCUMENT.

14 THE COURT: THAT IS CORRECT. ALL RIGHT.
15 WHY DON'T YOU --

16 MR. VERHOEVEN: YOUR HONOR, HE --

17 THE COURT: IT'S ALSO HEARSAY, RIGHT?

18 MR. VERHOEVEN: I'M TOLD THAT HE CITES
19 ARTICLES TO THIS EFFECT IN THE MATERIALS THAT ARE
20 CITED IN THE REPORT.

21 THE COURT: WELL, IT'S NOT ON PAGE 60.

22 MS. KREVANS: AND THEY'RE NOT IN
23 EVIDENCE, YOUR HONOR, AND THEY WERE STRUCK BY A
24 PRIOR RULING OF THIS COURT.

25 THE COURT: ANYWAY, HE CAN CERTAINLY SAY

1 WHEN HE THOUGHT IT WAS RELEASED.

2 MR. VERHOEVEN: OKAY. LET'S DO THAT IN
3 THE INTEREST OF TIME.

4 Q WHAT'S YOUR OPINION AS TO WHEN THE LG PRADA
5 WAS DISCLOSED PUBLICLY?

6 A LATE 2006.

7 Q AND IS LATE 2006 BEFORE OR AFTER THE FILING
8 DATES OF THE '087 AND '677 PATENTS?

9 A BEFORE.

10 Q AND CAN YOU DESCRIBE THE PRADA, LG PRADA THAT
11 WE HAVE UP ON THE SCREEN HERE?

12 A SURE. SO THIS IS THE MOBILE HANDSET AND IT
13 HAS OVERALL RECTANGULAR SHAPE. IT HAS EVENLY
14 ROUNDED CORNERS AND COMPLETELY FLAT FRONT SURFACE,
15 TRANSPARENT ONE.

16 THERE IS A LARGE DISPLAY WHICH IS
17 CENTERED ON THE FRONT FACE.

18 IT HAS LOZENGE SHAPED EARPIECE SLOT AND A
19 COMPLETELY FLAT FRONT SURFACE.

20 Q SO ONE OF THE DIFFERENCES --

21 A AND IT'S BLACK, SORRY. OBVIOUSLY.

22 Q SO ONE OF THE DIFFERENCES BETWEEN THE '677
23 PATENT AND THE '087 PATENT IS THAT THE '677 PATENT
24 IS BLACK; IS THAT RIGHT?

25 A CORRECT.

1 Q AND THE LG PRADA IS BLACK AS WELL; IS THAT
2 RIGHT?

3 A CORRECT.

4 Q I'LL DIRECT YOUR ATTENTION TO DX 728 IN YOUR
5 BINDER. THIS IS IN EVIDENCE, YOUR HONOR.

6 SO CAN WE GO TO THE NEXT SLIDE?

7 DID YOU CONSIDER JAPANESE DESIGN PATENT
8 '383 AS PART OF YOUR PRIOR ART ANALYSIS?

9 A YES, I DID.

10 Q AND I'M GOING TO REFER TO THIS DESIGN PATENT
11 AS JP'383; OKAY?

12 A YES.

13 Q AND WHAT DOES JP'383 SHOW ITSELF?

14 A IT SHOWS A PORTABLE INFORMATION TERMINAL. THE
15 DEVICE IS, AGAIN -- THIS IS ACTUALLY COMPOSE OF TWO
16 PIECES. THERE IS AN EXTERNAL COVER AND THERE IS AN
17 INTERNAL DEVICE. THE DEVICE HAS OVERALL
18 RECTANGULAR SHAPE WITH EVENLY ROUNDED CORNERS. IT
19 HAS A CENTERED RECTANGULAR DISPLAY. IT IS
20 COMPLETELY FLAT, THE FRONT FACE IS COMPLETELY FLAT.

21 AND IT HAS A UNIFORM BEZEL SURROUNDING
22 THE FRONT FACE.

23 Q MR. FISHER, IF WE COULD TAKE THE FRONT VIEWS
24 OF THESE PRIOR ART REFERENCES AND PUT THEM ON THE
25 SCREEN TOGETHER WITH THE D'677 AND '087.

1 YOUR HONOR, BECAUSE I'M GOING TO ASK ABOUT THE '677
2 PATENT, AS WELL AS THE '087. I'VE JUST ASKED HIM A
3 GENERAL QUESTION AND THERE'S NOT --

4 THE COURT: GO AHEAD.

5 OVERRULED.

6 MR. VERHOEVEN: THANK YOU, YOUR HONOR.

7 Q DO YOU HAVE THE QUESTION IN MIND, SIR?

8 A YES.

9 Q CAN YOU EXPLAIN TO THE JURY, USING THESE
10 IMAGES, YOUR ANALYSIS AND YOUR OPINIONS WITH
11 RESPECT TO OBVIOUSNESS?

12 A YES. SO I FIND THAT THE '638, IN COMBINATION
13 WITH THE THREE OTHER REFERENCES, IS RENDERING THE
14 '677 AND THE '087 OBVIOUS.

15 AND LOOKING AT THE '638 --

16 MS. KREVANS: YOUR HONOR, HE JUST
17 ELICITED THE EXACT OPINION HE SAID HE WASN'T GOING
18 TO ASK HIM ABOUT IN CONNECTION WITH USING THE PRADA
19 IN CONNECTION WITH THE '087.

20 MR. VERHOEVEN: LET ME TRY IT THIS WAY,
21 YOUR HONOR.

22 Q LOOKING AT THE '677 PATENT, DO YOU SEE THAT?

23 A YES.

24 Q AND THESE OTHER PRIOR ART REFERENCES TOGETHER,
25 WHICHEVER ONE YOU WANT TO TALK ABOUT, CAN YOU TELL

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CERTIFICATE OF REPORTERS

WE, THE UNDERSIGNED OFFICIAL COURT
REPORTERS 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 OUR SHORTHAND NOTES TAKEN AS
SUCH OFFICIAL COURT REPORTERS OF THE PROCEEDINGS
HEREINBEFORE ENTITLED AND REDUCED BY COMPUTER-AIDED
TRANSCRIPTION TO THE BEST OF OUR ABILITY.

/S/

LEE-ANNE SHORTRIDGE, CSR, CRR
CERTIFICATE NUMBER 9595

/S/

IRENE RODRIGUEZ, CSR, CRR
CERTIFICATE NUMBER 8074

DATED: AUGUST 14, 2012