

Exhibit 5

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

4 APPLE, INC., a California )  
corporation, )

5 )  
Plaintiff, )

6 vs. )

7 SAMSUNG ELECTRONICS CO., LTD., )  
a Korean business entity; )

8 SAMSUNG ELECTRONICS AMERICA, )  
INC., a New York corporation; )

9 SAMSUNG TELECOMMUNICATIONS )  
AMERICA LLC, a Delaware limited )

10 liability company, )

11 Defendants. )

12 \_\_\_\_\_ )  
13  
14 \*\* TRANSCRIPT MARKED CONFIDENTIAL \*\*

15 \*\* ATTORNEYS' EYES ONLY \*\*

16 DEPOSITION OF STEPHEN GRAY

17 San Francisco, California

18 Tuesday, November 6, 2012

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23 Reported By:

24 LINDA VACCAREZZA, RPR, CLR, CRP, CSR. NO. 10201

25 JOB NO. 55303

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November 6, 2012  
4:04 p.m.

Videotaped deposition of  
STEPHEN GRAY, held at Morrison &  
Foerster, LLP, 425 Market Street,  
San Francisco, California,  
pursuant to Subpoena before Linda  
Vaccarezza, a Certified Shorthand  
Reporter of the State of  
California.

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

MORRISON & FOERSTER  
Attorneys for Plaintiff.  
425 Market Street  
San Francisco, California 94105

BY: ANDREW E. MONACH, ESQ.  
ERIC W. OW, ESQ.

QUINN EMANUEL URQUHART & SULLIVAN  
Attorneys for Defendants  
555 Twin Dolphin Drive  
Redwood Shores, California 94065

BY: TODD M. BRIGGS, ESQ.  
GUY EDDON, ESQ.

videographer: Pete Sais

1 THE VIDEOGRAPHER: This marks the  
2 beginning of Volume 1, Disk 1, in the deposition  
3 labeled Stephen Gray in the deposition of Apple  
4 Inc. versus Samsung Electronics Company Limited,  
5 et al. In the United States District Court, 04:02  
6 Northern District Of California, case number 11  
7 CV 01846 LH. This deposition is being held at  
8 425 Market Street in San Francisco, California,  
9 on November 6th, 2012, at approximately  
10 4:03 p.m. My name is Pete Sais from TSG 04:03  
11 Reporting, Inc., and I am the legal video  
12 specialist. The court reporter is Linda  
13 Vaccarezza, in association with TSG Reporting.  
14 Will counsel please introduce yourself, and the  
15 court reporter can swear in the witness and we 04:03  
16 can proceed.

17 MR. MONACH: Thank you. Andrew  
18 Monarch and Eric ow representing Apple.

19 MR. BRIGGS: Todd Briggs and Guy  
20 Eddon from Quinn Emanuel representing 04:03  
21 Samsung.

22 STEPHEN GRAY,  
23 Having been duly sworn, by the  
24 Certified Shorthand Reporter, was  
25 examined and testified as follows: 04:03

1 to one bit of testimony you gave earlier today.

2 And I'll paraphrase it, because I don't have the  
3 exact quote in front of me. And if you think  
4 I've mischaracterized your prior testimony,  
5 please correct me. 06:48

6 My recollection is that when I  
7 asked To you look at the observed behavior of the  
8 Galaxy Tab 10.1 that we have here as an exhibit,  
9 and the Galaxy S II, Deposition Exhibit 4, you  
10 said that from the perspective of the user with 06:48  
11 respect to one finger scrolling, two finger  
12 scaling, and what you've called two finger  
13 scrolling, that they were roughly the same, or  
14 words to that effect of the user.

15 Do you recall that? 06:49

16 A. I do.

17 Q. So my follow-up question, sir, is  
18 you didn't say they were the same. You said they  
19 were roughly the same. Does the observed  
20 behavior or behavior to the user on those three 06:49  
21 categories differ in any way that is relevant to  
22 infringement or non-infringement of Claim 8 of  
23 the 915 patent?

24 A. My observation is that the  
25 differences that I referred to between the 06:49

1 observed behavior of the Tab and the observed  
2 behavior of the phone with respect to the  
3 gestures or the two finger scroll, so on, are not  
4 materially different. They are -- they are  
5 different in around the edges, but they are not 06:49  
6 fundamentally different. They would be observed  
7 similarly.

8 Q. Are they different in any way that  
9 you think is relevant to determining infringement  
10 or non-infringement of the 915 patent? 06:50

11 A. No.

12 Q. Thank you. That's all I have.

13 MR. BRIGGS: I would just like to  
14 designate the transcript attorneys' eyes  
15 only. The entire transcript. 06:50

16 THE VIDEOGRAPHER: This marks the  
17 end of Volume 1, Disk 2, and concludes  
18 today's deposition of Stephen Gray. Time  
19 is 6:50 p.m. and we are off the record.

20 (Discussion was held off the 06:51  
21 record.)

22 MR. MONACH: Go back on the  
23 record.

24 After the close of the deposition,  
25 counsel have agreed that Quinn Emanuel 06:51

C E R T I F I C A T E

STATE OF CALIFORNIA )

)

COUNTY OF SAN FRANCISCO )

I, LINDA VACCAREZZA, a Certified Shorthand Reporter for the State of California, do hereby certify:

That STEPHEN GRAY, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage; and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of November 2012.

\_\_\_\_\_  
LINDA VACCAREZZA, CSR. NO. 10201