

Jury picked in blockbuster Apple-Samsung case

July 31 2012, by Joe Mullin

A 10-member jury was chosen Monday to hear the Silicon Valley blockbuster trial with Apple and Samsung battling over patent infringement for hot-selling smartphones and tablet computers.

The jury includes one unemployed man, a homemaker and a [mechanical engineer](#), but many with technical backgrounds were disqualified. There are three women and seven men, and four said they were foreign-born.

One of those stricken from the panel was an [Apple](#) employee. A Google employee -- a user interface designer -- was kept on until the final selection, despite Apple's lawyers objections. But they used one of their "strikes" in the end to kick him off.

Opening arguments were set for Tuesday in the case -- the biggest patent case in recent memory, with potentially billions of dollars at stake.

The case began with a pool of 70 people in the courtroom, who faced questions about whether they or their friends or family work for Apple, Samsung, Google, or Motorola.

Google is not directly involved in the case but its Android operating system is used on Samsung devices and will figure prominently in the case. Google recently acquired Motorola Mobility, another maker of mobile devices.

Before proceedings began, a line packed with dozens of people stretched

far outside the federal courthouse in San Jose, California, in the heart of Silicon Valley.

With the courtroom at capacity, some journalists were required to sit in an overflow room to watch pre-trial motions and jury selection by video.

US District Judge Lucy Koh, who presided over selection of a 10-member panel, told potential jurors: "If you are selected as a juror this will be an interesting case."

Asked what they knew about the case, several potential jurors admitted reading the recently published biography of [Steve Jobs](#), the Apple chief who died last year. In the book, Jobs calls Google's Android software a "stolen product."

However, the jurors all said it would not affect their judgment in the case, and none were dismissed on that basis.

Apple is seeking more than \$2.5 billion in a case accusing the South Korean firm of infringing on designs and other patents from the iPhone and iPad maker.

Samsung counters that Apple infringed on its patents for wireless communication, so the jury will sort out the competing claims.

This is one of several cases in courts around the world involving the two big electronics giants in the hottest part of the tech sector, [tablet computers](#) and smartphones.

While the results so far have been mixed in courts in Europe and Australia, Samsung is clearly on the defensive in the US case.

Koh, who will preside in the jury case, has issued two temporary

injunctions against US sales of Samsung's 10-inch Galaxy tablet and the Galaxy Nexus smartphone developed with Google.

In one bit of positive news for Samsung, a US appeals court extended the stay on the Nexus phone, which allows sales to continue while the case proceeds but has no impact on the trial.

But Samsung was hurt by a ruling last week that failed to retain key evidence in the case by allowing emails to be destroyed after learning of the lawsuit.

That will mean Judge Koh can issue an "adverse inference" instruction to the jury.

R. Polk Wagner, a professor of patent law at the University of Pennsylvania, said the case is probably the biggest patent trial since the 1980s case involving photo giants Polaroid and Kodak, and is important because of its size and ability to set precedent.

"I see this as the first in what I expect to be many cases involving smartphone technology," he told AFP.

"It remains to be seen what the impact will be even if Apple wins. Typically the patents are relatively easy to design around. So if Samsung loses a couple of rounds they may still be able to make their phones."

Samsung could face big risks: If Apple wins, it would automatically get a permanent injunction on sales of Samsung devices. And if Samsung makes only minor changes, Apple could ask for the Korean firm to be held in contempt.

The case has huge financial implications for both firms and the burgeoning industry for mobile devices.

A survey by research firm IDC showed Samsung shipped 50.2 million smartphones globally in the April-June period, while Apple sold 26 million iPhones. IDC said Samsung held 32.6 percent of the market to 16.9 percent for Apple.

Samsung is the leading maker of smartphones using Google's Android operating system, which has become the most popular platform despite complaints from Apple that it has infringed on its patents.

Both sides are employing some of [Silicon Valley](#)'s top legal talent to argue their case. Apple has hired Michael Jacobs, the Morrison Foerster lawyer who led Oracle's hard-fought, but ultimately unsuccessful, patent lawsuit against Google earlier this year.

Samsung's legal defense is being led by lawyers from Quinn Emanuel Urquhart & Hedges, who have won several patent victories for its partner [Google](#) in recent years.

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