

Samsung copied 'every element' of iPhone: Apple

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In this July 6, 2012 file photo, a Samsung Galaxy S III phone is held by a customer at Best Buy in Mountain View, Calif., Friday, July 6, 2012. Two tech titans are squaring off in federal court Monday in a closely watched trial over control of the worldwide smart phone and computer tablet markets. Apple Inc. filed a lawsuit against Samsung Electronics Co. last year alleging the world's largest technology company's smart phones and computer tablets are illegal knockoffs. Samsung countered that it's Apple that is doing the stealing and, besides, some of the technology at issue such as the rounded rectangular designs of smart phones have been industry standards for years. (AP Photo/Paul Sakuma, File)

Lawyers for Apple and Samsung debated the differences between copying and honest competition as opening arguments were held Tuesday in a huge patent trial involving the two tech giants.

Harold McElhinny, a lawyer for Apple in the blockbuster patent trial under way in San Jose, California, told the jury Samsung began copying the US firm as soon as the iPhone was publicly unveiled in January 2007.

"At the same time (Apple co-founder Steve) Jobs introduced the iPhone, he warned his competitors that he had filed for patent protection on more than 200 new inventions in the iPhone," McElhinny said in his opening argument.

"Samsung could come up with its own designs, it could beat Apple fairly in the marketplace. Or it could copy Apple... it's easier to copy than to innovate."

The lawyer said Samsung copied specific features, including a "bounce-back" feature in the scrolling process and a design with a black-on-black face.

"At the highest corporate levels, Samsung decided to copy every element of the iPhone," he said.

"This was not accidental. Samsung's copying was intentional."

He argued that Samsung made dozens of changes as Apple updated its products "so that the end result was identical to Apple products."

Samsung lawyer Charles Verhoeven countered Apple's opening with his own version of cell phone history, citing several large-screen phones that pre-dated the iPhone.

The South Korean firm is no "copyist" or "Johnny-come-lately," said Verhoeven, but a major technology company that does its own innovation. He said internal Apple documents show that designers themselves were inspired by designs from competitors, including Sony.

The iPhone was an "inspiring" product to many -- but that there was nothing wrong with that, said Verhoeven. "Is that infringement? No, that's competition," he said.

The lawyer said Samsung's design can be easily distinguished from Apple's, even by an ordinary observer.

He said Samsung will show its own patents for high-speed data streaming, sending email, and multitasking to back its counter-claims against Apple, which the jury will also consider.

The comments came as jurors began hearing the biggest US patent trial in decades, with billions at stake for the tech giants.

As testimony began, Apple industrial designer Christopher Stringer, the inventor on many Apple patents, took the stand to testify about the creative process behind the iPhone.

"We came out with something that was breathtaking," said Stringer. "It was a revolution. The challenges in terms of producing that product were enormous."

Stringer said when phones like Samsung's were released, it was "offensive" to his artistic sensibilities. "We've been ripped off, it's plain to see -- by Samsung in particular," said Stringer.

Asked why there was no Apple logo on the front of the iPhone, Stringer said it didn't need it. "When you make a startling and beautiful design,

you don't need to," he answered. "It becomes an icon."

Apple's senior vice president of worldwide marketing Philip Schiller was to be on the stand when the trial resumes Friday.

Just ahead of arguments, US District Judge Lucy Koh allowed one of the 10 jurors to be dismissed after the woman said she was confused about whether she was getting paid.

"The stress of this case is causing anxiety. She's having panic attacks," the judge said. "We understand this case would be a severe economic hardship on you."

Both sides agreed to the move which reduces the number of jurors hearing the case to nine, but does not impact the trial.

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.

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.

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 South 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.

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