

Apple-Samsung smartphone clash heads to jury

August 21 2012, by Joe Mullin



Individuals line up to watch Apple and Samsung face each other in federal district court in San Jose, California in July. The case is headed to a jury.

The mammoth Apple-Samsung patent trial went to the jury Tuesday, setting the stage for a verdict that could have huge implications for the hot market in smartphones and tablet computers.

Apple, which accuses the South Korean electronics giant of copying the iPhone and iPad too closely, is seeking damages of up to \$2.75 billion and an injunction that could knock some Samsung products off the US market.

Even a delay in sales could endanger Samsung's position in the US market, where it is currently the top seller of smartphones.

Samsung has countered by arguing that its patents on wireless communication were infringed by Apple, and is demanding up to \$422 million from the Silicon Valley manufacturer.

In closing arguments, Apple lawyer Harold McElhinny said that the story of Samsung's copying was laid out in the company's own internal documents.

In "three intense months of copying," Samsung had stolen four years of Apple's hard work on the iPhone, McElhinny told jurors.

"At the very top of Samsung's corporate structure, those executives were determined to cash in on the iPhone's success," he said.

"Samsung was able to copy Apple's four-year investment, without taking any of the risks, because they were copying the world's most successful product," the lawyer said.

McElhinny brushed aside Samsung's contention that the Apple designs stemmed from earlier tablet computers which could not be held in one's hand and used as a phone like the iPhone.

Samsung's attorney, Charles Verhoeven, told jurors that the company invented its own products and that Apple's goal is to stifle competition.

"Apple is here asking you to prevent its largest competitor from giving consumers what they want -- smartphones with big screens," he said.

"Why is Apple doing this? Rather than compete in the marketplace, Apple is seeking a competitive edge through the courtroom. It's seeking to block its biggest and most serious competitor from even attending the game."

Samsung's products were designed independently, as both designers called to testify had said, noted Verhoeven. The reason many smartphones have begun to look similar is due to consumer habits, he said -- surfing the Internet, and watching video.

"Every single smartphone has a rectangular shape, rounded corners, and 90 percent of the real estate on the front of that phone is the screen," said Verhoeven.

"Is that because people are copying each other? No. It's because the technology advanced, and form is following function."

Apple lawyer Bill Lee countered that the company was not trying to stop competition -- it just wanted to promote originality.

"No one is trying to stop them from selling smartphones," said Lee. "All we're saying is: make your own. Make your own designs, make your own phones, and compete on your own innovations."

The trial is wrapping up after 10 days of testimony over three weeks, in which Apple put its own designers and executives on the stand, along with experts, all of whom accused Samsung of illegally copying Apple designs.

Though Samsung witnesses said they had come up with the designs and icons they used on their own, internal company documents introduced as evidence did show they were aware that they were behind Apple when it came to some user-interface features.

The jury was expected to begin deliberations in the case on Wednesday, and will have to pore over a complicated 20-page form addressing hundreds of separate allegations, that Samsung violated Apple's patents and trademarks.

Last week, Judge Lucy Koh asked for one more settlement conference, with the chief executives of the two companies speaking directly by telephone.

"I see risk for both sides," Koh said at the time. "It's time for peace."

On Monday a Samsung lawyer confirmed that Apple chief Tim Cook and Samsung boss Kwon Oh-Hyun did talk but no settlement was reached.

This is one of several court cases around the world involving the two 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 has a lot at stake in the US case, which could result in large damages or injunctions against its products in the American market.

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.

Earlier this month, Samsung unveiled a Galaxy Note tablet designed to make a more personal connection with users and aiming to knock Apple's iPad off its market throne.

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