

Samsung says it owes Apple \$52 million (Update 2)

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Harold McIlhenny, center, an attorney representing Apple Computer in the Apple Samsung trial, exits a federal courthouse Wednesday, Nov. 13, 2013, in San Jose, Calif. How much does Samsung Electronics owe Apple for copying vital features of the iPhone and iPad, such as scrolling and the "bounce-back" function at the end of documents? Apple says \$380 million. Samsung counters with \$52 million. The companies made their demands Wednesday during opening statements of a patent trial. At issue are 13 older products a previous jury found infringed several Apple patents. That previous jury awarded Apple \$1.05 billion after determining 26 Samsung products had infringed six Apple patents. (AP Photo/Ben Margot)

How much does Samsung Electronics owe Apple for copying vital features of the iPhone and iPad? [Apple says \\$380 million](#). Samsung counters with \$52 million.

It's possible a jury presiding over a patent trial in a San Jose courtroom will find somewhere in between.

The first day of testimony in the trial got under way Wednesday. At issue are 13 devices made by the South Korea-based company that another jury decided infringed Apple patents for technology. The products allow scrolling and the "bounce-back" function at the end of documents, among other inventions.

That previous jury awarded Apple \$1.05 billion after determining 26 Samsung products had infringed six Apple patents. But a judge found the jury miscalculated \$400 million in damages for 13 products and ordered a new trial to determine the proper amount.

"Apple lost sales because Samsung was selling infringing products," Apple attorney Harold McIlhenny told the jury during opening statements. He argued that Apple's lost profits, Samsung's profits on the offending devices and royalties owed Apple, add up to \$380 million.

"In a fair fight, in a fair competition, the money they got would have and should have gone to Apple," McIlhenny said.

Samsung's attorney Bill Price countered during his own opening statements that consumers preferred Samsung's devices, which operate with Google's Android system, because of the many differences—rather than the similarities—they have with Apple's products. Price told the jury that Samsung owes Apple \$52 million.

"Apple is simply asking for much more money than it's entitled to,"

Price said.



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Price readily conceded that Samsung was guilty of copying Apple's features, but downplayed the significance of the technology in devices that are built with hundreds of patents each.

"This is a case not where we're disputing that the 13 phones contain some elements of Apple's property," Price said. "That doesn't mean Apple gets to come in here and ask for a windfall ... for more than it is entitled."

Apple called three expert witnesses and a company executive to discuss Apple's patents Wednesday before court ended for the day. The trial is expected to last into the middle of next week.

The two companies are locked in legal battles around the globe for supremacy in the more than \$300 billion smartphone market.

The current trial is a dispute over older products, most of which are no longer sold new in the United States.

Another trial is scheduled in San Jose in March over Samsung's devices currently on U.S. shelves.

Apple and Samsung are the world's two biggest smartphone makers and combined make nearly half of all smartphones sold globally. The two companies have resisted calls from judges, regulators and analysts to settle their differences, instead choosing to spend many millions of dollars on lawyers and legal fees to battle it out in court and before regulatory agencies.

"Most cases with these enormous stakes would have settled by now—particularly once the court ordered a new trial on damages, which could substantially increase or decrease the damage award," said Notre Dame law school professor Mark McKenna, who specializes in technology.

But McKenna said a key incentive for both companies to reach a settlement was removed by U.S. District Judge Lucy Koh when she

refused to ban U.S. sales of the Samsung products the first jury found infringed Apple's patents.

No matter the outcome, McKenna and other experts expect the loser to appeal.

Apple has argued in courts, government tribunals and regulatory agencies around the world that Samsung's Android-based phones copy vital iPhone features. Samsung is fighting back with its own complaints that some key Apple patents are invalid and Apple has copied Samsung's technology.

The two have each won and lost legal skirmishes over the past couple of years, and analysts predict continued litigation for months to come.

The current proceedings are somewhat of a warm-up for a much larger trial scheduled for March. Apple is asking that Samsung be barred from selling some of its current devices in the U.S., and more money will be at stake as well.

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