

Testimony to begin in Apple-Samsung patent trial

November 13 2013, by Paul Elias

The billion dollar patent fight between the world's two biggest smartphone makers is resuming in a Silicon Valley courtroom.

Lawyers for rivals Apple Inc. and South Korea-based Samsung Electronics Co. were scheduled to deliver opening statements Wednesday in a San Jose courtroom in a trial to determine how much Samsung owes Apple for copying vital iPhone and iPad features.

A 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. The new jury is free to order new damages ranging from nothing to more than the original \$400 million.

"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 the U.S. sales of the Samsung products the first jury had found infringed Apple's patents.

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

Samsung and Apple have been locked in bitter legal struggles around the world as they fight for supremacy of the more than \$300 billion smartphone market.

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 also copied Samsung's technology.

The two have each won and lost legal skirmishes over the last 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. That case will focus on newer products still on the market, while the current trial is a battle over products that are several years old and no longer sold in the U.S. 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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