

Choosing jury in Apple-Samsung case may be hard

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In this Aug. 27, 2012 photo, the Apple iPhone 4s, left, is displayed next to the Samsung Galaxy S III at a store in San Francisco. Apple already has won nearly \$1 billion in judgments against Samsung over patent infringements involving older-model devices. Now Apple is alleging Samsung's newest devices, such as its Galaxy S III, also copied Apple technology. Jury selection for the case begins Monday, March 31, 2014. (AP Photo/Marcio Jose Sanchez)

Jury selection promised to be a challenge for the world's leading smartphone makers as they continued their patent fight in federal court on Tuesday.

The trial in Silicon Valley marks the latest round in a long-running series of lawsuits between Apple Inc. and Samsung, with the companies accusing each other of stealing ideas and features.

One reason choosing a jury could be difficult is because the federal courthouse in San Jose is just a 15-minute drive from the Cupertino headquarters of Apple.

Most prospective jurors said they were at least somewhat familiar with the dispute, including many who work for companies affiliated with either Samsung or Apple. Some locals had strong opinions.

"Neither company has been a particular favorite of mine. Both have been bullies with their patent libraries," said prospective juror Armen Hamstra, a LinkedIn software engineer and patent holder who was not immediately excused from the jury pool despite requests from attorneys.

If Apple prevails in the current case, the cost to Samsung could reach \$2 billion. Apple's costs, if it loses the litigation, were expected to be about \$6 million.

Whatever the outcome, it could be the consumer who ends up paying the ultimate price. Experts say the litigation could lead to more expensive smartphones and devices and slow the overall pace of mobile innovation.

"The most direct effect of this patent fight on consumers would be if the judge blocked one of these popular phones from the market," said Rutgers Law School professor Michael A. Carrier.

Carrier said patent litigation costs businesses time and money.

"What's even more worrisome for the effect on innovation is the impact on small innovators," said Carrier. "Apple and Samsung can afford this litigation. The next upstart cannot."

In the case in U.S. District Court, Apple is accusing Samsung of infringing on five patents on newer devices, including Galaxy smartphones and tablets. In a counterclaim, Samsung says Apple stole two of its ideas to use on iPhones and iPads.

The two tech giants have battled in litigation around the world. Less than two years ago, a federal jury in the same court found Samsung was infringing on Apple patents. Samsung was ordered to pay about \$900 million but is appealing and has been allowed to continue selling products using the technology.

Throughout three years of litigation, Samsung's [global market share](#) has grown. One of every three smartphones sold last year was a Samsung, now the market leader. Apple, with its typically higher priced iPhones, was second, with about 15 percent of the market.

Experts say the case underscores a much larger concern about what is allowed to be patented.

"There's a widespread suspicion that lots of the kinds of software patents at issue are written in ways that cover more ground than what Apple or any other tech firm actually invented," Notre Dame law professor Mark McKenna said. "Overly broad patents allow companies to block competition."

In court filings, Apple said Samsung has "systematically copied Apple's innovative technology and products, features and designs, and has

deluged markets with infringing devices."

Samsung countered that it has broken technological barriers with its own lightweight, ultra-slim phones.

"Samsung has been a pioneer in the mobile device business sector since the inception of the mobile device industry," Samsung attorneys wrote. "Apple has copied many of Samsung's innovations in its Apple iPhone, iPod, and iPad products."

Specifically, Apple claims Samsung stole a tap-from-search technology that allows someone searching for a telephone number or address on the Web to tap on the results to call the number or put the address into a map. In addition, Apple says Samsung copied "Slide to Unlock," which allows users to swipe the face of their smartphone to use it.

Samsung countered that Apple is stealing a wireless technology system that speeds up receiving and sending data.

Apple is demanding that Samsung pay a \$40 royalty for each Samsung device running software allegedly conceived by Apple. The figure is more than five times more than the amount sought in the previous trial and well above other precedents.

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