

Apple v. Samsung: Patent war reaches key appeals court

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Apple had an eventful year in 2011. The first iPad was flying off the shelves, the company unveiled its new iPhone 4S, and founder Steve Jobs died.

It also was the year Apple launched its worldwide courtroom blitzkrieg against archrival Samsung, accusing the South Korean tech giant of copying the secret ingredients from the iPhone and iPad for its smartphones and tablets.

Now, nearly four years later, that legal offensive is about to hit arguably its most crucial stage.

A [federal appeals court](#) in Washington, D.C., will hear arguments Thursday in Samsung's bid to unravel a losing jury verdict and nearly \$1 billion in damages for violating Apple's patents - possibly defining new legal boundaries for powerful tech companies increasingly reliant on the courts to settle feuds over the rights to new innovations.

For Apple, a win in the influential appeals court, which reviews patent cases from around the country, would vindicate the Silicon Valley power's claim that Samsung's popular tablets and smartphones relied on "shameful" copying of the iPad and iPhone.

For Samsung, a favorable ruling overturning the verdicts would neutralize Apple's patent war, which the maker of the Galaxy line of smartphones and tablets has insisted all along has been a heavy-handed public relations campaign to stifle competition.

The products involved in this particular case, such as the iPhone 4, are now near-relics in the tech market, flooded these days with Apple's iPhone 6 and Samsung's Galaxy S5. But the outcome nevertheless is considered pivotal.

"Many of the legal issues in the case aren't all that new, but the fact there is \$1 billion - and possibly the way smartphones are designed - at stake makes it an important case," said Mark Lemley, director of Stanford's law, science and technology program.

The U.S. Federal Circuit Court of Appeals is reviewing a San Jose jury's August 2012 finding that Samsung violated Apple's patent or trademark rights in 23 products, such as the Galaxy S2 smartphone, as well as about \$930 million in damages awarded to the iPhone maker.

The case, known as "Apple I," was the first of two trials between the feuding tech titans. Another federal jury earlier this year found Samsung

copied iPhone technology in more recent products, but awarded \$120 million in damages, a fraction of what Apple sought.

Samsung just this week appealed that verdict to the Federal Circuit and legal experts say a ruling in the first case is likely to resolve many, if not all, of the same issues. It also could trigger a settlement, which has eluded Apple's and Samsung's CEOs for years, although some experts say the losing side may first want to hear from the U.S. Supreme Court.

"A case that touches on numerous hot buttons in patent law and has been called the 'trial of century' is likely to get the justices' attention," said Robin Feldman, a Hastings College of the Law professor.

Apple and Samsung declined to comment. But in court papers, the two sides set out their competing arguments.

In seeking to overturn the jury verdict, Samsung focuses on key issues, notably the fact that most of the patent violations centered on iPhone and iPad designs, not operating technologies. As Samsung put it in its legal papers, "The eye-popping judgment here thus resulted overwhelmingly from the supposed protection of mere appearances in complex, technological devices."

Samsung's legal team also argues that Apple's damages award is excessive, contending the company failed to prove that Samsung's products had any meaningful bearing on iPhone or iPad sales - the backbone of the jury's damages calculations.

Apple, meanwhile, is relying on the Federal Circuit's general reluctance to tamper with jury verdicts. Apple's lawyers emphasize that the jury and U.S. District Judge Lucy Koh, who has handled the case, had "unusually extensive evidence of copying."

"Samsung and Apple are fierce competitors," Apple told the appeals court. "But rather than compete through innovation, Samsung opted to copy Apple's iPhone and iPad in a calculated and meticulous way."

Each side has some support. Twenty-seven law professors sided with Samsung, arguing that the design claims take patent rights too far. But a number of companies, including traditional manufacturers such as Oakley and Kohler, urged the court to reinforce the importance of design rights.

Legal experts say it is hard to predict the outcome, although the [appeals court](#) is already familiar with the case, having refused Apple's attempts thus far to block Samsung from selling the phones and tablets branded copycats by juries.

"The societal context is important as well," said Hastings' Feldman. "When the (first) trial began, nobody on the street had heard of smartphone wars or patent trolling. Now, everyone has an opinion on what's wrong with the patent system."

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