

Samsung asks Supreme Court to throw out \$399M judgment

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In this Dec. 12, 2013 file photo, a man passes by the Samsung Electronics Co. logos at its headquarters in Seoul, South Korea. In a patent fight with Apple, Samsung is asking the Supreme Court to take a digital-age look at a type of dispute it last confronted in the horse-and-buggy era. South Korea-based Samsung on Monday appealed a \$399 million judgment for illegally copying patented aspects of the look of Apple's iPhone, the latest round in a long-running fight between the two tech industry giants. (AP Photo/Ahn Young-joon, File)

In its patent dispute with Apple, Samsung is asking the Supreme Court to take a digital-age look at an issue it last confronted in the horse-and-buggy era.

South Korea-based Samsung on Monday appealed a \$399 million judgment for illegally copying patented aspects of the look of Apple's iPhone, the latest round in a long-running fight between the two tech-industry giants.

The last time the Supreme Court heard cases on patents covering the appearance of a product instead of the way it works was in the late 1800s, when the court battles concerned designs of spoon handles, carpets and saddles.

The smartphone is fast becoming as common a possession as those items were in the Victorian age. Nearly two-thirds of Americans own a smartphone, the Pew Research Center said in April, up from about a third just four years earlier. Apple and Samsung are the top two manufacturers of smartphones.

None of the earlier-generation Galaxy and other Samsung phones involved in the lawsuit remains on the market, Samsung said.

The company's appeal raises two issues at the Supreme Court, arguing that the lower-court ruling upholding the judgment "overprotects and overcompensates" Apple's patents.

One question is how juries should value the common features for which Apple holds patents: the flat screen, the rectangular shape with rounded corners, a rim and a screen of icons. Samsung said the jury in this case had too much freedom to look at the overall appearance of the phones, rather than focus on those three elements.

The other issue at the Supreme Court is whether a court can order Samsung to pay Apple every penny it made from the phones at issue when the disputed features are a tiny part of the product.

The [federal appeals court](#) in Washington that hears patent cases ruled for Apple on both counts.

"Samsung is escalating this case because it believes that the way the laws were interpreted is not in line with modern times," Samsung said in a statement that accompanied its Supreme Court appeal.

Apple spokeswoman Rachel Tulley said the case is about more than patents and money. "We make these products to delight our customers, not for our competitors to flagrantly copy," Tulley said.

The Supreme Court could decide early next year whether to hear the case, but arguments would not take place before the fall of 2016.

The legal battles between Apple and Samsung have cooled recently, but this case could attract the justices' interest, said Michael Carrier, a professor at Rutgers Law School in Camden, New Jersey, who has followed the lawsuits closely.

One study found 250,000 patents in a smartphone, Carrier said. "In a world in which there can be thousands of patents in a particular product, it does not seem appropriate to award all of the profits to patents making up only a fraction of the contributions to the product," Carrier said.

Samsung is not challenging the [design patents](#) themselves at the Supreme Court, although the Patent and Trademark Office has issued a preliminary ruling against Apple's design patent for the flat surface of its iPhone.

Samsung already has handed the \$399 million over to Apple and could seek a refund if the patent decision stands or the Supreme Court rules in its favor.

Even as Apple won court judgments backing its claims that its [patents](#) were infringed, it was not able to persuade courts to order Samsung to stop selling the products.

That's one possible explanation for why the legal dispute between Apple and Samsung appears to be winding down, said Michael Risch, an expert on intellectual property at Villanova University [law school](#).

"Or perhaps the money it won was the price it wanted to exact, or it could be that Samsung changed the look of its products enough," Risch said.

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