

Apple, Samsung take battle to US Supreme Court

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The US Supreme Court is to hear arguments over financial damages the South Korean smartphone giant Samsung owes Apple for allegedly violating design patents

The epic legal battle pitting Apple against its bitter rival Samsung over the design of the iPhone reaches a new level Tuesday when it heads to the US Supreme Court.

The high court is set to hear arguments over financial damages the South Korean smartphone giant owes Apple for allegedly violating [design patents](#) by producing copycats of its groundbreaking smartphone.

Observers are watching the case closely to see how the court—which has not taken up a design patent case in more than a century—tips the balance between technological innovation and protecting [intellectual property](#). A ruling is expected in several months.

The US Court of Appeals for the Federal Circuit upheld a \$400 million verdict—part of a nearly billion-dollar award in Apple's favor later reduced to \$548 million—that found Samsung had copied the iPhone's distinctive front screen and graphical touchscreen user interface.

California-based Apple had protected those features with US design patents that concern the way items look. They are distinct from utility patents, which protect how articles are used and work, and do not concern copyrights or trademarks.

Samsung is challenging the verdict, disputing how damages are calculated in design patent cases. Such awards are currently determined by devices' "total profit," in accordance with a statute first adopted in 1887 and re-adopted in 1952.

Samsung argues it should be held liable only for some portion of the profit tied to patented design aspects, given the many innovative components that go into the making of smartphones.

Apple interprets the statute more narrowly, saying it is entitled to all profits from Samsung's phones.

How much design protection?

The legal battle, which began more than five years ago, could have major repercussions in a tech industry where design and innovation play key roles in distinguishing one device from another.

But a major debate is underway on just how much protection should be granted for visual design.



A woman looks at her mobile phone as she rides an escalator past an advertisement for Samsung's Galaxy Note 7 device in Seoul on October 11, 2016

In preparation for its arguments before the Supreme Court, Samsung obtained the support of major Silicon Valley and other IT sector giants, including Google, Facebook, Dell and Hewlett-Packard, as well as a group of law professors.

Apple, for its part, got backing from big names in fashion and manufacturing, such as Calvin Klein and Adidas, and the American Intellectual Property Law Association, whose members—largely lawyers—represent owners and users of intellectual property.

Look-alike smartphones

Apple's supporters argue that Samsung's argument would hurt the [tech industry](#) by weakening the patent system.

"A strong patent system will force technology companies to actually innovate, not mimic. That is how patent systems are designed to work all over the world," said Matthew Siegal, an intellectual property lawyer with the firm Stroock & Stroock & Lavan.

"The differences in Samsung and Apple smartphones are marginal because of copying, not innovating," he added. "A strong patent system will lead to the next generation phone based on actual innovation."

Tuesday's hearing is set to take place in the court's cavernous marble hall before a short-handed panel of eight justices, with a ninth still missing since Antonin Scalia's death in February.

Republicans in Congress have refused to replace him with President Barack Obama's nominee before the Democrat leaves office in January.

The hearing takes place at a difficult time for Samsung, as it is struggling to contain a snowballing safety crisis that threatens to derail the powerhouse global brand.

It told customers worldwide on Monday to stop using Galaxy Note 7 smartphones, calling a halt to global sales and exchanges following complaints that its lithium-ion battery explodes while charging.

Apple is also facing challenges from mounting international competition, having lost a critical share of the Chinese market after critics there found its latest iPhone 7 lacks major innovations.

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