

Epic patent trial over iPhone goes to jurors (Update)

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People wait in line to get inside for the Apple and Samsung trial during a lunch break at a federal courthouse in San Jose, Calif., Tuesday, Aug. 21, 2012. After three weeks of listening to technology experts, patent professionals and company executives debate the complicated legal claims of Apple Corp. and Samsung Electronics Co., a jury of nine men and women are set to decide one of the biggest technology disputes in history. (AP Photo/Paul Sakuma)

(AP) — Nine Silicon Valley residents who presided over the epic three-week patent trial between smartphone titans Apple Corp. and Samsung Electronics Co. began deliberating the multibillion-dollar case Wednesday.

Apple is demanding Samsung pay it \$2.5 billion for allegedly stealing the design technology of the iPad and iPhone to create illegal knockoffs. Samsung counters that Apple stole its technology and is demanding \$399 million.

During closing arguments Tuesday, a lawyer for Apple said that Samsung was having a "crisis of design" after the launch of the iPhone, and executives with the South Korean company were determined to illegally cash in on the success of the revolutionary device

Samsung's lawyer countered that the technology

giant was simply and legally giving consumers what they want: Smart phones with big screens. Lawyers finished their closing arguments late Tuesday.

The competing claims came after last-minute talks between chief executives failed to resolve the dispute.

Apple Corp. argues that Samsung Electronics Co. should pay the Cupertino-based company \$2.5 billion for ripping off its iPhone and iPad technology when it marketed competing devices.

Samsung has sold 22.7 million smartphones and tablets using stolen — "infringed" in legalese — Apple technology since June 2010 on sales of \$8.16 billion, Apple's lead attorney, Harold McElhinny told jurors Tuesday.

"The damages in this case should be large because the infringement has been massive," he said.

McElhinny said Apple confronted Samsung about the alleged copying and sought a resolution before filing its lawsuit last year.

"Instead of doing the right thing, Samsung decided to gin up claims of its own," McElhinny said of Samsung's counter claim seeking \$399 million from Apple for allegedly using Samsung technology in making the iconic iPhone and iPad.

Apple and Samsung combined account for more than half of global smartphone sales. Apple is also demanding that Samsung pull its most popular cellphones and computer tablets from the U.S. market.

"Apple is asking what it is not entitled to," Samsung's lawyer Charles Verhoeven said during his closing arguments. "Rather than competing in the marketplace, Apple is seeking an edge in the courtroom."

Verhoeven argued that the state of technology has led most phone makers to design simple-to-use products with large, rounded rectangular faces. He conceded that Apple makes great products but said it does not have a monopoly on the design it claims it created.

"There is nothing nefarious about this, it's the way technology has evolved," he said, showing jurors a slide of a Best Buy advertisement with photos of similar looking phones made by several different companies. "It's not against the law in this country to be inspired by your competition."

Verhoeven implored jurors to reject Apple's claims as a way to preserve competition in the United States for smartphones and computer tabs. He said a verdict in Apple's favor could reverberate throughout the marketplace.

"Consumers deserve a choice," the lawyer argued.

The jury of nine people will consider the case after hearing three weeks of testimony from technology experts, patent professionals and company executives.

Apple's damage demands, if awarded, would represent the largest patent verdict in the U.S.

From the beginning, legal experts and Wall Street analysts have viewed Samsung as the underdog. To begin with, Apples headquarters is a mere 10 miles (17.kilometers) from the courthouse, and jurors were picked from the heart of Silicon Valley where the company's late founder Steve Jobs is a revered technological pioneer.

While the legal and technological issues may be complex, patent expert Alexander I. Poltorak says the case will likely boil down to whether jurors believe Samsung's products at issue look and feel almost identical to Apple's iPhone and iPad.

"Most jurors will probably say they look alike," said Poltorak, who is chief executive of General Patent Corp.

In June, U.S. District Judge Lucy Koh called Samsung's Galaxy 10.1 tablet computer "virtually

indistinguishable" from Apple's iPad and banned its sale in the United States until the resolution of the case.

"There was some evidence that Samsung altered its design to make its product look more like Apple's," Koh found two months before the trial started.

To overcome that hurdle, Samsung's battalion of lawyers has been arguing that many of Apple's claims of innovation are either obvious ideas or were actually stolen ideas from Sony Corp. and others. Experts called that line of argument a high-risk strategy because of Apple's reputation as an innovator.

"Saying Apple is a copyist is going to be a hard sell," said Ellen Brickman, a New York-based jury and trial consultant. "Apple changed the world when it came to computers. Apple changed the world when it came to phones."

Poltorak said a verdict in Apple's favor would cost Samsung a lot of money but wouldn't dramatically disrupt the smartphone markets. He predicted that Samsung engineers would quickly redesign the company's smartphone and computer tablets to compete if Apple wins the lawsuit.

Apple lawyers argue there is almost no difference between Samsung's products and those of Apple, and presented Samsung's internal documents they say show it copied Apple's designs. Samsung lawyers countered that several other companies and inventors had previously developed much of the Apple technology at issue.

The U.S. trial is just the latest skirmish between the two over product designs. The two companies have been fighting in courts in Australia, Britain and Germany.

The case is one of some 50 lawsuits among myriad telecommunications companies jockeying for position in the burgeoning \$219 billion market for smartphones and computer tablets.

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