

Analyzing a Patent Case

UNECE Seminar on Enforcement of intellectual Property Rights

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Li Maor

Consultant, Division for Certain Countries in Europe and Asia (DCEA)



The components of a patent case

- Novelty
- Non-obviousness
- Counter claims
- Injunctions
- compensations



The Jury's job- patents

iPhone Product Timeline Apple & Samsung



Case5:11-cv-01846-LHK Document1570-2 Filed08/03/12 Page14 of 16

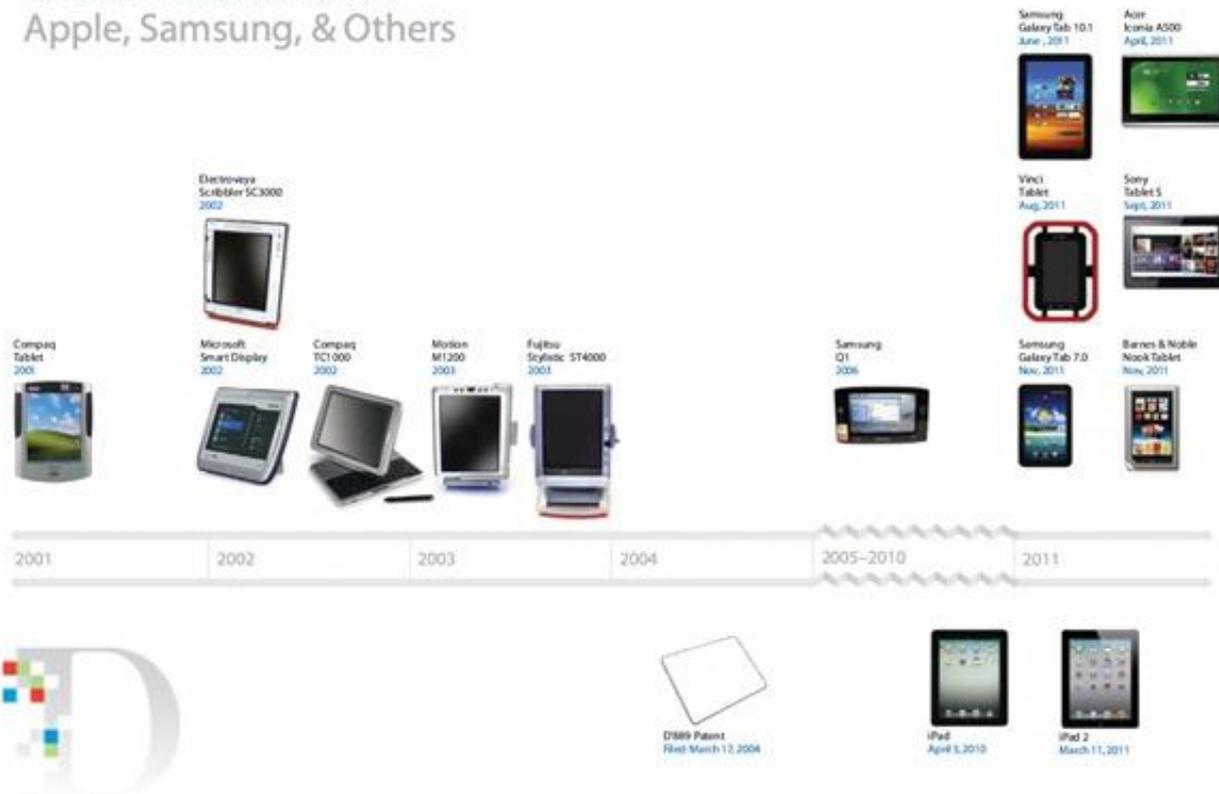


The Jury's job- patents



The Jury's job- patents

Tablet Product Trends Apple, Samsung, & Others



The Jury's job- designs

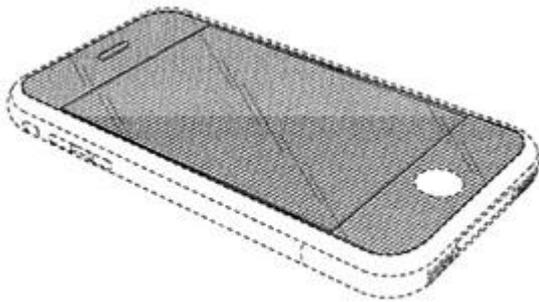


FIG. 1

iPhone design

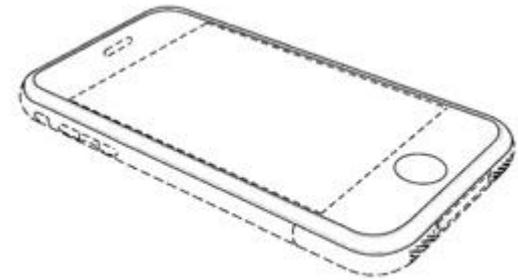


FIG. 1

iPhone design

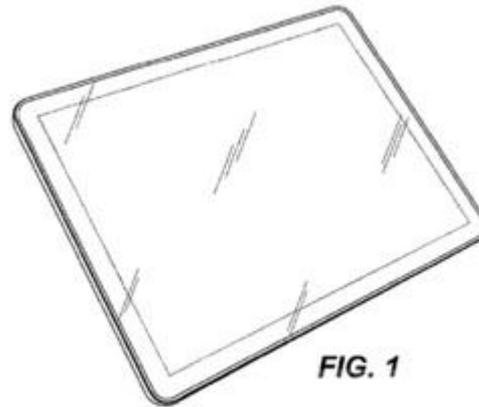


FIG. 1

iPad design

The Jury's job- designs

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D'305 Patent v. Fascinate

D'305 Patent

Fascinate

Grid

Rounded Rectangle

Mix of Icon Styles

Colorful Icons

Bottom Row

JX1042, PX21

PDX14.8

Three aspects of today's discussion

- Prior Art
- Obviousness
- Damages



The Interview...

Three aspects of today's discussion

- Prior Art
- Obviousness
- Damages



Final Jury Instruction No. 31

Utility Patents—anticipation

- A utility patent claim is invalid if the claimed invention is not new.
- If the claimed invention was already publicly known or publicly used by others in the United States;
- If the claimed invention was already patented or described in a printed publication anywhere in the world;

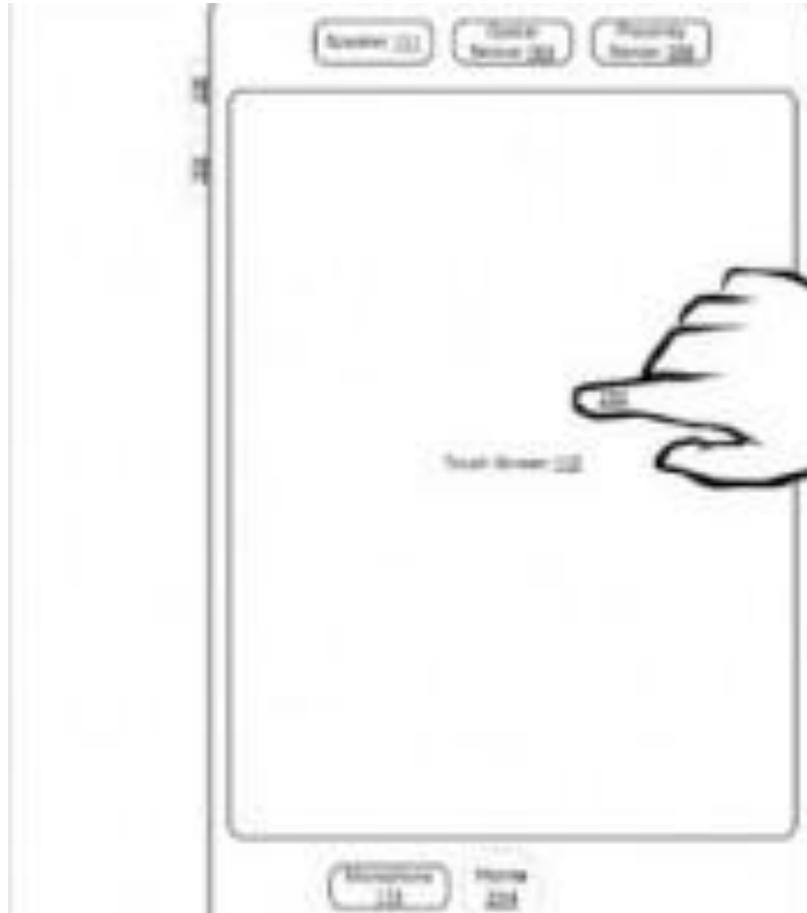
From the foreman

- Prior Art: “ *The software on the Apple side could not be placed into the processor on the prior art and vice versa. That means they are not interchangeable. That changed everything right there.*”

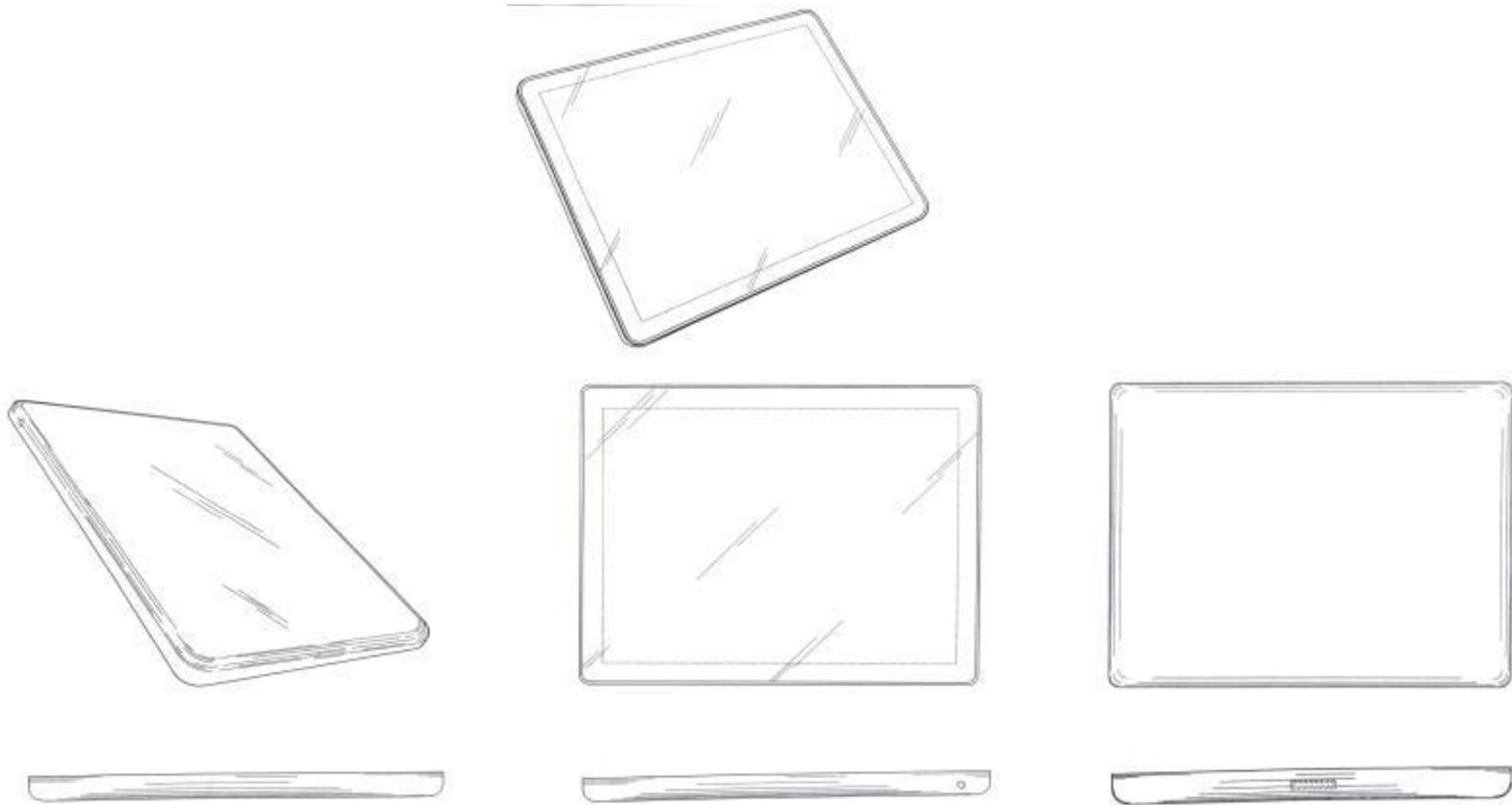
From the foreman

- Prior Art: *“I’m saying both could have existed independently of each other and been used. The thing you have to remember is that the prior art that belonged to Samsung, or belonged to somebody else that they had the ability of using, **they had not used for quite some time.**”*

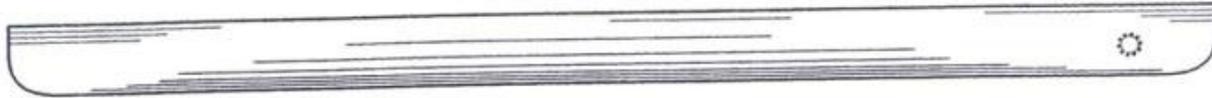
The bounceback patent



The Jury's job- designs (000181607-0001)

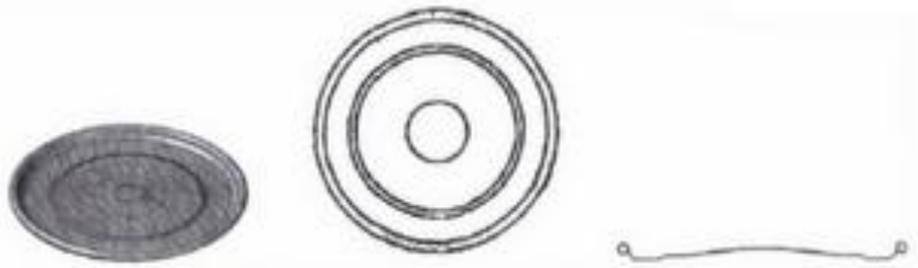


The Jury's job- designs (000181607-0001)



Grupo Promer v. PepsiCo

- The freedom of the designer of those promotional items was 'severely constricted'



promo



pepsi

Final Jury Instruction No. 33

Utility Patents—obviousness

- A utility patent claim is invalid if the claimed invention would have been obvious to a person of ordinary skill in the field at the time of invention. This means that even if all of the requirements of the claim cannot be found in a single prior art reference that would anticipate the claim or constitute a statutory bar to that claim, a person of ordinary skill in the field who knew about all this prior art would have come up with the claimed invention.

From the foreman

- Obviousness: “When the patent office determines that they are going to reject your patent based on a claim you are making against prior art - and in my case I had several of those - you have to be able to lay the groundwork and defend your claim that in light of the prior art it would not have been obvious to the individual who drafted that prior art that the new methodology could have been accomplished.”

The Jury's job- Damages

DAMAGES TO APPLE FROM SAMSUNG (IF APPLICABLE)

22. What is the total dollar amount that Apple is entitled to receive from Samsung on the claims on which you have ruled in favor of Apple?

\$ _____.

23. For the total dollar amount in your answer to Question 24, please provide the dollar breakdown by product.

Accused Samsung Product	Amount
Captivate (JX 1011)	
Continuum (JX 1016)	
Droid Charge (JX 1025)	
Epic 4G (JX 1012)	
Exhibit 4G (JX 1028)	
Fascinate (JX 1013)	
Galaxy Ace (JX 1030)	
Galaxy Preload (JX 1022)	

From the foreman

- Damages: *“We wanted to make sure the message we sent was not just a slap on the wrist, we wanted to make sure it was sufficiently high to be painful, but not unreasonable.”*

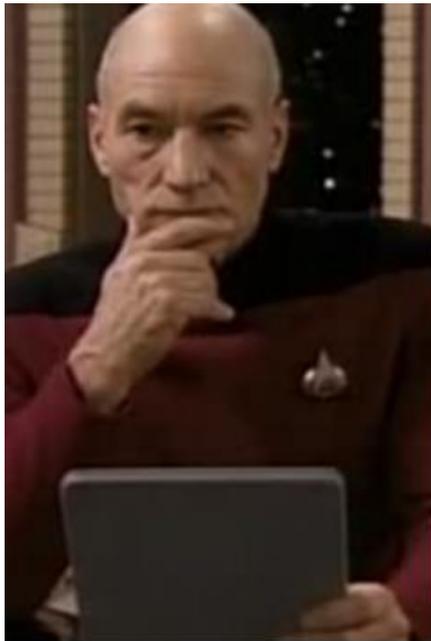
Inventing by sharing

And God created man in his own image (Genesis 1:27)

CHAPTER 1
God created

IN the beginning God created
2 And the earth was without form
void; and darkness was upon the
of the deep. And the Spirit of
moved upon the face of the water.
3 And God said, Let there be light.
4 And there was light.

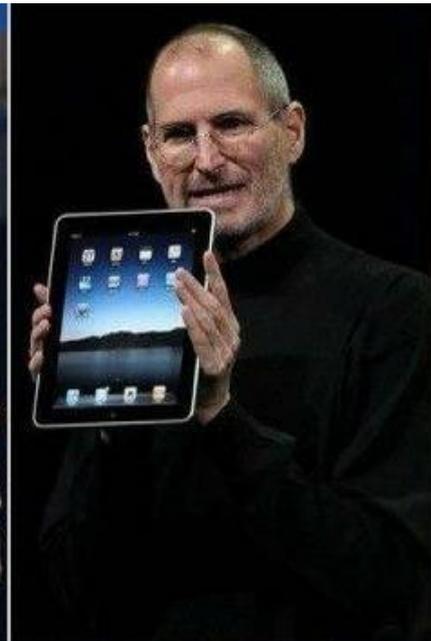
Who was first anyway?



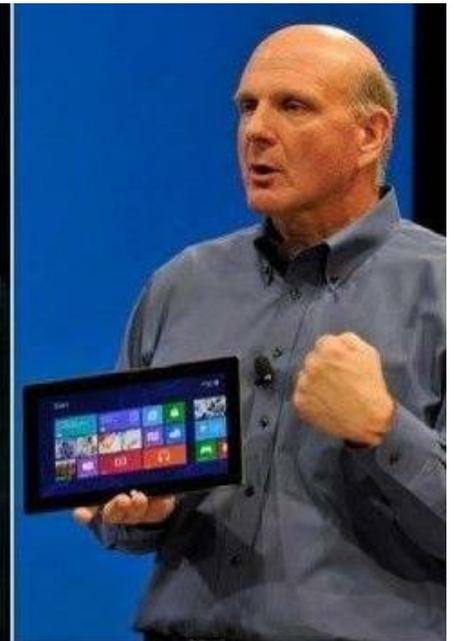
1988: Picard introduces the PADD.



2002: Bill Gates introduces the Tablet PC. No one cares.



2010: Steve Jobs introduces the iPad. The world pisses itself like an excited dog.



2012: Steve Ballmer introduces the Surface. People claim they stole the idea from Apple.

Or maybe...?



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THANK YOU!

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