

## **Samsung calls Google to its defense in Apple trial**

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**By Joel Rosenblatt, Bloomberg**

Samsung Electronics Co called the first of as many as seven Google Inc witnesses to begin making its case in a US\$2 billion (RM6.4 billion) patent trial that Apple Inc.'s true target in the lawsuit is the Android operating system.

Hiroshi Lockheimer, Google's vice president of Android engineering, testified yesterday in federal court in San Jose, California, about the development of the Android operating system used in Samsung phones. Apple contends, and Samsung denies, that several Android features in Galaxy devices infringe the iPhone maker's patents.

As the world's top two smartphone makers spar at their second US jury trial, Samsung is trying to show that Apple's claims are a cloaked attack on Google in an attempt to blunt smartphone competition from Android.

Apple's iOS smartphone operating system gained ground in the U.S. in the final quarter of 2013 as the share of the market served by the platforms of Google, Microsoft Corp, and BlackBerry Ltd shrank. Android's share slipped 0.3 percentage points to 51.5% as Apple gained 1.2 percentage points to end the year with almost 42% of the market, ComScore Inc said in February.

Worldwide, Samsung had 31.3% of a smartphone market that was valued at US\$338.2 billion last year, compared with 15.2% for Apple, whose share has shrunk as the touch-screen interface has become commonplace and Samsung, LG Electronics Inc, and Lenovo Group Ltd have introduced lower-cost alternatives.

### **Operating System**

Lockheimer's opening testimony was aimed at buttressing Samsung's argument that Google, which isn't a defendant in the case, was more than capable of creating an operating system without copying Apple's patents.

The executive said he joined Google in 2006 and that the company was already at work on Android, which was an independent company Google acquired in 2005. In

that period, as phones were becoming smartphones, Google's aim was to provide an open-source operating system for free.

"Rather than phones being mostly a hardware product, there was a lot of software involved," Lockheimer said of the evolving smartphones. "We provided that software."

Asked by Samsung lawyer John Quinn if Lockheimer's team ever copied anything from the iPhone, the witness replied, "Not that I'm aware."

### **'Own Identity'**

"We like to have our own identity," he said. "It was important that it was our ideas."

Samsung has presented e-mails in which Apple co-founder Steve Jobs spoke of his Cupertino, California-based company facing an "innovator's dilemma" and announced a "Holy War with Google," saying the goal was to "Catch up to Google" in its Android and cloud service capabilities.

Jobs, the former Apple chief executive officer who died in 2011, is quoted in a biography by Walter Isaacson as saying his mission was "to destroy Android," which Jobs said "ripped off the iPhone, wholesale."

Harold McElhinny, a lawyer for Apple, told the jury in his opening argument last week that portraying the case as an attack on Mountain View, California-based Google is misleading because Samsung made the choice to use and profit from the infringing Android features in its phones.

### **First Trial**

Unlike the first trial in 2012, when Apple was awarded \$US1.05 billion in damages after convincing jurors that Samsung copied the iPhone's look and design, the current case is exclusively about software functions.

Apple claims that 10 Samsung products, including the Galaxy S3, infringe five patents covering a range of user-interface designs for the iOS software that powers iPhones and iPads, including features like the slide-to-unlock function, automatic spelling corrections, and the ability for a user to make a call by clicking on a phone number within a web page or e-mail instead of having to dial it separately.

Others functions Apple says are covered by its patents include searching for words in files stored in different applications and updating applications while using other features of the phone. Apple seeks about US\$2.2 billion in damages.

Samsung alleges that eight Apple products, including the iPhone 5 and versions of the iPad and iPod, infringe two patents. Samsung, based in Suwon, South Korea, seeks about US\$7 million in damages, according to a court filing.

Apple finished presenting its evidence at the trial yesterday.

Samsung plans to call another Google engineer, Dianne Hackborn, to testify about the design of Android features that Apple claim infringe the patent covering single-click phone calls, according to Samsung lawyers and a court filing.

The case is Apple Inc v Samsung Electronics Co, 12- cv-00630, US District Court, Northern District of California (San Jose).

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