

Apple v. Samsung kicks off innovation debates

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SAN JOSE – The Apple v. Samsung case now starting here has already raised two broad questions: What’s the line between aggressive benchmarking and copying of a competitor’s product? And what’s the line between filing patents that are relevant to evolving standards and ones that are intentional submarines?

In opening statements this morning, Apple attorneys showed detailed Samsung reports extending over more than 100 pages. They compared existing Samsung handsets to the iPhone on a feature-by-feature basis making recommendations on each page suggesting Samsung adopt iPhone techniques.

“The evidence will show Samsung has taken our property,” said Harold McElhinny, Apple’s lead attorney.

“Samsung will say we didn’t copy, we benchmarked and everybody in electronics benchmarks--even Apple benchmarks, but benchmarking had a very special meaning at Samsung,” McElhinny said.

“Samsung sold more than 22 million infringing phones and tablets in the U.S. using Apple’s inventions,” he claimed. “Samsung has taken sales away from Apple and will generate more than \$2 billion in profit for Samsung that they made using our intellectual property,” he added.

Specifically Apple will seek \$2.5 billion in damages, said to be a new watermark in infringement cases. It claims Samsung infringed utility and design patents on the user interface and product look and feel of both the iPhone and the iPad.

Separately, Apple also contends Samsung broke rules in industry standards groups by not declaring patents covering standards work until after the standard was completed. Specifically it claims two Samsung 3G patents were filed before ETSI standards were frozen, then not disclosed until two years later.

For its part, Samsung showed Apple’s detailed internal teardowns of Samsung S1 and Galaxy Tab products. In addition, it showed an email to Apple’s lead designer, Jonathan Ive, suggesting changes to the look of the iPhone before it was released based on the look and feel of a Sony handset.

“Being inspired by competing products and trying to develop better ones is not copying its competition and everybody does it,” said Charles Verhoeven, Samsung's lead attorney.

Samsung showed examples of handsets and tablets released before the first iPhones and iPads but having a roughly similar look and feel.

“If you make something popular it doesn't mean you can exclude other people from doing it,” Verhoeven said. “Apple didn't invent the rectangular form factor you see, it didn't invent the large touch screen,” he added.

He claimed as much as 26 percent of some iPad and iPhone bill of materials are for Samsung components. That includes the Retina display Apple heavily markets and is made exclusively by Samsung. “Who's the innovator,” he asked.

Samsung's opening statements conclude this afternoon.

Apple's head of marketing, Phil Schiller, and its head of mobile operating systems, Scott Forstall, are both expected to testify.