**Apple Inc. v. Samsung Electronics Co.**

**Background and Procedural Issues:**

Apple registered four design patents in January 2007 covering its design and shape of the iPhone. In 2011, Samsung released a series of phones including the Galaxy S4, Epic 4G and Nexus S. Apple then filed a lawsuit on April 15, 2011, in the United States District Court for the Northern District of California claiming that the Samsung products mentioned above had infringed its patents, trademarks user interface and style. Apple claimed that Samsung had stolen the design of its products and had unfairly benefitted from Apple’s cutting-edge designs. Apple relied on 35 US. Code Section 289 which stipulated that plaintiffs be compensated the full profits of the defendants if they have infringed the plaintiff's product design (LJ, 2016).

Apple displayed several slides at the district court explaining how the Samsung phones had copied the iPhone design especially the round edges of the phone and the similarities in the home button feature. The court found that Samsung had intentionally infringed Apple's patents and therefore awarded Apple damages to a tune of about one billion US dollars. Apple then sought an injunction seeking that the Samsung Nexus be barred from distribution in the United States. A temporary injunction was granted, but later in October 2012, the court found that the Nexus tablets had not infringed Apple's patents and therefore the injunction was granted(Appeals, Circuit, & 2012, n.d.).

Following an appeal, the figure of one billion was subsequently reduced to five hundred and forty-eight and then to three hundred and ninety-nine million dollars.

**Design Patents and Utility Patents:**

Design patents have the objective of protecting the unique appearance of a product. Utility patents protect the functional aspects of a product. Apple accused Samsung of violating both patents. For products such as phones, the outward appearance is geared towards attracting customers to buy the product. The sleek and beautiful appearance of a phone can convince customers to pick one phone instead of another. Apple argued that Samsung copied the round edges of the iPhone. They argued that by Samsung stealing its designs, customers were misled into buying Samsung phones instead of iPhones. I believe that this analysis by iPhone was hugely exaggerated. For the average phone customer, it is not that hard to distinguish an iPhone from a Samsung phone. The phones have brand logos and are packaged with the manufacturer's details. Therefore it is almost impossible for one to confuse the two phones(Economics & 2016, n.d.). However, in a competitive business environment, for a brand to be successful, it must stand out from other products. Apple created a sleek-looking phone with unique physical features, and by Samsung copying its appearance, they reduced the advantage Apple had with their unique features. This was an unfair trade practice. Apple was able to demonstrate to the court using slides, the similarities between the two products and had also registered that patent successfully before Samsung. Apple, therefore, had a right to sue and demand compensation for the infringement of its patents.

**The Amount of Damages to Be Awarded:**

The district court initially relied on 35 US. Code Section 289 to award one billion in damages to Apple. However, is this criteria fair?

Those in support of this piece of the legislation argue that by infringing a design patent, you are basically stealing someone else's invention and therefore the victim deserves a hundred percent compensation from the profits. The defendant would not have made any profits if it were not for the technological inventions of Apple. This legislation also seeks to deter companies from stealing other companies' patents. If the compensation were a lesser figure, companies would steal inventions knowing that they would make a tidy profit and that they would bear only bear a small cost from the illegal profits(“35 U.S. Code § 289 - Additional remedy for infringement of design patent | U.S. Code | US Law | LII / Legal Information Institute,” n.d.).

Those who do not support this legislation argue that it is extraordinarily punitive and outdated. Outdated because it was passed during a time when the inventions made were simple and that they were not as complicated as today's scientific inventions. Take the case of Apple v Samsung where the phones in question are complicated, built with very many components. Samsung only stole some of the components, and it would, therefore, be unfair to compel them to shell out a hundred percent of the proceeds from the sale of the phone(Magazine & 2017, n.d.).

In my opinion, courts should strike a balance between the two arguments. The damages awarded should not be too punitive in such a way that they will be deemed a ‘slap on the wrist.' In a bid to protect patents from infringement, they should not also be too lenient.

**International Politics:**

Apple and Samsung control a significant part of the world market. Apple represents the success story of cutting-edge technology from the West while Samsung represents a burgeoning industrial age of the East. The two brands have always divided opinion as to which brand is better. It is, therefore, no surprise that the East and the West would both try to protect their brands. This lawsuit started what is called a global legal war between the two brands. Is it a coincidence that both the Japanese and South Korean courts found that Samsung had not violated Apple's patents and the Western courts (the USA, England, and Germany) found that Samsung had indeed infringed Apple's patents?

The two brands are highly romanticized in the world telecommunications market. It is essential that in the future courts put aside national preferences and deliver fair trials. The courts should work to ensure the impartiality of the law and facilitate fair business practices and at the same time protect innovations which have shaped the world as it is today.

**References**

35 U.S. Code § 289 - Additional remedy for infringement of design patent | U.S. Code | US Law | LII / Legal Information Institute. (n.d.). Retrieved February 27, 2019, from https://www.law.cornell.edu/uscode/text/35/289

Appeals, 678 F. 3d 1314 - Court of, Circuit, F., & 2012, undefined. (n.d.). Apple, Inc. v. Samsung Electronics Co., Ltd. *Google Scholar*. Retrieved from /scholar\_case?case=8926878352616614421&q=Apple+Inc.+v+Samsung+electronics&hl=en&as\_sdt=2006

Economics, T. C.-C. L. and, & 2016, undefined. (n.d.). 11. a comparative law and economics analysis of damages for patent infringement. *Books.Google.Com*. Retrieved from https://books.google.com/books?hl=en&lr=&id=23GNCwAAQBAJ&oi=fnd&pg=PA262&dq=35+U.S.+Code+§+289+-+Additional+remedy+for+infringement+of+design+patent&ots=VHOe608sn8&sig=txODaruvc4OlCtEwqLDfJpi6KAM

LJ, T. C.-C. A. & E., & 2016, undefined. (n.d.). Apple, Inc. v. Samsung Electronics Co.: Economics of Design Patent Trolling. *HeinOnline*. Retrieved from https://heinonline.org/hol-cgi-bin/get\_pdf.cgi?handle=hein.journals/caelj35&section=10

Magazine, A. M.-I. P. E., & 2017, undefined. (n.d.). Awards for Infringement of Design Patents. *Ieeexplore.Ieee.Org*. Retrieved from https://ieeexplore.ieee.org/abstract/document/7873423/