

No. 2013-1129

United States Court of Appeals
for the
Federal Circuit

APPLE INC.,

Plaintiff-Appellant,

– v. –

SAMSUNG ELECTRONICS CO., LTD., SAMSUNG ELECTRONICS
AMERICA, INC., SAMSUNG TELECOMMUNICATIONS AMERICA, LLC,

Defendants-Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA IN CASE NO. 11-CV-1846,
LUCY H. KOH, U.S. DISTRICT JUDGE

**AMENDED MOTION FOR LEAVE TO FILE BRIEF FOR
AMICI CURIAE GOOGLE, INC., HTC CORPORATION,
HTC AMERICA, INC., RACKABLE HOSTING, INC.,
RED HAT, INC. AND SAP AMERICA, INC.
IN SUPPORT OF APPELLEES**

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May 7, 2013

CERTIFICATE OF INTEREST

Counsel for *Amici* certifies the following:

1. The full name of every party or amicus represented by the undersigned counsel in the above-captioned appeal is Google Inc., HTC Corporation, HTC America, Inc., Rackspace Hosting, Inc., Red Hat, Inc. and SAP America, Inc.

2. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by me is: N/A

3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of any party or amicus curiae represented by me are:

- HTC America, Inc. is a wholly owned subsidiary of HTC Corporation.
- Red Hat, Inc. has no parent corporation, and the only publicly held companies that own 10 percent or more of its stock are T. Rowe Price and Fidelity Management and Research Company.
- SAP America, Inc. is a privately held corporation and is a wholly owned subsidiary of SAP AG.

4. The names of all law firms and the partners or associates that appeared for the parties or amici now represented by me in the trial court or are expected to appear in this court are:

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Dated: May 7, 2013

/s/ Christopher J. Glancy
Christopher J. Glancy

Pursuant to Federal Rule of Appellate Procedure 29, *amici curiae* and non-parties Google Inc. (“Google”), HTC Corporation and HTC America, Inc. (collectively “HTC”), Rackspace Hosting, Inc. (“Rackspace”), Red Hat, Inc. (“Red Hat”), and SAP America, Inc. (“SAP”) (collectively “*Amici*”) respectfully moves for leave to file the attached brief in support of Defendants-Appellees Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung Telecommunications America, LLC (collectively “Samsung”) and in support of the District Court’s December 17, 2012 order denying Plaintiff-Appellant Apple Inc.’s (“Apple”) motion for a permanent injunction (the “Order”).

Amicus Google is the developer of Android, a platform for mobile devices such as smartphones and tablet computers, and particular versions of Android running on the Samsung products that are the subject of the Order. Google also develops and provides Internet-related services and products, including search, cloud computing, software and online advertising technologies.

Amicus HTC is a leading developer and manufacturer of smartphones and tablets based on the Android and Windows Phone platforms. With Google, HTC developed the world’s first Android smartphone. HTC was also the first company to launch 3G, 4G WiMAX, 4G HSPA+ and 4G LTE smartphones in the world.

Amicus Rackspace is a service leader in cloud computing, delivering enterprise-level hosting services to businesses of all sizes and kinds around the world. Rackspace provides server space and internet connectivity that allows businesses to store and retrieve data and to implement their applications and operating systems in a stable, secure environment.

Amicus Red Hat is the world's leading provider of open-source software and related services to enterprise customers. Its supply chain involves hundreds of open source projects, which work independently of each other and collaborate over the Internet. Its software products are used by Wall Street investment firms, hundreds of Fortune 500 companies, and the United States government.

Amicus SAP is a leading technology company focused on developing innovative software and computer-based business solutions. It conducts significant research and development and invests heavily in commercializing innovative technologies.

Amici are all innovative technology companies that develop and provide a variety of products and services that, like the mobile devices at issue in this appeal, incorporate a wide array of features. As such, an issue presented in this appeal – whether a court may enjoin the sale of innovative and technologically complex products based on the incorporation of trivial patented features without evidence

that the accused features drive sales of the products – is a matter of great concern to *amici*.

This motion and proposed brief are timely under Federal Rule of Appellate Procedure 29, which provides that an *amicus curiae* must file its brief, accompanied by a motion for filing when necessary, no later than 7 days after the principal brief of the party being supported is filed. Samsung filed its principal brief on April 29, 2013. Accordingly, *Amici's* brief in support of Samsung is due on May 6, 2013.

The undersigned counsel for *Amici* contacted counsel for Apple to obtain consent for the filing of this brief, and Apple intends to oppose. Counsel for Samsung has consented to the filing of *Amici's* brief.

Dated: May 7, 2013

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SAP America, Inc.

CERTIFICATE OF SERVICE

I, Christopher J. Glancy, hereby certify that on May 7, 2013 the foregoing AMENDED MOTION FOR LEAVE TO FILE BRIEF OF *AMICI CURIAE* GOOGLE INC., HTC CORPORATION, HTC AMERICA, INC., RACKSPACE HOSTING, INC., RED HAT, INC. AND SAP AMERICA, INC. IN SUPPORT OF DEFENDANTS-APPELLEES was electronically filed with the Clerk of the Court using CM/ECF, and was served on the following counsel via the CM/ECF system and electronic mail:

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