In the

Supreme Court of the United States

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

Petitioners,

v.

APPLE INC.,

Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

BRIEF OF AMICUS CURIAE AMERICAN INTELLECTUAL PROPERTY LAW ASSOCIATION IN SUPPORT OF RESPONDENT

DENISE W. DEFRANCO
President

AMERICAN INTELLECTION

DERRY R. SELINGER

Counsel of Record

Participan & Sherid

AMERICAN INTELLECTUAL PATTERSON & SHERIDAN, LLP
PROPERTY LAW ASSOCIATION 1700 Pacific Avenue, Suite 2650
241 18th Street South Suite 700 Pallog TV 75201

241 18th Street South, Suite 700 Dallas, TX 75201 Arlington, VA 22202 (214) 272-0957

(703) 415-0780 jselinger@pattersonsheridan.com

Attorneys for Amicus Curiae American Intellectual Property Law Association

267209



COUNSEL PRESS (800) 274-3321 • (800) 359-6859



TABLE OF CONTENTS

		Page
TABL	ΕO	F CONTENTSi
TABL	ΕO	F CITED AUTHORITIESiii
STAT	EMI	ENT OF INTEREST
SUMI	MAR	RY OF ARGUMENT2
ARGU	JME	NT3
I.	Ove	erview of Design Patent Law
II.	Aff	e Additional Relief to Design Patentees orded by 35 U.S.C. § 289 is Clear and ambiguous
III.		gislative History Supports a Plainaning Statutory Construction
	A.	Patent Remedies Prior to 1842
	В.	Patent Remedies and the Carpet Cases8
	С.	The Act of 1887 Eliminated Apportionment
	D.	Section 289 Implements Congressional Intent to Award an Infringer's Entire Profits



ii

$Table\ of\ Contents$

		Page
IV.	Reliance on Explicit Language in Section 289 Is Justified by Evidence in Trademark and Copyright Law That Congress Conditions Infringement Remedies with Express	
	Language Where It Chooses to Do So	15
V.	The Policy Implemented by Congress in 1887 Remains Good Policy	18
CONC	CLUSION	20



TABLE OF CITED AUTHORITIES

Page
CASES:
Apple Inc. v. Samsung Elecs. Co., 786 F.3d 983 (Fed. Cir. 2015)
Aro Mfg. Co., Inc. v. Convertible Top Replacement Co., Inc., 377 U.S. 476 (1964)14
Bonita Boats, Inc. v. Thunder Craft Boards, Inc., 489 U.S. 141 (1989)
Burdell v. Denig, 92 US. 716 (1876)
Dobson v. Dornan, 118 U.S. 10 (1886)
Dobson v. Hartford Carpet Co., 114 U.S. 439 (1885)4, 6, 10, 11
Egyptian Goddess, Inc. v. Swisa, Inc., 543 F.3d 665 (Fed. Cir. 2008)
Feltner v. Columbia Pictures Television, Inc., 523 U.S. 340 (1998)
F.W. Woolworth Co. v. Contemporary Arts, Inc., U.S. 228 (1952)
Garretson v. Clark, 111 U.S. 120 (1884)



iv

$Cited\ Authorities$

Page
Garretson v. Clark, 10 F. Cas. 40 (C.C.N.D.N.Y. 1878)
Gorham Co. v. White, 81 U.S. (14 Wall.) 511, 20 L.Ed. 731 (1871)
Henry Hanger & Display Fixture Corp. of Am. v. Sel-O-Rak Corp., 270 F.2d 635 (5th Cir. 1959)
Markman v. Westview Instruments, Inc., 517 U.S. 370 (1996)
Petrella v. Metro-Goldwyn-Mayer, Inc. 134 S. Ct. 1962 (2014)
Ratzlaf v. United States, 510 U.S. 135 (1994)
Schnadig Corp. v. Gaines Mfg. Co., 620 F.2d 1166 (6th Cir. 1980)6-7
Seymour v. McCormick, 57 U.S. (16 How.) 480 (1853)
Sheldon v. Metro-Goldwyn Pictures Corp., 309 U.S. 390 (1940)
Teva Pharms. USA, Inc. v. Sandoz, Inc., 135 S. Ct. 831 (2015)



DOCKET

Explore Litigation Insights



Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time** alerts and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.

