

# WOMEN'S UNIVERSITY IN AFRICA



*Addressing gender disparity and fostering equity in University Education*

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**FACULTY OF MANAGEMENT AND ENTREPRENEURIAL SCIENCES**

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**MASTERS DEGREE IN BUSINESS ADMINISTRATION**

**MAIN PAPER**

**MBA114: ENTREPRENEURSHIP AND SMALL BUSINESS MANAGEMENT**

**INTAKE 23: FIRST YEAR FIRST SEMESTER**

**TIME: 2 HOURS**

**INSTRUCTIONS TO CANDIDATE**

Answer Question **1** and any other **two**.

## Question 1

### **Apple v Samsung: innovation's the loser**

#### **Tech giants are devoting more energy to defending patents than they are to coming up with new ideas.**

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Last Friday, a federal court in San Jose, California awarded US tech-giant Apple a huge legal victory over its rival Samsung, which has been ordered to pay \$1.05 billion in damages. Apple claimed its South Korean rival had copied a number of features from its iPhone, making it one of the biggest patent disputes in history. As a result, Samsung's share price has dropped more than seven per cent. While Samsung remains the world's largest mobile-phone and smartphone manufacturer, with an operating profit in the second quarter of this year of \$5.86 billion, its reputation and future commercial prospects have been significantly dented.

There is another important aspect to the court ruling. Samsung is the leading producer of smartphones that run on Google's Android operating system, which powers 64 per cent of all the smartphones shipped in spring this year. Therefore, the victory was a head-on challenge to Google and the many other smartphone manufacturers who use Android in their devices. Many suffered their own share-price jitters as a result of the US ruling. What was in dispute were a number of relatively minor design features that many consumers might well take for granted. They include: pinching and zooming images with your fingers using a touchscreen; the grid of rounded square icons against a black background; the ornamental design of the phone; the rounded edges of the phone; double-tapping the screen to enlarge portions of a webpage; and the 'rubber band' effect, whereby the screen bounces back if it reaches the outmost edges of its content.

According to the *International Business Times* website, just the rubber-band patent infringement will mean 21 separate Samsung products are affected by the ruling. If the Californian judge decides to grant Apple an outright ban, Samsung would have to stop selling many of its leading products in the US market. But that wouldn't be the end of it. The same case is likely to be contested in other countries, too, including Germany, the UK, France, Italy, the Netherlands, Spain and Japan. A similar case in South Korea led to a ruling last week that Samsung and Apple had infringed each other's patents.

If more courts come down in favour of Apple, the ramifications for Samsung could be huge. But this dispute is just the tip of the iceberg when it comes to phone manufacturers slugging it out in the courts. There are an estimated 97 patent disputes going on this year in the US alone, up fourfold from 2006 when there were 24 cases. Apple is estimated to be responsible directly or indirectly for 60 per cent of them. In many cases, what is at stake is the right of other manufacturers to use and exploit what are deemed intrinsic features that are essential to what a phone does, how it performs or, in the case of some contested patents in this dispute, simply what it looks like.

Some have objected to Apple, arguing that in the case of a touchscreen you cannot do anything else with it other than tap, pinch and swipe. How can one company patent those gestures as its own? But seen in another way, the reasons why these disputes are so hotly contested is because much of the technology used in mobiles and smartphones is shared between many of the leading manufacturers. Even Apple and Samsung share the same technology: much of the iPhone's own technology is made by, you guessed it, Samsung. As such, new technological advances that would have given one manufacturer a technical advantage over another have disappeared. Now, companies often license their innovations to other manufacturers. Those who pay to use particular patented innovations benefit from using a technology they no longer have to compete with; those who hold patents gain significant revenues from royalty fees.

One simple example of this convergence is in voice-operated features, where a user can use their voice to control the phone to operate an application, dictate text or play a music track. Apple made much of its own voice-controlled feature, called Siri, at the launch of its last model, the iPhone 4S. By that time, Samsung's Galaxy S2 smartphone already had its own voice-controlled assistant, called S-Voice. Both manufacturers had licensed the same voice-recognition technology from a company called Nuance, which claims to be the world's biggest supplier of mobile handset and car manufacturers' voice-recognition technology.

This convergence of manufacturers using the same licensed technology is a frequent occurrence. Another significant trend is the use of patents to stop rivals from developing similar ideas. Earlier this year, HTC defeated Apple over claims that HTC had copied how a user on an iPhone can unlock it when moving a finger across its screen. The court ruled that Apple had itself copied the idea from another phone made by a Swedish firm called NeoNode that created the idea in 2004.

Without that example, the judge would have said that HTC had copied Apple. However, with the outcome ruling against Apple, some even suggested that Apple might consider buying NeoNode and the patent to its swipe-to-unlock feature in order to strengthen the company's defence in the entirely new battle with Samsung.

Maybe we shouldn't be so surprised about Apple being so litigious, especially when its late CEO, Steve Jobs, famously stated that he would use every last ounce of energy to destroy Google's Android operating system, which he accused of mercilessly copying Apple. But whether it is Apple, Samsung or any other large manufacturer, the trend is to let the courts do the talking through the defence of patents (many of which have been bought from other companies, not developed 'in house'), rather than through continued hardware and software innovation.

The point more broadly here is that while both Apple and Samsung are incredibly cash-rich – Apple has over \$110 billion in cash reserves compared to Samsung's \$23.8 billion – both have chosen to continue in such a tight relationship. They are simultaneously biting each other's hands and benefiting from each other's technology, while both utilising an exact copy of a third-party idea and then retrospectively attempting to monopolise it by slapping a patent on it. It is worth noting here that patents themselves are big business. Ordinarily speaking, patents are useful to secure already-spent investment that has led to a new innovation, stopping others from copying it as their own. However, the current tendency is to use patents in a much more combative manner, too, which has less to do with securing new ideas and is more about stopping the competition from developing rival methods. The result is a kind of stalemate - with the consequence being that less and less important innovation takes place.

One symptom of this preference for intellectual property over research and development is that there are many companies that buy and sell huge numbers of patents either to reap large royalty fees from licensing them out or, more simply, to stop other companies from developing similar ideas. That forces rivals to pay licence fees or to think of something completely new, which can be a very difficult and expensive process. Sometimes known as 'patent trolls', such companies can amass anything over 35,000 patents and cream off huge sums in licensing fees. For example, one such company, Intellectual Ventures, has scooped \$2 billion in fees since 2000.

One of the consequences of developing new ideas in such a marketplace is the risk of inadvertently encroaching on another already-existing patent with the prospect of costly litigation and large damages if a company wrongly judges that an existing patent doesn't cover its new idea. The effect is to discourage innovation. In that sense, these patent wars are a defensive tactic used to shore up companies' positions rather than to enable them to exert more innovation on the marketplace. This is by no means to suggest that research and development is not taking place. Samsung, for example, has pumped some \$6 billion into innovation research. But overall, the marketplace is based upon a markedly fragile yet supportive relationship among many leading manufacturers. It remains paradoxical that companies like Apple and Samsung should have become so preoccupied with defensive patent-litigation, rather than with the outcomes from large-scale investment in innovation. Relying on the courts to defend their market share in this way is a sure sign that these companies are, at least for now, too busy looking back, rather than using their intellectual might to stay ahead.

**You are required to;**

- (a) Make an evaluation on whether what Apple claimed to be its patent was worth patenting. [5]
- (b) Advise Samsung with justifications on other forms of Intellectual property it could have adopted to counter Apple. [5]
- (c) The issue of copycat innovation is difficult to manage in a technology alert environment. Comment. [10]
- (d) In relation to the case issues comment on whether ethics is being practiced by both firms in patenting ideas. [5]
- (e) "Devoting more energy to defending patents than coming up with new ideas is the best strategy". Argue. [5]
- (f) From the Zimbabwean perspective, cite any five challenges faced by SMEs in the music industry protecting their Intellectual Property [10]

**Question 2**

With reference to an organization of your choice discuss how they can apply the five forms of strategic entrepreneurship [20]

**Question 3**

Advise a group of SMEs struggling to make a breakthrough in their business on how they can adopt open innovation as a strategy for growth [20]

**Question 4**

Citing SMES in a specific sector, comment on the types of risks they encounter, their causes as well as the measures they need to take to minimize such risks [20]

**Question 5**

The environment in Zimbabwe is not conducive for entrepreneurial activities. Comment citing practical examples and explaining their impact to business success [20]

**Question 6**

SMEs fail due to lack of adherence to ethical standards. Comment citing any five examples of unethical behaviors in business as well as measures SMEs should adopt for business sustainability [20]

**END**