

UNIVERSITE PARIS 1 PANTHEON-SORBONNE

ECOLE DE MANAGEMENT DE LA SORBONNE / DEPARTEMENT DES LANGUES

Bi-LICENCE DROIT/GESTION, Semestre 4

Partiel d'anglais appliqué au Droit

Date : 7 mai 2015

Durée: 2 heures

Enseignant : Jean-Toussaint Pindi, Maître de conférences

No documents allowed. Write your answers on the official answer sheets provided.

PART I: Reading

Read the text below and address the ensuing comprehension and vocabulary exercises.

Apple Vs. Samsung: Apple Wins Battle But Losing War?

A jury finds Samsung guilty of infringing Apple's patents, but Apple's courtroom victories aren't slowing Android's smartphone market success.

Apple scored another win from a California jury late Friday afternoon. The jury ruled mostly in Apple's favor, agreeing that Samsung violated some of Apple's patents and owes the iPhone maker damages. The amount awarded, however, was less than 5% of what Apple wanted. Further, Apple was found to have violated one of Samsung's patents. Apple's "holy war" against Android has scored victories in individual skirmishes, but the larger campaign is going nowhere. The trial, held in San Jose during April and presided over by US District Court Judge Lucy Koh, went to the jury just last week. Where the first trial, held in 2012, focused mostly on hardware, this trial focused on software and individual features of the iOS and Android operating systems. The members of the jury spent three and a half days deliberating the case before coming to a decision.

Apple alleged Samsung had violated four patents. The jury saw differently, **convicting** Samsung of violating two patents: data tapping (making calls from within an email) and auto-complete. Judge Koh had found Samsung guilty of violating Apple's slide-to-unlock patent earlier in the trial. The jury cleared Samsung of violating a patent related to Siri and another related to data synchronization.

The jury awarded Apple \$119.6 million in damages for the data-tapping and slide-to-unlock patents, but it didn't award any damages for the auto-complete patent. Koh ordered the jury to reassess the auto-complete damages, saying that Apple is due some sort of award for the

violation. The jury reconvenes Monday to deliberate on a dollar amount. Whatever amount the jury agrees on will likely not come close to the \$2.2 billion Apple believed it was owed. The \$119.6 million awarded by the jury is peanuts in comparison, and it might not even cover the expense of the trial itself. Most importantly, Apple was unsuccessful in preventing Samsung from selling the infringing devices in the US.

Samsung managed to score a minor victory itself during the trial. It had alleged that Apple was violating two of its patents. The jury agreed on one count and awarded Samsung \$158,000.

Apple was awarded \$930 million in the 2012 trial. With the two verdicts combined, Samsung might owe Apple more than \$1.05 billion. That's a huge chunk of change, no doubt, but Samsung is still free to sell the infringing devices in the US and other markets. Android, the operating system on Samsung's devices, has made incredible strides in conquering the worldwide smartphone market. Globally, Android is on 78% of smartphones. Android debuted about 15 months after Apple's first iPhone and surpassed it quickly, thanks to support from dozens of manufacturers that have churned out wave after wave of impressive devices.

Meanwhile, Apple has done little more than to iterate on the iPhone over the last few years. It still sells tens of millions of iPhones each quarter, but it has also continued to lose market share as Android and its supporters have out-innovated Apple in recent quarters. Apple has consistently stated that it doesn't want to sell the *most* devices; it wants to sell the *best* devices.

Apple has court cases pending against Samsung and other smartphone makers in countries around the world. It may have technically beaten Samsung in the US last week, but the small damages awarded are clearly more of a win for Samsung than for Apple. Apple might do well to pause and reassess just how effective its anti-Android campaign has been and what priorities it should be moving forward.

Eric Zeman, InformationWeek.com 5/5/2014

A. Comprehension (5 points)

Answer these questions briefly

1. What is the status of Apple and Samsung in the case reported in the newspaper article?
2. What was the complaint about?
3. Which way has the court ruling gone?
4. What, according to the author, is the ratio decidendi?
5. Why is the author suggesting that Apple has won a battle but not the war against Samsung?

B. Vocabulary (5 points)

I. Define or explain the meaning of the following words as used in the text. (1.25 points)

1. Damages (paragraph 1, line 3):
2. Case (paragraph 1, line 9):
3. Convicting (paragraph 2, line 1):
4. Trial (paragraph 1, line 6):
5. Patents (sub-heading):

II. Find a synonym in the text for the words or phrases underlined below. Give the paragraph and line number. (1.25 points)

1. Violating intellectual property:
2. Smartphone makers:
3. The jury came to a decision:
4. Against:
5. Acquitted:

III. Complete the following extract about an out-of-court settlement between Apple and Samsung with the following words: (2.5 points)

appealing, awarded, deal, filed, giants, litigation, ordered, pact, settlement, statement

Over the last three years, the two largest smartphone companies Apple and Samsung (1) over 40 patent lawsuits against each other. Now the two companies have signed a (2) that ends all patent lawsuits outside of the U.S. The lawsuits will end in countries including Britain, France, Spain, Germany, Italy, South Korea, Japan, Australia and the Netherlands. However, Apple and Samsung will continue their legal battle in U.S. courts. Apple and Samsung did not sign a cross-licensing (3) as part of this..... (4).

“Samsung and Apple have agreed to drop all (5) between the two companies outside the United States, said the two Smartphone (6) in a joint(7). “This agreement does not involve any licensing arrangements, and the companies are continuing to pursue the existing cases in US courts.”

Apple’s lawsuits against Samsung in the U.S. have been largely in its favor. A jury in California (8) Apple with \$119 million out of a \$2.2 billion lawsuit against Samsung three months ago. Another ruling in a separate case (9) Samsung to pay about \$1 billion in 2012. Samsung is (10) both of the rulings.

Amit Chowdhry Forbes.com AUG 6, 2014

PART 2: Grammar: Phrasal verbs (5 points)

Complete the following sentences with a suitable **particle** from the list below

out / for / down / out of / over / up / forward

1. A number of convincing arguments were put.....by counsel for the defence.
2. During the trial the lawyer's arguments ran.....steam.
3. The litigant had taken action to sue.....damages.
4. The court issued a declaration setting.....the plaintiff's legal rights.
5. The Court of Appeal is presided.....by a judge.
6. The court allowed.....mitigating circumstances.
7. Lawyers give assistance in the drawing.....of contracts.
8. The higher court overturned the ruling handed.....by the local court.
9. A federal government programme provides.....legal aid.
10. The public believes lawyers tend to drive.....their fees.

PART 3: Essay Writing (5 points)

In a minimum of 250 words or a maximum of 300, discuss *What your thoughts are about the legal battle between Apple and Samsung.*

You will be marked on the substance of your arguments and on your ability to use your own words as well as on the standard of your English. Please provide your word count at the end of the essay.

Key to answers and guidelines for marking

Part 1: A Comprehension (5 points)

Marking: up to 1 point for a fully satisfactory and correctly written answer. Award 0.25 point, 0.50 point or 0.75 point if you the answer is not fully satisfactory. Nothing to be awarded for a blank or a wrong answer.

Answers:

1. Apple is the plaintiff, the accuser or the claimant whereas Samsung is the defendant or the accused in this court case.
2. The complaint was about the violation of 4 more patents by Samsung related to : the data tapping device, auto-complete features, Siri and data-synchronisation, in addition to the side-to-unlock device*. In other words, the violation of 5 patents in all. (see footnotes for more details about these devices)
3. The court ruling has gone in Apple's favour agreeing that Samsung had violated 3 of the 5 patents in all namely, data-tapping, slide-to-unlock and auto-complete. The court has consequently awarded damages in millions of dollars to Apple for the infringement of the data-tapping and the slide-to-unlock patents but was still deliberating on- the amount to be awarded in damages for the violation of the auto-complete patent. It has cleared Samsung on the remaining two counts.
4. Having examined closely both the software and the operating systems used in the Smartphones sold by both companies, the court has acknowledged that data-tapping, slide-to-unlock and auto-complete devices, to some extent, are indeed used in Android, which is the operating system used by Samsung and which is on 78% of Smartphones. And yet, the system got on the market 15 months after Apple had used the same technology in its first iPhone devices. Hence, the ruling that Samsung has infringed some of Apple's patents.
5. Because Apple has been awarded damages in court but has not succeeded in persuading the court to prevent Samsung from selling the infringing devices on the market. It continues to see its market share dwindle as a result. Secondly, other court cases involving these two companies are still outstanding, with an unpredictable outcome.

Notes:

- a) *Data-tapping device:* a device which can detect certain types of data such as dates, URL, phone numbers, addresses etc. and which can subsequently present users with a list of clickable actions.
- b) *Auto-complete features :* a device that enables a Smartphone to automatically generate word suggestions based on what the user is typing.
- c) *Siri :* a built-in device which acts as a personal assistant on iPhone 4S, helping people with everyday business tasks such as sending text messages, getting driving instructions, placing a call or scheduling a meeting.

- d) *Data-synchronisation device* : a device enabling the use of Apple's cloud hosting service icloud, to store store customers' fingerprints so that they can be synced (synchronized) with other devices when required, for example when paying for a purchase.
- e) *Slide-to-unlock device* : Smartphone's unlocking device that enables the user to perform the gesture of sliding the unlock image from left to right.

B. Vocabulary (5 points)

Marking: 0.25 point for a good answer. Nothing to be awarded, if otherwise.

Answers:

I. Definitions:

- 1) *Damages*: compensation in the form of money that a court orders one party to pay to another
- 2) *Case*: matter heard before a court
- 3) *Convicting*: declaring a defendant guilty at the conclusion of a trial
- 4) *Trial*: stage in civil or criminal proceedings at which the evidence is examined and judgement is delivered.
- 5) *Patents*: documents providing protection by government and giving someone or a company the exclusive right to manufacture, sell or use an invention or new industrial process.

II. Synonyms:

- 1) *violating*: infringing (title)
- 2) *makers* : manufacturers (paragraph 4, line 9)
- 3) *came to a decision* : ruled (paragraph 1, line1)
- 4) *against* : Vs. (title)
- 5) *acquitted* : cleared (paragraph 2, line 4)

III. text completion

- (1) filed (2) pact (3) deal (4) settlement (5) litigation (6) giants
(7) statement (8) awarded (9) ordered (10) appealing

Part 2: Grammar (5 points)

Marking: 0.5 point for a correct answer. Nothing to be awarded, if otherwise.

Answers:

- 1) forward 2) out of 3) for 4) out 5) over 6) for 7) up 8) down 9) for 10) up

Part 3:Essay writing (5 points)

Marking:

1 point to be systematically awarded for requisite length. Please make sure that the student has counted the number of words used in the essay and that the word count is genuine or accurate. This point is to be withheld if the essay is too long or not long enough or again if the student has failed to provide the word count.

Up to 2 points to be awarded for satisfactory substance. The breakdown of points is as follows:

- up to 1 point for a satisfactory scene setting : the type of companies involved, the type of products they make and how these products have changed people's lives, the extent of the companies' market share and how both protagonists are battling for innovation to earn competitive edge.
- up to 0.5 point if the student gives their own point of view.
- up to 0.5 point if the student gives arguments to support their point of view
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Up to 2 points to be awarded for the standard of English. The breakdown of points is as follows:

- up to 0.5 point for a good sequencing of ideas (*coherence*)
- up to 0.5 point for a good use of link words (*cohesion*)
- up to 0.5 point for good spelling and for a good choice of words, especially an adequate use of specialist terms (*vocabulary*)
- up to 0.5 point for good sentence construction (*grammar*)

Please note that *up to* means that you should feel free to award less if warranted: a quarter of a mark instead of half a mark, for example.