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In Australia, has Apple v. Samsung killed Android?

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By Jonny Evans

[Apple](#) [[AAPL](#)] has struck a killing blow against Android as things continue to unravel for [Samsung](#) in its [world war](#) with the iPad maker for rights to offer its imitative-seeming Galaxy Tab in markets worldwide. This morning, that device was banned in Australia, even as the two firms prepare a key battle in the US courts today -- a battle which could see the Galaxy Tab banned from sale.



[ABOVE: [Does anyone buy Samsung's feeble-seeming Stanley Kubrick defense?](#)]

Big fall down under

An Australian judge this morning slapped a temporary ban on the [sale of the Samsung tablet in Australia](#). It's the latest in a string of setbacks for Samsung, which Apple accuses of not just abusing technical patents but [also design patents in its iPad and iPhone lookalikes](#).

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The finding could impact the wider industry. "After today's decision, I believe no company in the industry be able to launch any new Android-based touchscreen product in Australia anytime soon without incurring a high risk of another interim injunction," writes [Florian Mueller on FOSS Patents](#).

These cases could take months or years to get through the courts, meanwhile Apple is working hard to stop its once main supplier from offering its Android-powered toys in key markets. There's litigation in most key markets in the world now, and the effect on Samsung must already be deeply damaging.

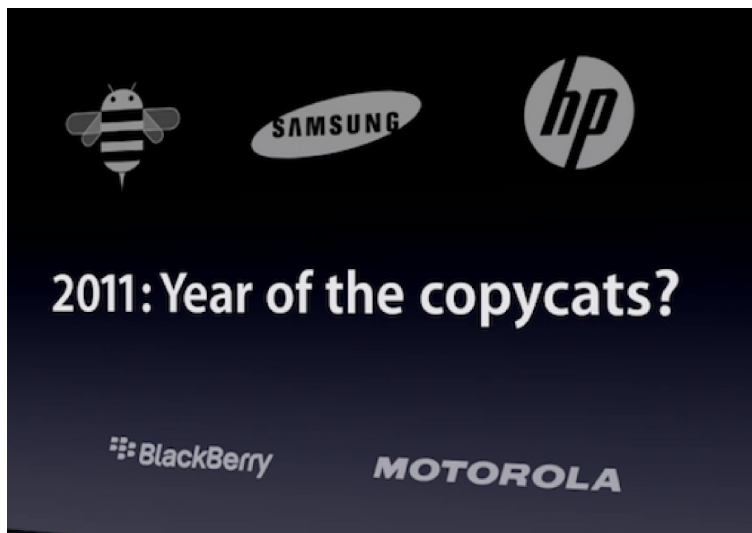
European woes

In Germany, Samsung is removing features from its Tab in an attempt to get around a judgment banning the device from sale there. Samsung made a similar approach to Apple offering to remove features from the tab in Australia, but the Cupertino company [declined that deal](#).

Apple also won an injunction against selected Samsung smartphones running Android 2.2 in Europe; this comes into effect at the end of the week, on **October 15**.

"Apple hasn't stated what it wants from its legal action," said Ilya Kazi, Chartered Patent Attorney and partner from intellectual property advisors [Mathys & Squire](#).

"It appears intent on removing the Galaxy smartphone and the Galaxy Tab from sale, side-lining one of its main competitors," Kazi observes. "It would also force Samsung to go back and re-tool its Android products. It is less clear whether Samsung would ultimately like to see the iPhone, iPad and other products like the iPod touch removed from major markets or whether the counter-suit is primarily retaliatory to force a sensible settlement."



[**ABOVE:** Anyone recall Apple's challenge? Who can guide through the successes on the list the fastest? (There are none).]

Year of the copycats?

As explained [in this report](#), the technology patents are only part of the story, also in the judgement line-up is the question of just how far design patents can protect designs as design itself becomes more discreet, yet also all-encompassing.

"I think it's fair to say this is the most high-profile design case we've ever had and this is really testing the system in these different countries, forcing them to make decisions on difficult issues about design," said Chris Carani,

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chairman of the American Bar Association's Industrial Designs Committee for 2011-13. He is also a patent attorney at Chicago-based IP law firm [McAndrews, Held & Malloy](#).

The Australian ban isn't the end of Samsung's story. The case continues and Samsung may conceivably be able to convince the judge there of the merits of its claims, perhaps even extending an adequate explanation of what possible justification it had to make the [dock connector](#) on the tab so similar to that of the iPad...

Samsung's willing to try: "*Samsung will continue its legal proceeding against Apple's claim in order to ensure our innovative products remain available to consumers,*" said Samsung in a response to the court's ruling.

Place your bets for tablet dominance

Apple seems to be [prevailing in this battle](#), "*The ruling could further extend Apple's dominance in the tablet market as it widens a sales ban of Samsung's latest product,*" [said Lee Seung-woo](#), an analyst at Shinyoung Securities in Seoul.

"*The Australian ruling nevertheless adds to Apple's 'copycat' story and increases the likelihood of an injunction in the US,*" said Intellectual property expert [Florian Mueller of FOSS patents](#).

Where is this going?

It really doesn't look great for Samsung. Other than losing the argument in courts worldwide, the company must also still [convince the courts that an ordinary person](#) would easily tell the difference between a Galaxy Tab and an iPad, for which it reached desperately to *Stanley Kubrick's 2001: A Space Odyssey*.

Peace will ensue eventually, but the relationship between the two firms is unlikely to be the same again. It is also in question if this will see a [waning of the power](#) of the Korean consumer electronics giant...

"*The likely outcome is that Apple and Samsung will eventually settle with a cross-license one way or the other for an undisclosed amount after a succession of press releases and sideshow battles, and after the lawyers have assessed the overall picture and commercial teams have weighed up the costs and benefits of the continuing battle,*" said Kazi.

What are your thoughts? Speak up, I'm interested.

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