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Corporation and Sprint Spectrum, LP

14
15 **UNITED STATES DISTRICT COURT**
16 **NORTHERN DISTRICT OF CALIFORNIA**

17 IPVENTURE, INC., a California
18 corporation,
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20 Plaintiff,
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22 v.
23 CELLCO PARTNERSHIP d/b/a
24 VERIZON WIRELESS, a Delaware
25 partnership, AT&T INC., a Delaware
26 corporation, AT&T MOBILITY, LLC, a
27 Delaware limited liability company,
28 SPRINT NEXTEL CORPORATION, a
Kansas corporation, and SPRINT
SPECTRUM, LP, a Delaware limited
partnership,
Defendants.

Case No. CV 10-04755 JSW
STIPULATION AND ~~PROPOSED~~
ORDER TO SUBSTITUTE PARTY

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1 Plaintiff IPVENTURE, Inc. (“Plaintiff”) and Defendants Sprint Nextel Corporation and
2 Sprint Spectrum, LP (“Defendants”) jointly submit this Stipulation regarding the substitution of
3 Nextel Operations, Inc. as Defendant in place of Defendant Sprint Nextel Corporation.

4 WHEREAS, Plaintiff filed this action for infringement of U.S. Patent No. 7,366,522 (‘522
5 Patent) against Sprint Nextel Corporation and Sprint Spectrum, LP on October 20, 2010.

6 WHEREAS, since that time, counsel for Sprint Nextel Corporation contacted counsel for
7 Plaintiff to explain its position that Sprint Nextel Corporation is merely a holding company that
8 does not actually make or distribute any products that Plaintiff would accuse of infringing the
9 ‘522 patent.

10 WHEREAS, counsel for Plaintiff and counsel for Sprint Nextel Corporation have agreed
11 that Sprint Spectrum, LP (a limited partnership organized under the laws of the State of
12 Delaware) and Nextel Operations, Inc. (a corporation organized under the laws of the State of
13 Delaware) are the proper parties to this litigation and should be substituted for Sprint Nextel
14 Corporation as defendants in the above-captioned matter so that all claims made against Sprint
15 Nextel Corporation are now made against Sprint Spectrum, LP and Nextel Operations, Inc.

16 WHEREAS, no prejudice results from substitution of these parties because none of the
17 parties to this lawsuit have filed answers or responsive pleadings, discovery has not commenced,
18 and no scheduling or party joinder orders are in place.

19 WHEREAS, the substitution of Nextel Operations, Inc. is without prejudice to
20 IpVenture’s ability to re-file its complaint against Sprint Nextel Corporation.

21 Now, therefore, pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii), IT IS HEREBY
22 STIPULATED AND AGREED, by and between IpVenture, Sprint Nextel Corporation and Sprint
23 Spectrum, LP, that:

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1 Nextel Operations, Inc. be substituted in place of Defendant Sprint Nextel Corporation in
2 the above styled and numbered cause, and Sprint Nextel Corporation is dismissed without
3 prejudice.

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5 DATED: December 17, 2010

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.

6 By: /s/ Ronald J. Schutz
7 Ronald J. Schutz

8 ***Counsel for Plaintiff***
9 ***IPVENTURE, INC.***

10 DATED: December 17, 2010

SNR DENTON US LLP

11 By: /s/ James M. Shin
12 James M. Shin

13 ***Counsel for Defendants***
14 ***SPRINT NEXTEL CORPORATION and***
15 ***SPRINT SPECTRUM, LP***

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PROPOSED ORDER

Before the Court is the Stipulation by Plaintiff IPVENTURE, Inc. and Defendants Sprint Nextel Corporation and Sprint Spectrum, LP to Substitute Party. Having considered the Stipulation, and finding that good cause exists and the relief sought is justified, it is hereby ORDERED that Nextel Operations, Inc. be substituted in place of Defendant Sprint Nextel Corporation in the above styled and numbered cause, and Sprint Nextel Corporation is dismissed without prejudice. The case caption in the above styled and numbered cause will hereby reflect this party substitution.

Dated: December 17, 2010


The Honorable Jeffrey S. White
UNITED STATES DISTRICT COURT JUDGE