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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNWIRED PLANET, LLC,  
Plaintiff,  
v.  
APPLE INC,  
Defendant.

Case No. 13-cv-04134-VC

**ORDER RE FURTHER BRIEFING**

In the '446 patent, the first paragraph of the Summary of the Invention describes "the present invention" as requiring voice input to travel over a voice channel, and, as the Court's claim construction order notes, "[t]he patent consistently maintains the distinction between voice input being sent over a voice channel to the server device, and a data file which is then sent back to the mobile device over a data channel." Therefore, the Court construed "voice input" as "speech provided over a voice channel."

The patent is clear that a voice channel is required, but it is not clear about what precisely a voice channel is. The patent states that a voice channel "is generally established and coordinated using the infrastructure and procedures generally known in the art for setting up a phone call." '446 Patent, 6:21-24. So it is undisputed that a cellular phone call is made over a voice channel. But the patent suggests – and the parties seem to agree – that other types of voice transmission can also be sent over a voice channel. For instance, the patent teaches that "palm sized computing devices and personal digital assistants with voice transmission and/or reception capabilities" can send voice input over a voice channel to an outside server. *Id.* at 5:1-3. These devices do not make cellular telephone calls, which means that a voice channel can be used for other types of voice transmissions as well. But it is not clear to the Court, either from the patent or from the parties' briefs, what types of voice transmissions besides a cellular call take place over a voice

1 channel. Apple suggests that Unwired's infringement theory would render the term "voice  
2 channel" meaningless, because it would mean that any time voice input is transmitted, it  
3 necessarily travels over a voice channel. Unwired, on the other hand, suggests that Apple's  
4 infringement defense relies on an understanding of voice channel as being limited to the type of  
5 channel used for telephone calls.

6 The Court invites the parties to submit an additional brief to help the Court better  
7 understand what a voice channel is and what types of voice transmissions take place over it. The  
8 brief should address the following questions:

- 9 - Does VoIP technology send voice input over a voice channel? Is there a different  
10 answer depending on whether or not VoIP uses TCP/IP protocols?
- 11 - Other than a cellular telephone call, what are other examples of voice input being sent  
12 over a voice channel?
- 13 - What are examples of voice input being sent over a data channel?
- 14 - Are there discernible limits on what constitutes a voice channel, and, if so, what are  
15 they?

16 The briefs should not exceed six double-spaced pages. The briefs should reference any  
17 evidence in the summary judgment record relevant to these questions, but they should not rely on  
18 any evidence not already in the record. They are due on Friday, April 31, 2015 at 5:00 p.m.

19 **IT IS SO ORDERED.**

20 Dated: April 29, 2015



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VINCE CHHABRIA  
United States District Judge

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