

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

NOKIA CORPORATION,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 09-791-GMS
)	
APPLE INC.,)	JURY TRIAL DEMANDED
)	
Defendant.)	
<hr/>		
APPLE INC.)	
)	
Counterclaim-Plaintiff,)	
)	
v.)	
)	
NOKIA CORPORATION and NOKIA INC.)	
)	
Counterclaim-Defendants.)	

NOTICE OF AMENDED SUBPOENA

PLEASE TAKE NOTICE that, pursuant to Rule 45 of the Federal Rules of Civil Procedure, defendant Apple Inc. will serve the attached amended subpoena (Exhibit 1), in the above-referenced action.

OF COUNSEL:

POTTER ANDERSON & CORROON LLP

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By: /s/ David E. Moore
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Apple Inc.*

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Dated: May 23, 2011
1013944 / 35035

EXHIBIT 1

UNITED STATES DISTRICT COURT

for the

District of Columbia

Nokia Corporation

Plaintiff

v.

Apple Inc.

Defendant

Civil Action No. 09-791-GMS

(If the action is pending in another district, state where:

District of Delaware

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Carl I. Brundidge
Brundidge & Stanger, P.C., 1700 Diagonal Road, Suite 330, Alexandria, VA 22314

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization that is not a party in this case, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Table with 2 columns: Place (Wilmer Cutler Pickering Hale and Dorr LLP, 1875 Pennsylvania Avenue, NW, Washington, DC 20006) and Date and Time (06/20/2011 9:00 am)

The deposition will be recorded by this method: Video and Stenographer

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

See Attachment A to Notice of Deposition. Please produce documents responsive to the attached requests by no later than June 8, 2011 at Wilmer Cutler Pickering Hale and Dorr LLP, 1875 Pennsylvania Avenue, NW, Washington, DC 20006

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 05/23/2011

CLERK OF COURT

OR

/s/ Samuel Maselli

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Apple Inc.

Samuel Maselli, Esq., Wilmer Cutler Pickering Hale and Dorr LLP, 950 Page Mill Road, Palo Alto, California 94304, sam.maselli@wilmerhale.com, Tel: 650-858-6148, Fax: 650-858-6100

Civil Action No. 09-791-GMS

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I served the subpoena by delivering a copy to the named individual as follows: _____

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____
_____.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)

(c) Protecting a Person Subject to a Subpoena.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney’s fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party’s officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party’s officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert’s opinion or information that does not describe specific occurrences in dispute and results from the expert’s study that was not requested by a party; or

(iii) a person who is neither a party nor a party’s officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt. The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty’s failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

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FOR THE DISTRICT OF DELAWARE

NOKIA CORPORATION,)	
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Plaintiff,)	C.A. 09-791-GMS
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v.)	JURY TRIAL DEMANDED
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APPLE, INC.,)	
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Defendant.)	
_____)	
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APPLE INC.)	
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Counterclaim-Plaintiff,)	
)	
v.)	
)	
NOKIA CORPORATION AND NOKIA INC.)	
)	
Counterclaim-Defendants.)	
_____)	

COUNTERCLAIM PLAINTIFF APPLE INC.'S
NOTICE OF DEPOSITION OF CARL I. BRUNDIDGE

PLEASE TAKE NOTICE THAT, on June 20, 2011 at 9:00 a.m., at the offices of Wilmer Cutler Pickering Hale and Dorr LLP, 1875 Pennsylvania Avenue, NW, Washington, DC 20006, and continuing day-to-day until completed or adjourned, Counterclaim Plaintiff, Apple Inc. by and through its undersigned counsel, will proceed to take the testimony upon oral examination of Carl I. Brundidge.

The examination will be taken before a Notary Public or other person authorized to administer oaths and will be recorded stenographically and by video. Real-time transcription (e.g., LiveNote) may be used as well. Testimony derived pursuant to this Notice of Deposition shall be used for any and all appropriate purposes permitted by the Federal Rules of Evidence.

You are invited to attend and cross-examine.

OF COUNSEL:

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Dated: May 23, 2011

POTTER ANDERSON & CORROON LLP

By: /s/ David E. Moore
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*Attorneys for Defendant/Counterclaim-Plaintiff
Apple Inc.*

ATTACHMENT A

DEFINITIONS

The following definitions are applicable herein, regardless of whether upper or lower case letters are used:

1. “You” or “your” refers to Carl I. Brundidge, Esq., his partners, former partners, associates, former associates, agents, or any other person who acted on or purported to act on his behalf. “You” or “your” also refers to Brundidge & Stanger PC.

2. “Apple” means and refers to defendant and counterclaim plaintiff Apple Inc., its officers, directors, employees, partners, corporate parent, subsidiaries, affiliates, divisions, attorneys, and agents.

3. “Nokia” collectively means and refers to plaintiff and counterclaim defendants Nokia Corporation and Nokia Inc. and includes, without limitation, each of its predecessors, present or former parents, subsidiaries, affiliated or controlled companies or joint ventures, its respective current or former directors, officers, employees, agents, attorneys, accountants and any other person who acted on or purported to act on their or any of their behalf.

4. “This Litigation” means and refers to the above-referenced action, entitled *Nokia Corporation v. Apple Inc., et al.*, C.A. 09-791-GMS.

5. “‘402 Patent” means and refers to U.S. Patent No. 6,452,402 issued on September 17, 2002 and entitled “Apparatus for Determining the Type of External Device Being Connected,” and any foreign counterparts.

6. “‘402 Inventor” means and refers to Kanji Kerai.

7. “‘402 Related Patents” means any patent or patent application that concern the same or similar subject matter as the ‘402 Patent, as well as any continuation, continuation in

part, divisional, or any other patent or patent application (including rejected, abandoned, or pending applications) derived in whole or in part from said application, and all foreign counterpart patents or patent application (including rejected, abandoned, or pending applications).

8. “‘402 Prior art” means all publications, patents, physical devices, prototypes, uses, sales, offers for sale or other activity concerning the subject matter claimed in the ‘402 Patent and existing on, or occurring at, a date such as to be relevant under any subdivision of 35 U.S.C. §§ 102 or 103.

9. The term “communication” means the transmittal of information (in the form of facts, ideas, inquiries or otherwise).

10. The term “document” is used in its normally broad sense as defined in Rule 34(a) of the Federal Rules of Civil Procedure, and includes, without limitation: originals, final versions, drafts and every copy of writings and printed, handwritten, typed, and other graphic or photographic matter, including microfilm of any kind or nature, recordings (tape, disk, or other) of oral communications, electronic mail, and other data compilations from which information can be obtained, in the possession, custody, or control of Brundidge & Stanger PC and/or Carl I. Brundidge, Esq.

11. The term “identify,” when referring to a person, means to give, to the extent known, the person’s full name, present or last known address and when referring to a natural person, additionally, the present or last known place of employment. The term “identify,” when referring to documents, means to give, to the extent known, the (i) type of document, (ii) general subject matter; (iii) date of the document, (iv) author(s), addressee(s), and recipient(s).

12. The term “concerning” means relating to, referring to, regarding, describing,

discussing, evidencing, or constituting.

13. The term “relating to” means, without limitation, concerning, alluding to, referring to, constituting, describing, discussing, evidencing, or regarding.

14. The words “and” and “or” shall be construed conjunctively or disjunctively, whichever makes this subpoena more inclusive.

15. The words “any,” “all” and “each” shall be construed as each and every.

16. The use of the singular form of any word includes the plural, and the use of the plural form of any word includes the singular.

INSTRUCTIONS

The following instructions are applicable herein:

1. Produce all responsive documents and things in your possession, custody, or control.
2. Produce all documents and things requested in the same file or manner in which they are kept in the usual course of business.
3. Provide the following information for any responsive document or thing withheld from production on the grounds that it is protected from disclosure by the attorney-client privilege, the work product doctrine, or any other relevant privilege:
 - a. The author of the document;
 - b. The person(s) for whom the document was prepared, to whom it was sent, or who received copies;
 - c. The date of the document;
 - d. The subject matter of the document;
 - e. The type of document (e.g., letter, memorandum, note, report, etc.)
 - f. The number of pages and attachments; and
 - g. The nature and the basis for the claim of privilege.
4. This subpoena includes documents that exist in electronic form (including electronic mail, back-up tapes, magnetic tapes, and diskettes).
5. More than one paragraph of this request may ask for the same documents. The presence of such duplication is not to be interpreted to narrow or limit the normal interpretation placed upon each individual request. Where a writing is requested in more than one numbered paragraph, only one copy of it need be produced.
6. If you object to a request, or any part of a request, produce all documents to which

your objection does not apply.

7. In the event that multiple copies of a document exist, produce every copy on which appear any notations or marking of any sort not appearing on any other copy.

8. If you are aware of a document or thing, or group of documents or things, that once existed but has been destroyed or discarded since January 1994, you are requested to state the type of document or thing or group of documents or things, the date it was created, the date it was destroyed or discarded, and the identity of the persons having knowledge of the contents of the document or thing, or group of documents and things.

9. A copy of the Protective Order entered in this case is attached.

DOCUMENT REQUESTS

Document Request No. 1

All documents concerning the conception or reduction to practice—whether actual or constructive—of the subject matter of each claim of the ‘402 Patent. This includes, without limitation, invention disclosures, notebooks, memoranda, reports, journals, drawings, schematics, specifications, diagrams, computer records, diaries, calendars, test results, or patent prosecution records.

Document Request No. 2

All documents relating to any work, research, tests, experiments, studies, or prototypes, whether complete, incomplete, or prematurely terminated, undertaken by any person, relating to the alleged invention disclosed or claimed in the ‘402 Patent.

Document Request No. 3

All documents concerning information received by You from—or given by You to—a ‘402 Inventor, or Nokia concerning the subject matter of the ‘402 Patent or any ‘402 Related Patent.

Document Request No. 4

All documents concerning communications between or among any combination of the following: You, a ‘402 Inventor, and/or Nokia concerning: (a) the ‘402 Patent or any ‘402 Related Patent, (b) the application for the ‘402 Patent or any ‘402 Related Patent, (c) the subject matter of the ‘402 Patent or any ‘402 Related Patent.

Document Request No. 5

All documents concerning communications between You and any other person concerning (a) the ‘402 Patent or any ‘402 Related Patent, (b) the application for the ‘402 Patent

or any '402 Related Patent, (c) the subject matter of the '402 Patent or any '402 Related Patent.

Document Request No. 6

All documents concerning the preparation, filing, or prosecution of the applications for the '402 Patent or '402 Related Patents. This includes, but is not limited to (a) the prosecution history file for the '402 Patent and each patent and/or application in the '402 Related Patents; (b) all references cited during the prosecution of such patent applications; (c) every Office Action and paper filed or served in the course of the prosecution thereof; (d) all correspondence, memoranda, notes and/or other documents relating to the prosecution thereof; (e) all prior art cited; and (f) all inventions disclosures, engineering/lab notebooks, journals, declarations, correspondence, notes, testing results, and/or other documents relating to any work underlying the alleged inventions claimed in the '402 Patent or '402 Related Patents.

Document Request No. 7

All documents concerning any communications, meeting, or contact with the United States Patent and Trademark Office, or any foreign patent office, concerning the '402 Patent or any '402 Related Patent.

Document Request No. 8

All documents concerning the identification or determination of the inventor for the '402 Patent.

Document Request No. 9

All documents concerning any ownership, right, title, or interest to the '402 Patent, including without limitation any transfer or assignment thereof.

Document Request No. 10

All documents concerning Nokia's decision to seek patent protection for the subject

matter of any claim of the '402 Patent or any '402 Related Patent.

Document Request No. 11

All documents relating to any mode of practicing any claim of the '402 Patent, including without limitation the best mode. This includes without limitation modes contemplated by a '402 Inventor at or before the time of filing the patent application that led to the '402 Patent or any '402 Related Patent.

Document Request No. 12

All documents relating to the first disclosure to any person of the subject matter of any claim of the '402 Patent.

Document Request No. 13

All documents relating to the first public disclosure to any person of the subject matter of any claim of the '402 Patent.

Document Request No. 14

All documents relating to the first public written description, first public use, first public demonstration, first offer to sell, or first sale of the invention(s) claimed in the '402 Patent, or of any embodiment thereof.

Document Request No. 15

All documents concerning any analysis, opinion, or inquiry regarding the '402 Patent. This includes without limitation all documents concerning the ownership, inventorship, patentability, validity, enforceability, or infringement of the '402 Patent, including but not limited to any documents created or discovered in connection with any prior art search and/or relating to pre-litigation investigations performed by or on behalf of Nokia or a '402 Inventor.

Document Request No. 16

All prior art or potential prior art to the '402 Patent. This includes without limitation all prior art or potential prior art obtained, reviewed, or considered by you before, during, or after the prosecution of the '402 Patent or any '402 Related Patent, including but not limited to any prior art asserted against the '402 Patent in any proceeding or brought to your attention by any person.

Document Request No. 17

All documents concerning any effort to search for, identify, locate, collect, review, analyze or otherwise obtain evidence of prior art with respect to the '402 Patent or any '402 Related Patent, including any literature, patent, publication, or prior art searches.

Document Request No. 18

All documents concerning any alleged or potential secondary considerations or other objective evidence of non-obviousness concerning the '402 Patent (e.g., commercial success, long-felt need, commercial acquiescence, expressions of skepticism, copying, teaching away, successful or failed attempts by others, and/or simultaneous development).

Document Request No. 19

All documents concerning any decision as to what prior art to cite, or not to cite, during the prosecution of the '402 Patent. This includes without limitation any decision by any applicant or any other person to disclose, to withhold, and/or otherwise not to disclose (to the U.S. or any foreign patent examiner or office) any reference or any other document during the prosecution of any patent application resulting in the '402 Patent, including without limitation: (a) any opinions or advice of counsel concerning the same; and (b) any document concerning the applicant, licensee, or assignee's knowledge or understanding of disclosure obligations.

Document Request No. 20

All documents concerning funding for the work underlying the '402 Patent, including without limitation all communications, agreements, proposals, status reports, test results, research reports, literature reviews, requests for funding, and funding documentation

Document Request No. 21

Any article, scholarly work, publication, lecture, or presentation authored in whole or part by the '402 Inventor.

Document Request No. 22

All documents authored, presented, or published (in whole or part) by or on behalf of the '402 Inventor that concern the '402 Patent or any '402 Related Patent, or the subject matter of the '402 Patent or any '402 Related Patent, including but not limited to articles, publications, internal memoranda, and reports.

Document Request No. 23

All documents concerning any unique or specialized meaning (different from its everyday common use) of any word or phrase contained in any of the claims of the '402 Patent.

Document Request No. 24

All documents concerning any other lawsuits or legal or administrative proceedings of any kind involving the '402 Patent or any '402 Related Patent, including but not limited to depositions, briefs, affidavits motions/briefs, affidavits/declarations, deposition/hearing transcripts, privilege logs, witness statements, exhibits, expert reports, or discovery requests and responses thereto.

Document Request No. 25

All documents concerning the research, design, development, operation, manufacture,

assembly, testing, marketing, offer for sale, or sale of any product that allegedly embodies—or whose use allegedly embodies—any claim of the ‘402 Patent.

Document Request No. 26

All documents concerning notice of the ‘402 Patent to Apple or any other alleged or potential infringer.

Document Request No. 27

All documents concerning any decision or opinion of Nokia to file suit, not to file suit, or to delay filing suit against Apple for alleged infringement of any patent, including without limitation the ‘402 Patent.

Document Request No. 28

All documents concerning any product, instrumentality, or process accused of infringing the ‘402 Patent, including without limitation all documents constituting or concerning: (a) the infringement or non-infringement of the ‘402 Patent by Apple or any other Person; (b) any investigation, examination, study, report, reverse engineering, examination, inspection, survey, critique or analysis; and (c) how and when you, the ‘402 Inventor, or Nokia first became aware of the existence of said product, instrumentality, or process.

Document Request No. 29

All documents concerning communications between Nokia or the ‘402 Inventor on the one hand, and Apple on the other hand.

Document Request No. 30

To the extent not duplicative of previous requests, all documents concerning the ‘402 Patent.

Document Request No. 31

All documents concerning Apple or any Apple product.

Document Request No. 32

All documents concerning any and all licensing customs, practices or policies of Nokia.

Document Request No. 33

All documents concerning any valuation of the '402 Patent or any '402 Related Patent, or any attempt to assign a value to the '402 Patent, any '402 Related Patent, or any combination of patents that include the '402 Patent.

Document Request No. 34

All documents concerning agreements or negotiations relating to the '402 Patent or any '402 Related Patent, including but not limited to licenses, license negotiations, draft license agreements, licensing correspondence, sublicenses, offers for licenses or sublicenses, demand letters, covenants not to sue, or settlement agreements, whether ultimately consummated or not.

Document Request No. 35

Any documents concerning communications between you and Alston & Bird LLP, Morris, Nichols, Arsht & Tunnell LLP, any other counsel for Nokia, or the '402 Inventor concerning this Litigation, the '402 Patent.

Document Request No. 36

All documents concerning the transfer or destruction of any of the documents requested by any of the foregoing requests.

Document Request No. 37

All documents concerning the document retention or document destruction policies of Brundidge & Stanger PC, whether formal or informal.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CERTIFICATE OF SERVICE

I, David E. Moore, hereby certify that on May 23, 2011, the attached document was electronically filed with the Clerk of the Court using CM/ECF which will send notification to the registered attorney(s) of record that the document has been filed and is available for viewing and downloading.

I hereby certify that on May 23, 2011, the attached document was electronically mailed to the following person(s)

VIA ELECTRONIC MAIL

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