

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NOKIA CORPORATION,)
)
Plaintiff,)
)
v.)
)
APPLE INC.,)
)
Defendant.)

C.A. No. 09-791 (GMS)

APPLE INC.,)
)
Counterclaim Plaintiff,)
)
v.)
)
NOKIA CORPORATION and NOKIA INC.,)
)
Counterclaim Defendants.)

**NOKIA’S NOTICE OF DEPOSITION
TO MOTOROLA, INC.**

PLEASE TAKE NOTICE THAT, pursuant to Federal Rule of Civil Procedure 30(b)(6), Nokia Corporation and Nokia Inc. (collectively “Nokia”), will take the deposition of Motorola Inc. (“Motorola”) commencing on July 8, 2011, at 9:00 a.m., at the offices of Ajilon, 10 South LaSalle, Suite 1310, Chicago, IL 60603.

Motorola shall designate one or more of its officers, directors or managing agents, or other persons with knowledge of the matters set forth in Attachment A of this notice to appear and testify on its behalf at the deposition. The persons so designated shall testify as to matters known or reasonably available to Motorola. Motorola is requested to provide Nokia with written notice, at least ten days in advance of the deposition, of: (a) the name and employment position of each designee who has consented to testify on behalf of Motorola in response to this Notice

and (b) all matters set forth below as to which each such designee has agreed to testify on behalf of Motorola.

The examination will be taken before a Notary Public or other person authorized to administer oaths and will be recorded stenographically and by video. Testimony derived pursuant to this Notice of Deposition shall be used for any and all appropriate purposes permitted by the Commission's Rules of Procedure.

You are invited to attend and directly examine.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Rodger D. Smith II

Jack B. Blumenfeld (#1014)

Rodger D. Smith II (#3778)

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June 3, 2011

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ATTACHMENT “A” TO SUBPOENA

DEFINITIONS

- A. “Motorola” means Motorola, Inc., and any of its present or former affiliates, predecessors, successors, subsidiaries (whether owned directly or indirectly), assigns, divisions and operating units thereof, employees, agents, representatives, directors, officers, and entities under common control with Motorola, Inc.
- B. “Nokia” means Nokia Corporation and Nokia Inc., including their predecessors, successors, parents, subsidiaries (whether owned directly or indirectly), affiliates, divisions and operating units thereof, agents and entities under common control with them.
- C. “Apple” means Apple Inc., including its predecessors, successors, parents, subsidiaries (whether owned directly or indirectly), affiliates, divisions and operating units thereof, agents and entities under common control with it.
- D. “Including” or any variant thereof means “including without limitation.”
- E. “And” and “or” shall mean “and/or,” and shall be construed both conjunctively as well as disjunctively in order to maximize their scope.
- F. “Any” and “all” mean “any and all.”
- G. “Each” and “every” mean “each and every.”
- H. “You,” “your” or “yours” shall mean Motorola, as defined herein.
- I. “Thing(s)” has the broadest meaning allowable under Federal Rule of Civil Procedure 34 and includes any tangible object other than a document and, without limitation, objects of every kind and nature, as well as prototypes, models, or physical specimens thereof.
- J. “Document” has the broadest meaning allowable under Federal Rules of Civil Procedure 34, and includes, without limitation, any thing or any written or graphic matter

or any medium of any type or description upon which intelligence or information is recorded, or from which intelligence or information can be perceived, including computer, electronic, magnetic and optical media of all kinds, which is or has been in the possession, custody or control of Motorola, or of which Motorola has knowledge, including the original and any non-identical copy (whether different from the original because of notes made on said copy or otherwise) of any advertising literature; agreement; bank record or statement; blueprint; book; book of account; booklet; brochure; calendar; chart; circuit diagram; circular; coding form; communication (intra- or inter-company); components listing; computer data; computer printout; computer software and supporting indices; data; documentation; flow charts; comments; object code; source code and computer programs; contract; copy; correspondence; data base; design document; diary; die; display; draft of any document; drawing; electronic mail (e-mail); engineering change order; engineering specification; film, film transparency; flyer; forecast; graph; index; instruction; instruction manual or sheet; internet pages; invoice; job requisition; letter; license; log; machine readable form; manual; manufacturing data; manufacturing drawing; map; marketing plan; mask; memoranda; minutes; model; newspaper or other clippings; notes; notebook; opinion; packing checklist; packing list; pamphlet; paper; periodical or other publications; photograph; physical object; press release; price list; print; printed circuit board; product brochure; product specification; promotional literature; prototype; receipt; record; recorded read-only memory (ROM); recording; report; sales data; schematic; sketch; solicitation; statement; statistical compilation; stenographic note; study; summary (including any memoranda, minutes, notes, records or summary of any (a) telephone or intercom conversation or message,

(b) conversation or interview, or (c) meeting or conference); technical, service or operational manual; technical specification; telegram; telephone log; timing diagram; travel or expense records; video recording; videotape; voice recording; voucher; worksheet or work paper; and/or any other documentary material of any nature.

- K. “Software” shall mean and include all forms of code including, but not limited to, source code, object code, firmware, compiled code, byte code, interpreted code, any form of code stored in any storage medium (for example, ROM or Flash RAM chips) on any product, or code transmitted to products. Software further includes files written in any programming language, including but not limited to, “C,” “C++,” assembler, VHDL, Verilog, digital signal processor (“DSP”) programming language, “make” files, “include” files, script files, link files, and other human readable text files used in the generation and/or building of software directly executed on a microprocessor, microcontroller, and/or DSP.
- L. “Person” or “persons” shall mean an individual, corporation, proprietorship, partnership, association, or any other entity.
- M. “Concerning” means concerning, regarding, describing, comprising, referring to, related to, supporting, favoring, opposing, bolstering, detracting from, located in, considered in connection with, bearing on, evidencing, indicating, reporting on, recording, alluding to, responding to, connected with, commenting on, in respect of, about, in relation to, discussing, showing, describing, reflecting, analyzing constituting, and being.
- N. “Entity” means any natural person, corporation, partnership, sole proprietorship, firm, board, joint venture, association, agency, authority, commission or other business entity or juristic person.

- O. “Communication” means any contact between two or more entities by which any information or knowledge is transmitted or conveyed or attempted to be transmitted or conveyed, including written contact including letters, memoranda, telegrams, telefaxes, telecopies, telexes or e-mails, text messages and oral contact including face-to-face meetings, telephone conversations, voicemails, answering machine messages and telephonic notes.
- P. “Relating to” or “related to” when referring to any given subject matter shall mean, without limitation, any document that constitutes, comprises, involves, contains, embodies, reflects, identifies, states, refers directly or indirectly to, or is in any way relevant to the particular subject matter identified.
- Q. The term “identify” when used in conjunction with a person means to provide, to the extent known, the person's full name, present or last known address, and telephone number, and when referring to a natural person, additionally, the present or last known place of employment and, when referring to a current or former director, officer, manager or other employee of Motorola, additionally the title(s) or position(s) held by such person, the time periods during which such person held such position(s), and a description of the responsibilities of such person to those position(s).
- R. The term “identify” when used in conjunction with a document or other thing means to specify the document or thing in sufficient detail to permit Nokia to locate the document or thing.
- S. The term “Nokia Patents In Suit” means U.S. Patent Nos. 5,802,465; 5,862,178; 5,946,651; 6,359,904; 6,694,135; 6,775,548; 6,882,727; 7,009,940; 7,092,672; 7,403,621; 5,731,772; 7,123,878; and 6,452,402.

- T. The term “This Litigation” means the above-referenced action, entitled *Nokia Corporation v. Apple Inc.*, C.A. No. 09-791-GMS, United States District Court for the District of Delaware.
- U. “SSO” means any standard-setting organization responsible for establishing technical standards for telecommunications products or services, including but not limited to ETSI, IEEE, ITU, ARIB, 3GPP, 3GPP2, and TIA.
- V. “Standard” means any established industry standard for telecommunications products or services, including but not limited to IS-95, GSM, GPRS, EDGE, UMTS, CDMA2000 (1xRTT and EV-D0), 802.11, and 802.16.
- W. “FRAND” means fair, reasonable, and non-discriminatory.
- X. “RAND” means reasonable and demonstrably free of any unfair discrimination.

TOPICS OF EXAMINATION

You are required to provide one or more individuals who are knowledgeable and competent to provide testimony about the following topics:

1. Motorola’s practices and procedures for disclosing and declaring essential IPR to ETSI pursuant to Article 4 of the ETSI IPR Policy.
2. Motorola’s understanding and/or interpretation of the ETSI IPR Policy.
3. Motorola’s understanding of what licensing terms, including royalty rates, are compliant with a F/RAND undertaking to ETSI, IEE, or any Organizational Partner that is a member of 3GPP, and what constitutes a breach of the F/RAND undertaking.
4. The extent to which Apple has previously or is currently assisting in the development of telecommunications technology through participation in SSOs.

5. Motorola's understanding of industry practices for disclosing and declaring essential IPR to ETSI pursuant to Article 4 of the ETSI IPR Policy.

6. Motorola's work on, and attempts to standardize, its Enhanced Full Rate (EFR) codec submitted to ETSI and/or PCS1900.

7. Motorola's work on, and attempts to standardize, its Adaptive Multi-Rate (AMR) codec candidate submitted to ETSI.

8. Any IPR that Motorola had related to its EFR codec and AMR codec technical proposals made to ETSI, and the licensing terms that Motorola was willing to offer for such IPR.

9. Motorola's participation in the following ETSI and 3GPP meetings:

- a. ETSI SMG2 Speech Experts Group meeting number 7 in Nuremberg, Germany, from June 19-21, 1996, including without limitation documents relating to the proposals made in Tdoc numbers 63/96, 64/96, and 66/96, noted on page five of the meeting report;
- b. ETSI SMG2 WPB meeting number 12 in Aalborg, Denmark from January 11-13, 2000, including without limitation documents relating to the proposals noted in section 7.6.11 of the meeting report;
- c. 3GPP TSG SA WG3 Security meeting S3#12 in Stockholm, Sweden from April 11-14, 2000, including without limitation documents relating to TD-S3-000263: CR 091 noted in section 13.3 of the meeting report;
- d. 3GPP TS -RAN meeting #11 in Palm Springs, California from March 13-16, 2001, including without limitation documents relating to the proposals noted in Section 5.2.2 of the meeting report attached hereto as Exhibit F.

10. Motorola's patent license negotiations with Apple.

11. Any Topics identified in Apple's February 9, 2011 Amended Subpoena to Motorola.

UNITED STATES DISTRICT COURT

for the

Northern District of Illinois

Nokia Corporation

Plaintiff

v.

Apple Inc.

Defendant

Civil Action No. 1:09-cv-00791-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: Motorola, Inc., 1303 E. Algonquin Road, Schaumburg, IL, 60196
c/o C T Corporation System, 208 South LaSalle St., Suite 814, Chicago, IL 60604

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: See Attachment A for topics.

Table with 2 columns: Place (Ajilon, 10 South LaSalle St., Suite 1310, Chicago, IL 60603) and Date and Time (07/08/2011 9:00 am)

The deposition will be recorded by this method: court reporter and videographer

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:

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: 06/06/2011

CLERK OF COURT

OR

/s/ Matthew D. Richardson

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Nokia Corporation and Nokia Inc., who issues or requests this subpoena, are:

Matthew Richardson, Esq.; Alston & Bird LLP, 1201 W Peachtree St., Atlanta, GA 30309-3424; 404-881-7000; matt.richardson@alston.com

Civil Action No. 1:09-cv-00791-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).

CERTIFICATE OF SERVICE

I hereby certify that on June 6, 2011, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to:

Richard L. Horwitz, Esquire
David E. Moore, Esquire
POTTER ANDERSON & CORROON LLP

I further certify that I caused to be served copies of the foregoing document on June 6, 2011, upon the following in the manner indicated:

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VIA ELECTRONIC MAIL

/s/ Rodger D. Smith II

Rodger D. Smith II (#3778)