

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NOKIA CORPORATION,)
)
 Plaintiff,)
)
 v.) C.A. No. 09-1002 (GMS)
)
 APPLE INC.,)
)
 Defendant.)

STIPULATION AND ORDER TO STAY LITIGATION

Plaintiff Nokia Corporation (“Nokia”) and Defendant Apple Inc. (“Apple”) hereby stipulate and agree, subject to the approval of the Court, as follows:

WHEREAS, on October 22, 2009, Nokia filed a Complaint in a related action in this district for patent infringement for Apple’s alleged infringement of ten U.S. patents (*Nokia Corp. v. Apple Inc.*, C.A. No. 09-791) (the “Delaware I case”);

WHEREAS, on December 11, 2009, Apple counterclaimed in Delaware I claiming Nokia’s alleged infringement of thirteen U.S. patents;

WHEREAS, on December 29, 2009, Nokia filed its Complaint for Patent Infringement in this Action for Apple’s alleged infringement of seven U.S. patents (the “Seven Nokia Patents”);

WHEREAS, on December 29, 2009, Nokia also filed an ITC complaint for Apple’s alleged infringement of the same Seven Nokia Patents (*In re Certain Mobile Communications and Computer Devices and Components Thereof*, Investigation No. 337-TA-701);

WHEREAS, on January 15, 2010, Apple filed an ITC complaint (*In re Certain Mobile Communications and Computer Devices and Components Thereof*, Investigation No. 337-TA-2707) for Nokia’s alleged infringement of nine U.S. patents (the “Nine Apple Patents”),

including four of the same patents Apple previously asserted in its Delaware I counterclaims (the “Four Overlapping Patents”);

WHEREAS, Apple has not filed its answer, defenses and/or counterclaims in this Action, but intends to file a counterclaim by February 24, 2010 including counts for Nokia’s alleged infringement of the Nine Apple Patents, including the Four Overlapping Patents after dismissing those four from the Delaware I case;

WHEREAS, consolidating and staying all claims and defenses with respect to both Parties’ ITC asserted patents in this Action would promote efficiency and preserve judicial resources because each party may stay any infringement counts relating to patents asserted in the ITC as a matter of right pursuant to 28 U.S.C. § 1659 (“[A]t the request of a party to the civil action that is also a respondent in the proceeding before the Commission, the district court shall stay, until the determination of the Commission becomes final, proceedings in the civil action with respect to any claim that involves the same issues involved in the proceeding before the Commission.”); and

WHEREAS, a stay will not unduly prejudice any of the parties;

NOW THEREFORE, the parties hereby stipulate and respectfully request, subject to the approval of the Court, as follows:

1. Apple will file its Answer, Defenses and Counterclaims in this Action by February 24, 2010;
2. Apple’s Counterclaim in this Action will be limited to counts for infringement of the Nine Apple Patents and counts for non-infringement, invalidity and/or unenforceability of the Seven Nokia Patents;

3. After Apple files its Answer, Defenses and Counterclaims, the adjudication of all claims and defenses relating to any of the Nine Apple Patents will be stayed pending resolution of all of Nokia's and Apple's respective claims and defenses in ITC Docket No. 2707, including any initial and final determinations of the Administrative Law Judge, the International Trade Commission, and any appeals therefrom;
4. The adjudication of all claims and defenses relating to any of the Seven Nokia Patents in this Action is stayed pending resolution of all of Nokia's and Apple's respective claims and defenses in ITC Investigation No. 701, including any initial and final determinations of the Administrative Law Judge, the International Trade Commission, and any appeals therefrom;
5. During the stay, any and all discovery, motions, and other proceedings in this Action are stayed; and
6. Following the expiration of the stay with respect to either the Seven Nokia Patents or Nine Apple Patents, the parties shall confer with each other and contact the Court for purposes of entry of a Scheduling Order.

/s/ Jack B. Blumenfeld

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February 12, 2010
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SO ORDERED, this ___ day of _____, 2010.

UNITED STATES DISTRICT COURT JUDGE