

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No.10-23580-Civ-UU

MOTOROLA MOBILITY, INC.,

Plaintiff,

v.

APPLE INC.,

Defendant.

ORDER GRANTING MOTION TO STRIKE

THIS CAUSE is before the Court upon the Motion (D.E. 178) by Apple to Strike Motorola's Supplemental Infringement Contentions. THE COURT has considered the Motion, the pertinent portions of the record, and is otherwise fully advised in the premises.

On November 7, 2011, Apple filed the instant motion, generating a response deadline for Motorola of November 25, 2011. To date, Motorola has not filed a response motion. However, the Court has considered Motorola's Notice concerning its supplemental infringement contentions (D.E. 164), filed on October 28, 2011.

Motorola claims that it presumed that the court-ordered deadline for infringement contentions was preliminary (D.E. 164). Nothing in the Court's scheduling order (D.E. 77), however, indicated that the deadlines were not final. Furthermore, Motorola does not persuade the Court that Motorola's should be granted relief here because Motorola relied on Apple's indication that Apple was reserving the right to amend its infringement contentions in light of future discovery.

See D.E. 164. Had Motorola any question as to the deadlines in D.E. 77, the proper recourse was to

motion the Court for clarification. Motorola failed to do this.

Rule 16(b)(1) provides that, “[e]xcept in categories of actions exempted by district court rule as inappropriate, the district judge . . . shall . . . enter a scheduling order that limits the time to join other parties and to amend the pleadings.” Sub-section (f)(1)(C) further provides that the Court may issue “just orders” if a party fails to obey a scheduling order. Accordingly, it is

ORDERED AND ADJUDGED the Motion (D.E. 178) is GRANTED.

DONE AND ORDERED in Chambers at Miami, Florida, this 28th day of November, 2011.



UNITED STATES DISTRICT JUDGE

copies provided:
counsel of record