

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

Case No. 1:10cv023580-Civ-RNS-TEB

_____)
MOTOROLA MOBILITY, INC.,)
)
Plaintiff,)
)
v.)
)
APPLE INC.,)
)
Defendant.)
_____)
APPLE INC.,)
)
Counterclaim-Plaintiff,)
)
v.)
)
MOTOROLA, INC. and)
MOTOROLA MOBILITY, INC.,)
)
Counterclaim-Defendants.)
_____)

DECLARATION OF ELENA DIMUZIO
IN SUPPORT OF DEFENDANT AND COUNTERCLAIM-PLAINTIFF APPLE INC.'S
MOTION TO COMPEL DISCOVERY ON INTERROGATORIES NOS. 7 AND 12

I, Elena DiMuzio, hereby declare:

1. I am an associate with the law firm of Covington & Burling LLP, representing Apple Inc. (“Apple”) in the above-captioned matter. The matters referenced in this declaration are based on personal knowledge and belief, and if called as a witness I could, and would, testify competently to these matters.
2. On November 15, 2011, I participated in a meet-and-confer call with Motorola regarding its insufficient responses to a number of Apple’s discovery requests. Other participants in the conference included Leslie Harvey, also of Covington & Burling LLP, for Apple, and Jill Ho, co-counsel for Apple, of Weil, Gotshal & Manges LLP, and counsel for Motorola Ben Quarmby and David Perlson of Quinn Emanuel Urquhart & Sullivan, LLP. During this call, Motorola maintained its position that it had already identified representative products that embody its patents, and that it would identify only such representative products it intended to rely upon in response to relevant discovery requests from Apple. The call failed to resolve the parties’ differences.
3. On December 21, 2011, I participated in a second meet-and-confer call with Motorola counsel Marshall Searcy III regarding Motorola’s discovery responses. During that call, counsel for Motorola maintained that the case law Apple had cited in an earlier communication was inapplicable to the current dispute. Counsel for Motorola appeared unfamiliar with Apple’s proposal to narrow the discovery request at issue, and the call did not resolve the parties’ dispute.
4. On December 26, 2011, I communicated to Marshall Searcy III that Apple would give Motorola until December 30, 2011 to make an alternative proposal regarding its responses to the discovery requests in dispute. Motorola did not respond.

5. On January 18, 2011, I am informed that Jill Ho and Jason Lang (counsel for Apple) met and conferred with Marshall Searcy III and John Duchemin (counsel for Motorola), and that counsel for Motorola stated that they had no present intention of supplementing Motorola's responses to either Interrogatories 7 or 12.
6. Attached hereto as Exhibit 1 is a true and correct copy of excerpts of Motorola's Response to Apple's Second Set of Interrogatories, served April 8, 2011.
7. Attached hereto as Exhibit 2 is a true and correct copy of excerpts of Apple's Supplemental Response to Motorola's First Set of Interrogatories, served January 17, 2012.
8. Attached hereto as Exhibit 3 is a true and correct copy of excerpts of Motorola's Response to Apple's First Set of Interrogatories, dated January 31, 2011.
9. Attached hereto as Exhibit 4 is a true and correct copy of excerpts of Apple's Second Supplemental Response to Motorola's Second Set of Interrogatories, served January 17, 2012.
10. Attached hereto as Exhibit 5 is a true and correct copy of a letter from Jill Ho to David Perlson dated October 31, 2011.
11. Attached hereto as Exhibit 6 is a true and correct copy of a letter from David Perlson to Jill Ho dated November 8, 2011.
12. Attached hereto as Exhibit 7 are a true and correct excerpts of pages 48-49 and 80-81 from Motorola's technology tutorial slides submitted to the Court in connection with the tutorial hearing on October 6, 2011.
13. Attached hereto as Exhibit 8 is a true and correct copy of an email message I sent to Ben Quarmby on November 15, 2011.
14. Attached hereto as Exhibit 9 is a true and correct copy of a letter from Ben Quarmby to Jill Ho dated November 21, 2011.

15. Attached hereto as Exhibit 10 are true and correct copies of e-mails between counsel for Apple and counsel for Motorola, in which counsel for Motorola requested, and Apple granted, multiple extensions of time for supplementing responses to Apple's Interrogatories Nos. 1, 7, 9, 11, and 12.
16. Attached hereto as Exhibit 11 is a true and correct copy of a letter I sent to David Perlson on December 14, 2011.
17. Attached hereto as Exhibit 12 is a true and correct copy of an e-mail I received from Ben Quarmby on December 16, 2011.
18. Attached hereto as Exhibit 13 is a true and correct copy of an e-mail message I received from Amanda Williamson, counsel for Motorola, on November 22, 2011.
19. Attached hereto as Exhibit 14 is a true and correct copy of an e-mail I sent to Marshall Searcy III, counsel for Motorola, on December 20, 2011.
20. Attached hereto as Exhibit 15 is a true and correct copy of an e-mail I sent to Marshall Searcy III on December 21, 2011.
21. Attached hereto as Exhibit 16 is a true and correct copy of an e-mail I received from Marshall Searcy III on December 23, 2011.
22. Attached hereto as Exhibit 17 is a true and correct copy of an e-mail I sent to Marshall Searcy III on December 26, 2011.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on January 30, 2012 at San Francisco, California.

/s/ Elena DiMuzio
Elena DiMuzio