

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

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

MOTOROLA MOBILITY, INC.,

Plaintiff,

v.

APPLE INC.,

Defendant.

JURY TRIAL DEMANDED

APPLE INC.,

Counterclaim Plaintiff,

v.

MOTOROLA, INC. and
MOTOROLA MOBILITY, INC.,

Counterclaim Defendants.

**DECLARATION OF J. JASON LANG IN SUPPORT OF APPLE INC.'S
MOTION TO COMPEL RESPONSES TO INTERROGATORIES
REGARDING SET-TOP BOX PATENTS (NOS. 19-22)**

I, J. Jason Lang, declare under penalty of perjury, that the following is true and correct:

1. I am a member of the bar of the State of California, admitted *pro hac vice* in this action and an associate at the law firm of Weil, Gotshal & Manges LLP, counsel of record for Apple Inc. (“Apple”) in the above-captioned matter. The matters referred to in this declaration are based on personal knowledge and if called as a witness I could, and would, testify competently to these matters.

2. On January 18, 2012, after Motorola did not supplement its responses to Apple’s Interrogatory Nos. 19-22, my colleague Jill Ho¹ and I participated in a teleconference with Marshall Searcy and John Duchemin of Quinn Emanuel Urqhart & Sullivan, LLP, counsel for Motorola. During this call, Mr. Searcy stated that Motorola believed its supplementation was complete and did not intend to provide further supplementation of any of its interrogatory responses. I pointed out that Motorola’s own documents suggest that it is not only in possession of interactive programming guide code, but it is involved in the development and testing of such source code. I specifically referenced prior correspondence in which I described such documents produced by Motorola. My January 3, 2012 email to John Duchemin was attached as Exhibit U to the Declaration of Jill J. Ho in Support of Apple’s Motion to Compel Responses to Interrogatories Regarding Set-Top Box Patents (Nos. 19-22). *See* D.E. 224-22. In response, Mr. Duchemin suggested that I was reading the documents incorrectly, had reached the wrong conclusion, and that I would have an opportunity to ask questions at the deposition

¹ Ms. Ho is currently in the process of adopting her married name, Jill Schmidt.

of Motorola's 30(b)(6) witness, when that deposition was scheduled. At no time during this conversation did Mr. Searcy or Mr. Duchemin state that Motorola was refusing to supplement its responses because Apple's interrogatories were overbroad or vague.

3. On January 24, 2012, Ms. Ho and I met and conferred again with Mr. Searcy and Mr. Duchemin. During this call, Mr. Searcy confirmed that Motorola would not be supplementing its responses to Apple's Interrogatory Nos. 19-22. I asked Mr. Searcy whether we were at an impasse, and Mr. Searcy responded yes. At no time during this meet and confer did Mr. Searcy or Mr. Duchemin suggest that Motorola was refusing to supplement its responses because Apple's interrogatories were overbroad or vague.

4. On February 6, 2012, I spoke with David Benyacar, counsel for third parties Time Warner Cable and Bright House Networks, regarding subpoenas served by Apple requesting information about which interactive program guides are used and installed on the Motorola accused set-top boxes. Mr. Benyacar informed me that Motorola was in possession of this information. Attached hereto as Exhibit A is a true and correct copy of a February 6, 2012 email from me to Mr. Benyacar memorializing our conversation.

5. Following my conversation with Mr. Benyacar, I wrote to Mr. Duchemin, to renew Apple's request that Motorola provide the information in its possession regarding which interactive program guides are installed on the Motorola accused set-top boxes, the number of each Motorola accused set-top box sold to Time Warner Cable and Bright House Networks, and how the interactive program guides are installed. I further requested similar information for other cable providers that provide Motorola accused set-top boxes to end-users. Attached hereto as Exhibit B is a true and correct copy of a February 7, 2012 email from Mr. Duchemin to me, responding to that request.

Mr. Duchemin stated that Motorola was in the process of producing, to the extent available to Motorola, such information and confirmed that Motorola is in possession of “information regarding the identity of interactive programming guides that are installed onto certain of the accused set-top boxes.” Mr. Duchemin also explained his view that this was not inconsistent with Motorola’s interrogatory responses because “installation of IPGs occurs post-sale, after the accused set-top boxes are received by Motorola’s customers.”

6. Attached hereto as Exhibit C is a true and correct copy of a February 8, 2012 email from Mr. Duchemin to me, further clarifying that Motorola intended to produce responsive documents. Specifically, Mr. Duchemin explained, “Motorola has stated since mid-November 2011, immediately after Apple sent its subpoenas to Motorola’s customers, that it may be able to assist in producing documents on behalf of its customers, and is now doing so at its customers’ requests.” Attached hereto as Exhibit D is a true and correct copy of the attachment to Mr. Duchemin’s February 8, 2012 email.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on February 9, 2012 at Redwood Shores, California

/s/ J. Jason Lang
J. Jason Lang