

# EXHIBIT C

## Lang, Jason

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**From:** John Duchemin <johnduchemin@quinnemanuel.com>  
**Sent:** Wednesday, February 08, 2012 10:34 PM  
**To:** Lang, Jason; 'AppleCov@cov.com'; Apple Moto Weil  
**Cc:** Moto-Apple-SDFL  
**Subject:** RE: Motorola-Apple (Florida): Apple's production requests  
**Attachments:** FW E-mail from Apple to Time Warner counsel

Jason,

In my e-mail yesterday, I indicated that Motorola is in the process of producing, to the extent it is available to Motorola, information on the brand and version number of interactive programming guides that are eventually installed on accused set-top boxes that Motorola sells to Time Warner. Motorola can and will provide such information by February 10. Motorola also agrees to provide similar information for other customers whom Apple also has served with equally overbroad and unduly burdensome subpoenas.

Motorola will also produce information explaining how some of these interactive programming guides are installed on the accused set-top boxes. Motorola does not have information about every single instance of such installations.

Apple has indicated, in correspondence with Motorola's customers, that this information is exactly the sort that Apple desires to obtain from its subpoenas on these third parties. For instance, in a January 24, 2011, e-mail to Time-Warner counsel David Benyacar that I have attached here, Apple counsel stated:

"To the extent that it facilitates Time Warner Cable's response, Apple is particularly interested in obtaining discovery on the following topics, dating back to October 6, 2004:

"Which IPGs are installed on the Motorola STBs offered by Time Warner Cable to its customers (i.e., the name of the IPG, such as TV-Guide, Passport, Aptiv, as well as the version number)?

"Who installs the IPGs on these STBs, and how do they get installed?

"How much does Time Warner Cable pay for these IPGs, and to whom do they make the payments?"

Despite Motorola's good faith effort to accommodate Apple's demands on Motorola customers, your letter seeks even more information than before—specifically, a manual corresponding to each brand and version of each interactive programming guide. None of the subpoenas to Motorola's customers seek any such documents. Certainly no discovery request to Motorola seeks such information. And Apple indicated, in the above-quoted e-mail, nothing about requiring anyone to assemble any such documents, particularly on extremely short notice and absent any formal discovery request.

Apple also accuses Motorola of "interfer[ing] with Apple's attempts to procure information from third parties" and "delay[ing] producing information." 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. Moreover, this Monday was the first time that Apple ever demanded information from Motorola about interactive programming guides that are installed after Motorola sells its set-top boxes to its customers. (Interrogatories No. 20-22 only ask for information about set-top boxes "manufactured, [etc.] with an interactive program guide, by or on behalf of Motorola.") Even though data about interactive programming guides installed post-sale is not responsive to any Apple discovery request on Motorola, and is of highly questionable relevancy in any event, Motorola still is doing its best to provide such information to Apple in a timely manner in order to limit the burden of Apple's subpoenas on Motorola's customers.

To the extent Apple includes this e-mail chain as an exhibit in its reply brief regarding the motion to compel, please be sure to include this e-mail. Neither this e-mail nor my e-mail from yesterday contain confidential business information.

Best regards,  
John

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**From:** Lang, Jason [mailto:Jason.Lang@weil.com]  
**Sent:** Wednesday, February 08, 2012 4:50 PM  
**To:** John Duchemin; 'AppleCov@cov.com'; Apple Moto Weil  
**Cc:** Moto-Apple-SDFL  
**Subject:** RE: Motorola-Apple (Florida): Apple's production requests

John,  
Just following up on the below, in addition to confirming that Motorola will be producing the information outlined below, please also confirm that Motorola will be producing information regarding how those IPGs are installed on the accused set-top boxes (or identify with specificity what is not in Motorola's possession, custody, or control). I had noted below that Mr. Benyacar confirmed that such information was in Motorola's possession and that his understanding was that Motorola would be producing this information. But you did not mention below whether Motorola had any intention to produce this information. As with the other information outlined below, if we cannot get an assurance from Motorola that it will be providing this information, we will have to seek it from the third parties.

Thanks, Jason



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**From:** Lang, Jason  
**Sent:** Wednesday, February 08, 2012 1:33 PM  
**To:** John Duchemin; 'AppleCov@cov.com'; Apple Moto Weil  
**Cc:** Moto-Apple-SDFL  
**Subject:** RE: Motorola-Apple (Florida): Apple's production requests

John,

Please confirm that Motorola will provide information on the brand and version number of interactive programming guides that correspond to and are eventually installed on each accused set-top boxes that Motorola sells by Friday February 10. Please also provide a manual that corresponds to each brand and version of interactive programming guide. To the extent Motorola does not have this information, Motorola must identify what information is not in Motorola's possession, custody, or control by Friday February 10. Otherwise, because Motorola still has not provided Apple with any assurances that it will produce all of the requested information in a timely manner, we intend to move forward with this discovery in parallel with third party deponents. This is necessary because Motorola has interfered with Apple's attempts to procure information from third parties and delayed producing information that has been in its possession all along until a few weeks before the close of fact discovery and before expert reports are due.

Thanks, Jason

**Weil**

**J. Jason Lang**

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**From:** John Duchemin [mailto:johnduchemin@quinnemanuel.com]  
**Sent:** Tuesday, February 07, 2012 11:43 PM  
**To:** Lang, Jason; 'AppleCov@cov.com'; Apple Moto Weil  
**Cc:** Moto-Apple-SDFL  
**Subject:** RE: Motorola-Apple (Florida): Apple's production requests

Jason, to address your questions:

Motorola is in the process of producing, to the extent it is available to Motorola, information on the brand and version number of interactive programming guides that are eventually installed on accused set-top boxes that Motorola sells to Time Warner. There is no inconsistency here: Motorola provides information regarding the identity of interactive programming guides that are installed onto certain of the accused set-top boxes, but Motorola does not and has not sold accused set-top boxes in the United States that include a programming guide. The installation of IPGs occurs post-sale, after the accused set-top boxes are received by Motorola's customers.

Motorola also will produce, to the extent it exists and is available to Motorola, similar information for Comcast, Verizon, Cablevision, Suddenlink, Charter Communications, Cox Communications, and Mediacom.

Best regards,  
John

**John Duchemin**

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**From:** Lang, Jason [mailto:Jason.Lang@weil.com]  
**Sent:** Monday, February 06, 2012 6:26 PM  
**To:** John Duchemin; 'AppleCov@cov.com'; Apple Moto Weil  
**Cc:** Moto-Apple-SDFL  
**Subject:** RE: Motorola-Apple (Florida): Apple's production requests

Counsel,

I've been in discussions with David Benyacar who represents Time Warner and BrightHouse in regards to the third-party subpoenas that Apple served on Time Warner and BrightHouse relating to the Motorola Accused Set-Top Boxes. David informed me that Motorola is in possession of responsive information relating to what IPGs (brand and version) are installed on the Motorola Accused Set-Top Boxes and how those IPGs are installed on the respective boxes. This is consistent with earlier representations that Motorola made to Apple, but is inconsistent with Motorola's answers to Apple's interrogatories and with statements that Motorola made during meet and confers. Please confirm that Motorola will be providing this information for Motorola Accused Set-Top Boxes that are sold to Time Warner and BrightHouse, namely, what IPGs are installed on the Motorola Accused Set-Top boxes (for each accused device, the brand and version of the IPG), the number of each Accused Motorola Set-Top Box that is sold to the respective entities, and how those IPGs are installed on the respective boxes.

Also confirm whether Motorola will be providing this information for Comcast, Verizon, Cablevision, Suddenlink, Charter Communications, Cox Communications, Mediacom, and other cable providers that sell, lease, or otherwise provide the Motorola Accused Set-Top Boxes.

Thanks, Jason



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**From:** Lang, Jason  
**Sent:** Thursday, February 02, 2012 4:43 PM  
**To:** 'John Duchemin'; 'AppleCov@cov.com'; Apple Moto Weil  
**Cc:** Moto-Apple-SDFL  
**Subject:** RE: Motorola-Apple (Florida): Apple's production requests

Hi John,

Thank you for the response below. I write to address the issue of executable IPG code and to provide some clarification that may assist the below ongoing production.

With respect to the TV guide code, as I said in my January 24th email to you, we feel that such code is responsive to long-pending document requests. And we would expect that given that it was in Motorola's possession, it would have been used with Motorola STBs, triggering a substantive response to interrogatory 20. As to its relevance, our infringement contentions specifically allege that Motorola directly infringes through testing, developing, and using its STBs with IPG code. Those contentions show that the execution of this code may directly infringe the method claims of the STB patents. Accordingly, the fact that such executable code is in Motorola's possession is highly relevant to at least Apple's direct infringement claims.

We thus ask that you provide a log of the executable IPG code that was and that is in Motorola's possession. It appears now that your basis for refusing to produce this code is that it is immune from discovery due to "strict confidential provisions." Please comply with the instructions from Apple's Request for Production that request that you provide information about what documents and things you allege are immune from discovery (see Instruction 4 of Apple's

12/29/10 Request for Production). Of course, FRCP 34 also requires that you state such objections. The log should provide the name of each executable code (versions and brand), who had access to it, etc., as the instruction specifies.

Please provide this information by February 10th to enable Apple to assess other avenues of obtaining this code and corresponding source code.

With respect to a point of clarification that may assist Motorola's supplement production efforts, we are not seeking "tens of thousands of agreements" that are either irrelevant or duplicative, and our requests are not overbroad. Apple's document requests cover agreements relating to the accused Motorola STBs. To the extent that Motorola has tens of thousands of such agreements, these agreements are highly relevant to Apple's direct and indirect infringement allegations – these agreements cover, e.g., the direct sale of accused products and testing agreements with IPG makers that reflect direct and indirect infringement. If such a voluminous number of these agreements exist, this just means that there is voluminous infringing activity. Motorola cannot use its voluminous amount of infringing activities against Apple. As always, I am available by phone to discuss if that will assist.

Thanks for producing the supplemental production in a rolling manner given the fast approaching fact discovery cutoff and expert report deadline.

Thanks, Jason



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**From:** John Duchemin [mailto:johnduchemin@quinnemanuel.com]  
**Sent:** Tuesday, January 31, 2012 7:47 PM  
**To:** 'AppleCov@cov.com'; Apple Moto Weil  
**Cc:** Moto-Apple-SDFL  
**Subject:** Motorola-Apple (Florida): Apple's production requests

Jason,

I write to respond to various questions you have posed in written communications about Motorola's production.

1. You ask about documents bearing the specification code 365-095-xxxx. That specification code is used on tens of thousands of Motorola documents, most of which are irrelevant to the present case. It would be unduly burdensome for Motorola to produce every single one of these documents. However, we are preparing to produce those documents that you specifically requested, namely, any relevant and non-privileged documents bearing that specification code prefix that are referred to in documents already produced by Motorola. Production of these documents is ongoing and should be complete by Wednesday, February 8.

2. You requested that Motorola provide Apple with agreements with third-party cable providers and programming guide makers. As previously explained, Apple's request is extremely broad, as Motorola has tens of thousands of agreements with customers and providers. However, Motorola is in the process of compiling, reviewing and analyzing these documents and producing those responsive to Apple's production requests. Production is ongoing and will be

completed on a rolling basis. However, our goal is to get any responsive documents produced to you no later than Wednesday, February 15.

3. You requested that Motorola provide Apple with additional documentation related to testing of third-party interactive programming guides, including documentation related to the Acadia Application Integration Center and to an extranet site shared by Comcast and Motorola. Again, production is ongoing and will be completed on a rolling basis. A set of approximately 120 documents related to this subject is currently in production and should arrive at Apple soon.

4. You requested that Motorola provide Apple with documentation related to the infrared functionality of its set-top boxes. An additional set of Motorola documents relating to infrared functionality is currently in production and should arrive at Apple soon.

5. You have asked for Motorola to make available third-party interactive programming guide source code in its possession. As stated in previous correspondence and meet-and-confers, Motorola does not possess and has not possessed any such source code. In later correspondence, you have also broadened this request to ask for any third-party interactive programming guide "software" in Motorola's possession, including executable files. This vague request is overbroad and unduly burdensome in that it seeks to have Motorola produce third-party software, bound by strict confidentiality provisions, that is entirely unnecessary for Apple to prove its case.

Please bear in mind that production is ongoing, that Motorola reserves all of its objections to Apple's discovery requests, and that Motorola also reserves the right to collect and produce subsequent to the above dates.

Best regards,  
John

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