

**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.

**[PROPOSED] ORDER GRANTING SUMMARY JUDGMENT OF
NON-INFRINGEMENT OF U.S. PATENT NOS. 6,282,646 AND 7,380,116**

The Court, after considering the parties' Joint Motion Regarding U.S. Patent Nos. 6,282,646 ("the '646 patent") and 7,380,116 ("the '116 patent") and upon a review of the record, finds that good cause exists to grant summary judgment as follows:

Pursuant to Federal Rule of Civil Procedure 56, this Court hereby GRANTS summary judgment of non-infringement in favor of Motorola Solutions, Inc. (f/k/a Motorola, Inc.) and Motorola Mobility, Inc. (collectively, "Motorola") as to the asserted claims of the '646 and '116 patents, as construed by the Court's Claim Construction Order of December 1, 2011 ("Markman Order"). Apple Inc. ("Apple") has

acknowledged, and the Court accepts, that the Court's constructions in the Markman Order of terms from the '646 and '116 patents were case-dispositive as to Apple's causes of action based on the '646 and '116 patents because, given those constructions, Apple cannot establish that Motorola infringed the asserted claims in the '646 and '116 patents. Apple has reserved its right to appeal the Court's claim constructions as to the '646 and '116 patents.

Motorola's counterclaims with respect to the '646 and '116 patents are dismissed without prejudice. Motorola has reserved its right to reassert these or other counterclaims and defenses relating to the asserted patents should Apple's infringement claims regarding the asserted patents be revived or reasserted for any reason (including, but not limited to, modification of the Court's claim constructions on appeal resulting in a remand to the district court). Motorola has further reserved its rights to appeal any ruling that it could otherwise have appealed had this summary judgment of non-infringement of the '646 and '116 patents not been entered.

Neither party shall be precluded by this Order from moving for summary judgment with respect to any issue remaining before this Court.

DONE AND ORDERED in Chambers in Miami, Florida, on this ___ day of March, 2012.

THE HONORABLE ROBERT N. SCOLA, JR.
United States District Judge

Copies furnished to:
All counsel of record