

**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.

APPLE INC.,

Counterclaim Plaintiff,

v.

MOTOROLA, INC. and
MOTOROLA MOBILITY, INC.,

Counterclaim Defendants.

JURY TRIAL REQUESTED

**DECLARATION OF MARK G. DAVIS IN SUPPORT OF APPLE INC.'S
MOTION TO AMEND THE PROCEDURAL SCHEDULE**

I, Mark G. Davis, declare under penalty of perjury, that the following is true and correct:

1. I am a member of the bar of the District of Columbia, admitted *pro hac vice* in this action and a partner 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. Attached hereto as Exhibit A is a true and correct copy of the transcript from the hearing on Motorola’s Motion to Amend the Procedural Schedule To Serve Supplemental Invalidity Contentions, held on March 9, 2012.

3. On Monday, March 19, 2012, I participated in a telephonic meet and confer with David Perlson of Quinn Emanuel Urquart & Sullivan, LLP to discuss an appropriate extension to the schedule in light of the Court’s March 9, 2012 order.

4. Attached hereto as Exhibit B is a true and correct copy of an email chain which includes my March 19, 2012 email to Mr. Perlson summarizing Apple’s proposed extension to the procedural schedule; Mr. Perlson’s March 20, 2012 response rejecting Apple’s proposal; and a March 21, 2012 email from my colleague Anne Cappella to Mr. Perlson, outlining the various reasons why Apple’s proposed extensions would be appropriate.

5. On Thursday, March 22, 2012, I participated in a second telephonic meet and confer with Mr. Perlson and Marshall Searcy of Quinn Emanuel Urquart & Sullivan, LLP. During this call, the parties were unable to reach an agreement. Nonetheless, it was agreed that the parties would jointly request the schedule proposed by Motorola,

while continuing to meet and confer regarding further extensions to the procedural schedule as well as possible consolidation of issues in the two cases currently pending before this Court. Accordingly, the parties filed a Joint Motion to Amend the Procedural Schedule on March 23, 2012. D.E. 277.

6. Attached hereto as Exhibit C is a true and correct copy of an email chain which includes, *inter alia*, an April 9, 2012 email from Ms. Cappella to Mr. Searcy, setting forth a proposed schedule for Apple's proposal to consolidate the two cases; an April 10, 2012 email from Mr. Searcy to Ms. Cappella, rejecting Apple's proposal and proposing an alternate schedule for a partially consolidated action; an April 10, 2012 email from Ms. Cappella to Mr. Searcy seeking clarification on the scope of the partial consolidation; and an April 11, 2012 email from Mr. Searcy to Ms. Cappella explaining Motorola's proposal for partial consolidation.

7. Attached hereto as Exhibit D is a true and correct copy of an email chain which includes, *inter alia*, an April 13, 2012 email from my colleague Jill Schmidt to Mr. Searcy, explaining that Motorola's proposed timeline did not allow sufficient time for discovery on the new issues that would be included in this action if the parties agreed to partial consolidation; an April 13, 2012 email from Mr. Searcy to Ms. Schmidt purporting to memorialize Apple's non-opposition to Motorola's motion to file an amended complaint in *Motorola II* in light of Motorola's recognition that the current procedural schedule was unworkable; and an April 14, 2012 email from Ms. Schmidt to Mr. Searcy, giving notice that Apple would be filing a motion to amend the procedural schedule because the parties were at an impasse and HTC was unwilling to substantively engage in discussions regarding amendments to the schedule until after May 11.

8. Attached hereto as Exhibit E is a true and correct copy of an April 13, 2012 email from Ms. Schmidt to Mr. Searcy, cc'ing counsel for HTC, describing Apple's proposed schedules for both cases.
9. On April 13, 2012, the parties met and conferred again, but were unable to reach agreement on a schedule for either case.
10. Attached hereto as Exhibit F is a true and correct copy of Motorola Mobility's Fourth Notice of Deposition of Apple Inc., which was served on April 11, 2012.
11. Attached hereto as Exhibit G is a true and correct copy of an April 16, 2012 email from my colleague Arjun Mehra to John Duchemin of Quinn Emanuel Urquart & Sullivan, LLP, cc'ing a service list of which I am a member, regarding deficiencies in Motorola's amended invalidity contentions.
12. Attached hereto as Exhibit H is a true and correct copy of an email chain between Mr. Mehra and Mr. Duchemin, cc'ing a service list of which I am a member, regarding deficiencies in Motorola's supplemental interrogatory responses.
13. Attached hereto as Exhibit I is a true and correct copy of an email chain between Mr. Mehra and Mr. Duchemin, cc'ing a service list of which I am a member, regarding deficiencies in Motorola's document production and proposing a stipulation on representative schematics.
14. Attached hereto as Exhibit J is a true and correct copy of an email chain between Mr. Mehra and Mr. Duchemin, cc'ing a service list of which I am a member, regarding deficiencies in Motorola's document production and 30(b)(6) deposition testimony.
15. Attached hereto as Exhibit K is a true and correct copy of an April 13, 2012 email from my colleague Sutton Ansley to counsel for Motorola, cc'ing a service list of which I

am a member, regarding additional deficiencies in Motorola's document production and 30(b)(6) deposition testimony.

16. Attached hereto as Exhibit L is a true and correct copy of April 16, 2012 and April 11, 2012 emails from my colleague Sutton Ansley to counsel for Motorola, cc'ing a service list of which I am a member, regarding additional deficiencies in Motorola's production of financial information.

17. Attached hereto as Exhibit M is a true and correct copy of a March 30, 2012 email from Ms. Schmidt to Cathleen Garrigan of Quinn Emanuel Urquart & Sullivan, LLP, requesting an additional 30(b)(6) witness to testify regarding topics on which Motorola's witness Murali Duggireddy was not adequately prepared. It is my understanding that Motorola has since agreed to provide such a witness, but has not yet provided a date for that deposition.

18. Attached hereto as Exhibit N is a true and correct copy of an email chain between my co-counsel Azra Hadzimehmedovic of Tensegrity Law Group LLP and Marc Morris of McKool Smith Hennigan PC, counsel for Rovi Corporation, which was forwarded to me. It is my understanding that Ms. Hadzimehmedovic is still in the process of negotiating with counsel for Comcast, Cablevision, and Verizon regarding their responses to Apple's subpoenas.

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

Executed on April 17, 2012 at Washington, District of Columbia.

/s/ Mark G. Davis

Mark G. Davis