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

**Case No. 1:10cv023580-Civ-UU**

MOTOROLA MOBILITY, INC.,

Plaintiff,

v.

APPLE INC.,

Defendant.

**JURY TRIAL DEMANDED**

APPLE INC.,

Counterclaim Plaintiff,

v.

MOTOROLA, INC. and
MOTOROLA MOBILITY, INC.,

Counterclaim Defendants.

**DEFENDANT APPLE INC.'S ANSWER TO MOTOROLA, INC. AND MOTOROLA MOBILITY, INC.'S JOINT COUNTERCLAIMS**

Defendant Apple Inc. ("Apple") by and through its undersigned counsel, hereby responds to Motorola, Inc. and Motorola Mobility, Inc.'s (collectively, "Motorola") Joint Counterclaims as follows:

**ANSWER TO MOTOROLA'S JOINT COUNTERCLAIMS**

1. No response to Paragraph 1 is required.

**PARTIES**

2. On information and belief, Apple admits that Motorola, Inc. is a corporation organized under the laws of the State of Delaware, with its principal place of business at 1303

East Algonquin Road, Schaumburg, Illinois 60196. On information and belief, Apple admits that Motorola Mobility, Inc. is a corporation organized and existing under the laws of the State of Delaware, having a principal place of business at 600 North U.S. Highway 45, Libertyville, Illinois 60048. On information and belief, Apple admits that Motorola Mobility, Inc. is a wholly owned subsidiary of Motorola, Inc.

3. Apple admits that it is a corporation organized and existing under the laws of the State of California, having a principal place of business at 1 Infinite Loop, Cupertino, California 95014.

**JURISDICTION AND VENUE**

4. Apple admits that the Joint Counterclaims purport to be counterclaims for Declaratory Relief under Title 35 of the United States Code, as well as under 28 U.S.C. §§ 1331, 1332, 1338, 2201, and 2202. Apple does not contest the Court's jurisdiction over the Joint Counterclaims.

5. Apple admits that this Court has personal jurisdiction over Apple. Apple admits that it offers for sale and has sold its products to persons within this District, operates retail stores within this District, conducts business in this District, and has a registered agent for the purposes of accepting service of process in this District. Apple denies that it has committed any acts of infringement within this District and specifically denies any wrongdoing, infringement, inducement of infringement or contribution to infringement. Except as so expressly admitted herein, Apple denies the allegations in Paragraph 5 of the Joint Counterclaims.

6. Apple admits that venue is proper in this District pursuant to 28 U.S.C. § 1391(b). Except as so expressly admitted herein, Apple denies the allegations in Paragraph 6 of the Joint Counterclaims.

**COUNTERCLAIM I: DECLARATORY JUDGMENT OF NON-INFRINGEMENT AND INVALIDITY OF U.S. PATENT NO. 5,583,560**

7. Apple refers to and incorporates herein its answers as provided in Paragraphs 1-6 above.

8. Apple admits that it has asserted claims against Motorola for the infringement of U.S. Patent No. 5,583,560 ("the '560 patent").

9. No response to Paragraph 9 is required.

10. Apple denies the allegations in Paragraph 10 of the Joint Counterclaims.

11. Apple admits that there is a substantial and continuing justiciable controversy between Apple and Motorola as to the infringement and validity of the '560 patent.

12. Apple denies the allegations in Paragraph 12 of the Joint Counterclaims.

**COUNTERCLAIM II: DECLARATORY JUDGMENT OF NON-INFRINGEMENT AND INVALIDITY OF U.S. PATENT NO. 5,594,509**

13. Apple refers to and incorporates herein its answers as provided in Paragraphs 1-6 above.

14. Apple admits that it has asserted claims against Motorola for the infringement of U.S. Patent No. 5,594,509 ("the '509 patent").

15. No response to Paragraph 15 is required.

16. Apple denies the allegations in Paragraph 16 of the Joint Counterclaims.

17. Apple admits that there is a substantial and continuing justiciable controversy between Apple and Motorola as to the infringement and validity of the '509 patent.

18. Apple denies the allegations in Paragraph 18 of the Joint Counterclaims.

**COUNTERCLAIM III: DECLARATORY JUDGMENT OF NON-INFRINGEMENT AND INVALIDITY OF U.S. PATENT NO. 5,621,456**

19. Apple refers to and incorporates herein its answers as provided in Paragraphs 1-6 above.

20. Apple admits that it has asserted claims against Motorola for the infringement of U.S. Patent No. 5,621,456 ("the '456 patent").

21. No response to Paragraph 21 is required.

22. Apple denies the allegations in Paragraph 22 of the Joint Counterclaims.

23. Apple admits that there is a substantial and continuing justiciable controversy between Apple and Motorola as to the infringement and validity of the '456 patent.

24. Apple denies the allegations in Paragraph 24 of the Joint Counterclaims.

**COUNTERCLAIM IV: DECLARATORY JUDGMENT OF NON-INFRINGEMENT AND INVALIDITY OF U.S. PATENT NO. 6,282,646**

25. Apple refers to and incorporates herein its answers as provided in Paragraphs 1-6 above.

26. Apple admits that it has asserted claims against Motorola for the infringement of U.S. Patent No. 6,282,646 ("the '646 patent").

27. No response to Paragraph 27 is required.

28. Apple denies the allegations in Paragraph 28 of the Joint Counterclaims.

29. Apple admits that there is a substantial and continuing justiciable controversy between Apple and Motorola as to the infringement and validity of the '646 patent.

30. Apple denies the allegations in Paragraph 30 of the Joint Counterclaims.

**COUNTERCLAIM V: DECLARATORY JUDGMENT OF NON-INFRINGEMENT AND INVALIDITY OF U.S. PATENT NO. 7,380,116**

31. Apple refers to and incorporates herein its answers as provided in Paragraphs 1-6 above.

32. Apple admits that it has asserted claims against Motorola for the infringement of U.S. Patent No. 7,380,116 ("the '116 patent").

33. No response to Paragraph 33 is required.

34. Apple denies the allegations in Paragraph 34 of the Joint Counterclaims.

35. Apple admits that there is a substantial and continuing justiciable controversy between Apple and Motorola as to the infringement and validity of the ’116 patent.

36. Apple denies the allegations in Paragraph 36 of the Joint Counterclaims.

**COUNTERCLAIM VI: DECLARATORY JUDGMENT OF NON-INFRINGEMENT AND INVALIDITY OF U.S. PATENT NO. 7,657,849**

37. Apple refers to and incorporates herein its answers as provided in Paragraphs 1-6 above.

38. Apple admits that it has asserted claims against Motorola for the infringement of U.S. Patent No. 7,657,849 (“the ’849 patent”).

39. No response to Paragraph 39 is required.

40. Apple denies the allegations in Paragraph 40 of the Joint Counterclaims.

41. Apple admits that there is a substantial and continuing justiciable controversy between Apple and Motorola as to the infringement and validity of the ’849 patent.

42. Apple denies the allegations in Paragraph 42 of the Joint Counterclaims.

**DEMAND FOR JURY TRIAL**

43. Apple does not object to a trial by jury on all issues so triable.

**JOINT REQUEST FOR RELIEF ON COUNTERCLAIMS I-VI**

44. Apple denies that Motorola is entitled to any of the relief sought in its prayer for relief, including that requested in Paragraphs (A) through (D). The ’560, ’509, ’456, ’646, ’116, and ’849 patents are valid and infringed by Motorola. Motorola is not entitled to recover statutory damages, compensatory damages, enhanced damages, an accounting, costs, fees, interest or any other type of recovery from Apple. Motorola’s prayer should, therefore, be denied in its entirety and with prejudice, and Motorola should take nothing.

Dated: January 6, 2011

Respectfully submitted,

*/s/ Christopher R. J. Pace*
Christopher R. J. Pace (Fla. Bar No. 0721166)

Christopher R. J. Pace
Edward Soto
WEIL, GOTSHAL & MANGES LLP
1395 Brickell Avenue, Suite 1200
Miami, FL 33131
Telephone: (305) 577-3100
Facsimile: (305) 374-7159

Matthew D. Powers
Steven S. Cherensky
Jill J. Ho
WEIL, GOTSHAL & MANGES LLP
201 Redwood Shores Parkway
Redwood Shores, CA 94065
Telephone: (650) 802-3000
Facsimile: (650) 802-3100

Mark G. Davis
WEIL, GOTSHAL & MANGES LLP
1300 Eye Street, N.W., Suite 900
Washington, DC 20005
Telephone: (202) 682-7000
Facsimile: (202) 857-0940

Patricia Young
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, NY 10153
Telephone: (212) 310-8000
Facsimile: (212) 310-8007

*Attorneys for Apple Inc.*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on January 6, 2011, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to received electronically Notices of Electronic Filing.

*/s/ Christopher R. J. Pace*
Christopher R. J. Pace (Fla. Bar No. 0721166)

**SERVICE LIST**
**Motorola Mobility, Inc. versus Apple Inc.**
**Case No. 1:10cv023580-Civ-UU**
**United States District Court, Southern District of Florida**

Edward M. Mullins
Fla. Bar No. 863920
emullins@astidavis.com
ASTIGARRAGA DAVIS MULLINS & GROSSMAN, P.A.
701 Brickell Avenue, 16th Floor
Miami, FL 33131
Telephone: (305) 372-8282
Facsimile: (305) 372-8202

*Attorneys for Motorola Mobility, Inc. and Motorola, Inc.*
Electronically served via CM/ECF

*Of Counsel:*
Charles K. Verhoeven
QUINN EMANUEL URQUHART & SULLIVAN, LLP
50 California Street, 22nd Floor
San Francisco, CA 93111
(415) 875-6600

Edward J. DeFranco
QUINN EMANUEL URQUHART & SULLIVAN, LLP
51 Madison Avenue, 22nd Floor
New York, NY 10010
(212) 849-7000

David A. Nelson
QUINN EMANUEL URQUHART & SULLIVAN, LLP
500 West Madison Street, Suite 2450
Chicago, IL 60661
(312) 705-7400

*Attorneys for Motorola Mobility, Inc. and Motorola, Inc.*
Electronically served via CM/ECF