

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

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

<p>MOTOROLA MOBILITY, INC., Plaintiff,  v.  APPLE INC., Defendant.</p>	<p><b>JURY TRIAL DEMANDED</b></p>
<p>APPLE INC., Counterclaim Plaintiff,  v.  MOTOROLA, INC. and MOTOROLA MOBILITY, INC., Counterclaim Defendants.</p>	

**JOINT STATUS REPORT REGARDING AMENDED PROCEDURAL SCHEDULE**

On May 7, 2012, the Court ordered that “[t]he parties shall report to the Court by May 10, 2012 to inform it of the status of their discussions and whether the parties have reached any agreement as to an appropriate amended procedural schedule and whether this case should be consolidated, in whole or in part, with the 2012 case.” D.E. 346. Accordingly, Motorola Solutions, Inc. (f/k/a Motorola, Inc.) and Motorola Mobility, Inc. (collectively “Motorola”) and Apple Inc. (“Apple”), by and through counsel, respectfully submit this joint status report on the parties’ discussions regarding an appropriate procedural schedule and consolidation of the cases.

1. Despite the parties’ best efforts, Motorola and Apple have thus far been unable to agree on either an appropriate amended procedural schedule or whether this case should be consolidated, in whole or in part, with the 2012 case (Case No. 1:12-cv-020271-Civ-RNS).

2. On May 2, 2012, counsel for Motorola, counsel for Apple, and counsel for HTC Corp., HTC America, Inc., One & Company Design, Inc., and HTC America Innovation, Inc. (collectively “HTC”) met and conferred. During that call, Motorola and Apple agreed to exchange proposed procedural schedules on May 4, 2012. HTC stated that it wished to remain informed regarding any further meet and confers between Motorola and Apple, but it would be premature to circulate its own proposal because it believed Apple’s claims against HTC should be severed and/or transferred to another district.

3. On May 4, 2012, Motorola and Apple exchanged their proposed schedules. Motorola’s proposals for this case and the 2012 case, as currently postured, were as follows:

<b>Event</b>	<b>Proposed Schedule for Motorola I</b>	<b>Proposed Schedule for Motorola II</b>
Infringement contentions	--	7/13/12
Invalidity contentions	--	8/10/12
<i>Markman</i> Hearing	--	11/2/12
Apple (1) to substantially narrow its claims and (2) to provide infringement contentions for its infringement allegations under 35 U.S.C. section 271 (f), contained in Apple's Second Amended Answer	5/16/12	--
Close of fact discovery	6/8/12	12/10/12
Opening expert reports	6/15/12	12/17/12
Rebuttal expert reports	7/16/12	1/18/13
Close of expert discovery	8/6/12	2/8/13
Deadline to file dispositive motions	8/20/12	2/22/13
Deadline to file pretrial motions	10/29/12	5/10/13
Deadline to file joint pretrial stipulations / jury instructions	1/11/13	7/12/13
Calendar call	1/22/13	7/22/13
Trial	1/28/13	7/29/13

Apple reiterated its preference for full consolidation of this case and the 2012 case—at least through the summary judgment phase with the possibility of the parties voluntarily narrowing their asserted patents before trial or the Court setting a series of staggered trials—to avoid duplicative discovery and proposed the following schedule:

<b>Event</b>	<b>Apple's Proposed Consolidated Schedule</b>
Infringement contentions	9/7/12
Invalidity contentions	10/5/12
Markman Hearing	1/18/12
Close of fact discovery	5/3/13
Opening expert reports	6/7/13
Rebuttal expert reports	7/12/13
Close of expert discovery	8/9/13
Deadline to file dispositive motions	8/23/13
Deadline to file pretrial motions	9/6/13
Deadline to file joint pretrial stipulations / jury instructions	11/8/13
Calendar call	12/10/13
Trial	12/16/13

If the Court prefers a partially consolidated approach, however, Apple alternatively proposed that all the overlapping patents asserted by Motorola and Apple should be tried in this case, with the addition of U.S. Patent No. 8,046,721 (“the ’721 patent”) from the 2012 case because it is a continuation of U.S. Patent No. 7,657,849, which is being asserted by Apple in this case. Apple’s alternative schedules are set forth below:

<b>Event</b>	<b>Apple's Proposed Schedule for FL-1 plus overlapping portions of FL-2 and '721 patent</b>	<b>Apple's Proposed FL-2 Schedule</b>
Infringement contentions	5/25/12 (Only on '721 patent and new accused products for overlapping patents)	9/7/12
Invalidity contentions	6/15/12 (Only on '721 patent)	10/5/12
Markman Hearing	--	1/18/12
Close of fact discovery	12/21/12	5/3/13
Opening expert reports	1/11/13	6/7/13
Rebuttal expert reports	2/13/13	7/12/13
Close of expert discovery	3/22/13	8/9/13
Deadline to file dispositive motions	4/5/13	8/23/13
Deadline to file pretrial motions	5/24/13	9/6/13
Deadline to file joint pretrial stipulations / jury instructions	7/26/13	11/8/13
Calendar call	8/13/13	12/10/13
Trial	8/19/13	12/16/13

4. On May 7, 2012, the parties met and conferred again but were unable to reach agreement on either a proposed schedule or whether the cases should be consolidated, in whole or in part.

5. On May 8, 2012, Motorola circulated a revised proposed schedule for this case, which would provide Apple with an opportunity to update its infringement contentions for the patents currently pending in the present case and to litigate its claims concerning the '721 patent, but only against Motorola, not against HTC. Motorola stated that it would be agreeable to coordinating the discovery on Apple's claims concerning the '721 patent with HTC to avoid duplication, even if Apple's claims against Motorola and HTC proceeded in separate actions. HTC stated that it would not agree to Apple asserting the '721 patent against it in this case. Motorola's revised schedule for a partially consolidated case is set forth below:

<b>Event</b>	<b>Proposed Schedule for Motorola I</b>
Apple to substantially reduce its claim terms and to provide updated infringement contentions on the '456, '509, '560, and '849 patents (and on '721 patent, if applicable)	5/21/12
Invalidity contentions on '721 patent (if applicable)	6/04/12
Close of fact discovery	7/9/12
Opening expert reports	7/16/12
Rebuttal expert reports	8/16/12
Close of expert discovery	9/6/12
Deadline to file dispositive motions	9/20/12
Deadline to file pretrial motions	11/29/12
Deadline to file joint pretrial stipulations / jury instructions	2/11/13
Calendar call	2/22/13
Trial	3/4/13

6. On May 9, 2012, Apple responded that Motorola's revised proposal did not allow sufficient time for the amount of additional discovery that remained or for the parties to coordinate discovery regarding the '721 patent, especially since HTC has indicated that it intends to file a motion to sever Apple's claims against it. In addition, Apple stated that Motorola's proposed July deadlines for the close of fact discovery and the exchange of opening expert

reports would not be feasible given the action currently pending between Apple and Motorola in the Northern District of Illinois, which is set for four back-to-back trials in June and July. The next day, Motorola responded and indicated that it believes there is sufficient time to complete the additional discovery sought by Apple and that the parties have sufficient resources to deal with both these actions and the action in the Northern District of Illinois.

7. On May 10, 2012, HTC circulated its proposed schedule for the 2012 case (reproduced below), while maintaining its position that Apple’s claims against HTC should be severed and/or transferred.

<b>Event</b>	<b>HTC’s Proposed Schedule for Claims Asserted Against HTC in Motorola II</b>
Infringement contentions	7/13/12
Invalidity contentions	9/28/12
<i>Markman</i> Hearing	4/26/13
Apple (1) to substantially narrow its claims and (2) to provide infringement contentions for its infringement allegations under 35 U.S.C. section 271 (f), contained in Apple's Second Amended Answer	--
Joint Interim Status Report	6/21/13
Close of fact discovery	7/5/13
Opening expert reports	8/16/13
Rebuttal expert reports	9/6/13
Close of expert discovery	10/4/13
Deadline to file dispositive motions	11/1/14
Deadline to file pretrial motions	1/31/14
Deadline to file joint pretrial stipulations / jury instructions	3/24/14
Calendar call	4/7/14
Trial	4/14/14

The parties have not yet had a chance to meet and confer regarding HTC’s proposal.

8. The parties are willing to continue their discussions, but in light of their current disagreements regarding the procedural schedule and whether the two cases should be consolidated, it does not appear likely that they will reach agreement. Specifically, Motorola opposes full consolidation, but would be willing to agree to partial consolidation without any claims against HTC in this case, as set forth above. Apple prefers full consolidation, but

proposes, in the alternative, partial consolidation with overlapping patents and its claims concerning the '721 patent against both parties in this case. HTC opposes any consolidation, in whole or in part, of the two cases. Instead, HTC believes that the claims against it should be severed or at least litigated on a separate schedule.

Dated: May 10, 2012

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 10, 2012, 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.

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**Case No. 1:10cv023580-Civ-RNS**  
**United States District Court, Southern District of Florida**

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