

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

MOTOROLA MOBILITY, INC.,

Plaintiff,

v.

APPLE INC.,

Defendant.

**Consolidated Cases**

Case No. 1:10-cv-23580-RNS

Case No. 1:12-cv-20271-RNS

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APPLE INC.,

Counterclaim Plaintiff,

v.

MOTOROLA, INC.,  
MOTOROLA MOBILITY, INC.,  
HTC CORPORATION,  
HTC AMERICA, INC.,  
ONE & COMPANY DESIGN, INC.,  
HTC AMERICA INNOVATION, INC.,

Counterclaim Defendants.

**AMENDED SCHEDULING ORDER; ORDER CONSOLIDATING CASES;  
ORDER GRANTING MOTOROLA'S MOTION TO FILE AMENDED COMPLAINT**

THIS MATTER is before the Court on the Joint Status Report Regarding Amended Procedural Schedule [ECF No. 347] and Motorola Mobility's Motion for Leave to File First Amended Complaint [ECF No. 64] in the 2012 case.

Despite the Court's repeated statement that it will adopt whatever reasonable schedule the parties jointly propose, the parties have shown a complete inability to agree upon anything and it is frustrating the progress of these cases. Accordingly, the Court will adopt its own Amended Schedule, which draws on the latest deadlines for the relevant events in each of the competing proposals the parties have circulated. For efficiency purposes, the Court has also decided to consolidate in whole the 2010 and 2012 cases. The Court can separately deal with whether to sever out and transfer the claims against the HTC parties, upon proper motion. Finally, the Court will allow Motorola Mobility to file its Amended Complaint as to the 2012 allegations.

Accordingly, it is hereby **ORDERED and ADJUDGED** as follows:

A. The 2010 and 2012 cases are **CONSOLIDATED**. All filings going forward in these cases shall be made under the **2012 Case Number**.

B. Motorola Mobility's Motion for Leave to File First Amended Complaint as to the 2012 claims is **GRANTED**. Motorola Mobility shall separately file the First Amended Complaint on the docket, per the Local Rules, by **May 16, 2012**.

C. The parties shall comply with the following **Amended Schedule**. Given the length of the case under the new schedule, the parties shall submit two Joint Interim Status Reports and shall participate in two Mediations in accordance with the deadlines below.

| <b>Case Event</b>  | <b>Deadline</b> |
|--|-----------------|
| Infringement Contentions                                     | Sept. 7, 2012   |
| Invalidity Contentions                                       | Oct. 5, 2012    |
| First Joint Interim Status Report                            | Mar. 1, 2013    |
| Markman Hearing (2012 claims)                                | Apr. 26, 2013   |
| First Mediation Deadline                                     | May 31, 2013    |
| Fact Discovery Deadline                                      | July 5, 2013    |
| Opening Expert Reports Deadline                              | Aug. 16, 2013   |
| Rebuttal Expert Reports Deadline                             | Sept. 6, 2013   |
| Expert discovery Deadline                                    | Oct. 4, 2013    |
| Dispositive Motions Deadline                                 | Nov. 1, 2013    |
| Second Joint Interim Status Report                           | Nov. 8, 2013    |
| Second Mediation Deadline                                    | Nov. 15, 2013   |
| Pretrial Motions (Motions in Limine / Daubert) Deadline      | Jan. 31, 2014   |
| Pretrial Stipulation and Proposed Jury Instructions Deadline | Mar. 24, 2014   |
| Calendar Call  | Apr. 15, 2014   |
| Trial Period   | Apr. 21, 2014   |

D. The parties shall comply with the following procedures and instructions:

1. Interim Joint Status Report. The parties are required to submit an interim joint status report addressing the following issues:

- a) Have all defendants been served? If not, state the reasons.
- b) Have all defendants responded to the complaint? If not, state the reasons.
- c) If this is a class action, has a motion for class certification been filed? If so, what is its status?
- d) Have the parties agreed on and selected a mediator? Have the parties agreed upon a place, date, and time for mediation?
- e) Have the parties engaged in informal settlement negotiations? If not, explain the reasons for the failure to do so. If yes, state the status of such negotiations (*e.g.*, ongoing, impasse, etc.) and the relative prospects for resolution through informal means.
- f) Describe the status of discovery conducted to date, and identify whether the parties reasonably believe that they will be able to complete discovery by the Court's deadline. If not, explain the reasons.
- g) Identify any other issues that the Court should be aware of that may affect the resolution of this matter or the schedule as currently set.
- h) For Fort Lauderdale/West Palm division cases, the parties shall indicate whether they prefer to try the case in Miami or Fort Lauderdale/West Palm.

2. Jury Instructions. The parties shall submit their proposed jury instructions jointly, though they need not agree on each proposed instruction. Where the parties do agree on a proposed instruction, that instruction shall be set out in regular typeface. Instructions proposed only by a plaintiff shall be underlined. Instructions proposed only by a defendant shall be bold-faced. Every instruction must be supported by a citation of authority. The parties shall use as a guide the Eleventh Circuit Pattern Jury Instructions for Civil Cases, including the directions to counsel, or the applicable state pattern jury instructions. The parties shall jointly file their proposed jury instructions via CM/ECF, and shall also submit their proposed jury instructions to the Court via e-mail at [scola@flsd.uscourts.gov](mailto:scola@flsd.uscourts.gov) in MS Word format (.doc).

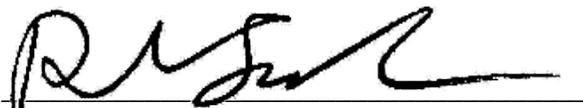
3. Trial Exhibits. All trial exhibits must be pre-marked. Plaintiff's exhibits shall be marked numerically with the letter "P" as a prefix. Defendant's exhibits shall be marked alphabetically with the letter "D" as a prefix. A list setting out all exhibits must be submitted at the time of trial. This list must indicate the pre-marked identification label (*e.g.*, P-1, or D-A) and must also include a brief description of the exhibit.

4. Deposition Designations. Any party intending to use deposition testimony as substantive evidence must designate by line and page reference those portions in writing. The designations must be served on opposing counsel and filed with the Court fourteen days before the deadline to file the joint pretrial stipulation. The adverse party must serve and file any objections and any cross-designations within seven days. The initial party shall then have seven days to serve and file objections to the cross-designations.

5. Voir Dire Questions. The Court will require each prospective juror to complete a brief written questionnaire prior to the commencement of questioning in the courtroom. Any party may file, no more than five proposed, case-specific questions to be included in the questionnaire. The proposed questions must be filed with the Court at the time of the filing of the joint pretrial stipulation, and shall also be submitted to the Court via e-mail at [scola@flsd.uscourts.gov](mailto:scola@flsd.uscourts.gov) in MS Word format (.doc).

6. Settlement Notification. If this matter is settled, counsel are directed to inform the Court promptly via telephone (305-523-5140) and/or e-mail ([scola@flsd.uscourts.gov](mailto:scola@flsd.uscourts.gov)).

**DONE AND ORDERED** in chambers in Miami, Florida on May 14, 2012.



**ROBERT N. SCOLA, JR.**  
**UNITED STATES DISTRICT JUDGE**

*Copies to:*  
Counsel of record