

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

MOTOROLA MOBILITY, INC.,

Plaintiff,

v.

APPLE INC.,

Defendant.

JURY TRIAL DEMANDED

Consolidated Cases

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

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

APPLE INC.,

Counterclaim Plaintiff,

v.

MOTOROLA, INC. and
MOTOROLA MOBILITY, INC.,

Counterclaim Defendants.

**PLAINTIFF AND COUNTERCLAIM-DEFENDANT MOTOROLA MOBILITY, INC.
AND COUNTERCLAIM-DEFENDANT MOTOROLA, INC.'S ANSWER, REPLY, AND
COUNTERCLAIMS TO DEFENDANT AND COUNTERCLAIM-PLAINTIFF
APPLE INC.'S SECOND AMENDED ANSWER AND COUNTERCLAIMS**

Plaintiff and Counterclaim-Defendant Motorola Mobility, Inc. (“Mobility”) and Counterclaim-Defendant Motorola Solutions, Inc. (“Motorola”) (collectively, “Counterclaim-Defendants”), for their answer to the Counterclaims of Defendant and Counterclaim-Plaintiff Apple Inc. (“Apple”)¹ hereby allege as follows:

¹ DE 332, filed 04/24/2012, in Case No.:10-cv-23580-RNS.

² For ease of reference only, Counterclaim-Defendants have reproduced the headings Apple used in its Counterclaims. To the extent the headings Apple used contain any allegations

ANSWER TO APPLE'S COUNTERCLAIMS

GENERAL DENIAL

Unless expressly admitted below, Counterclaim-Defendants deny each and every allegation Apple has set forth in its Counterclaims. Mobility further specifically denies the allegations contained in the affirmative defenses Apple has set forth in its Amended Answer, including Apple's allegations of inequitable conduct.

RESPONSE TO APPLE'S SPECIFIC ALLEGATIONS

Answering the specific allegations of Apple's Counterclaims, Counterclaim-Defendants respond with the following Paragraphs, which correspond sequentially to the Paragraphs in Apple's Counterclaims:

PARTIES²

112. Admitted.

113. Denied. On January 4, 2011, Motorola Mobility Holdings, Inc. ("Mobility Holdings")—the holding company for Mobility—completed its previously announced separation from Motorola. Simultaneous to the separation, Motorola, Inc. changed its name to Motorola Solutions, Inc. Motorola Solutions and Mobility Holdings are now two independent, publicly traded companies. Through its subsidiaries, including Mobility, Mobility Holdings holds the assets and liabilities associated with Motorola, Inc's former Mobile Devices and Home business segments. As such, Mobility Holdings will carry on as the provider of cellular phone devices, as well as digital set-top boxes and end-to-end video solutions. Motorola Solutions, formed from

² For ease of reference only, Counterclaim-Defendants have reproduced the headings Apple used in its Counterclaims. To the extent the headings Apple used contain any allegations or characterizations, Counterclaim-Defendants deny the truth of those allegations or characterizations.

Motorola, Inc.'s Enterprise Mobility Solutions and Networks businesses, will continue as the provider of communication products and services for enterprise and government customers.

114. Defendants admit that Mobility is currently a corporation organized under the laws of Delaware with its principal place of business at 600 North US Highway 45, Libertyville, Illinois 60048. Defendants deny that Mobility is currently a wholly-owned subsidiary of Motorola.

JURISDICTION AND VENUE

115. Counterclaim-Defendants admit that Apple alleges an action under the patent laws of the United States, Title 35 of the United States Code, but specifically deny Apple's allegations regarding non-infringement, invalidity, or unenforceability of the asserted Mobility patents. Counterclaim-Defendants further specifically deny that they infringe the asserted Apple patents. Counterclaim-Defendants admit that this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a), 2210, and 2202. Counterclaim-Defendants deny the remaining allegations of Paragraph 115.

116. Counterclaim-Defendants admit that this Court has personal jurisdiction over Motorola for purposes of this case. Counterclaim-Defendants deny the remaining allegations of Paragraph 116.

117. Counterclaim-Defendants admit that this Court has personal jurisdiction over Mobility for purposes of this case. Counterclaim-Defendants deny the remaining allegations of Paragraph 117.

118. Counterclaim-Defendants admit venue is proper in this district pursuant to at least 28 U.S.C. §1391.

FIRST COUNTERCLAIM – DECLARATORY JUDGMENT

U.S. PATENT NO. 5,710,987

119. Mobility admits that Apple purports to counterclaim against Mobility pursuant to the patent laws of the United States, Title 35 of the United States Code and the Declaratory Judgments Act, 28 U.S.C. §§ 2201 and 2202. Mobility specifically denies Apple’s allegations regarding non-infringement, invalidity, or unenforceability of the asserted Mobility patents, including U.S. Patent No. 5,710,987. Mobility denies the remaining allegations of Paragraph 119.

120. Admitted. U.S. Patent No. 5,710,987 has been assigned to Mobility.

A. Declaration of Noninfringement

121. Mobility repeats and realleges its responses to Paragraphs 112 through 120 above as if fully set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1-111 of its Amended Answer and Counterclaims, Mobility, to the extent so required, admits that Apple so responds to those Paragraphs in Mobility’s Complaint and denies any of Apple’s allegations therein.

122. Mobility admits that at this time an actual and justiciable controversy exists between Apple and Mobility with respect to the ’987 patent. Mobility admits that it has brought an action against Apple alleging that Apple infringes the ’987 patent by making, using, offering for sale, selling, and/or importing Apple’s iPhone 4 product. Mobility denies the remaining allegations of Paragraph 122, including, but not limited to, specifically denying that Apple does not infringe the ’987 patent and that Mobility is wrongfully asserting the ’987 patent against Apple, thereby causing Apple any harm.

123. Mobility denies each and every allegation of Paragraph 123.

124. Mobility denies each and every allegation of Paragraph 124.

B. Declaration of Invalidity

125. Mobility repeats and realleges its responses to Paragraphs 112 through 124 above as if fully set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1-111 of its Amended Answer and Counterclaims, Mobility, to the extent so required, admits that Apple so responds to those Paragraphs in Mobility's Complaint and denies any of Apple's allegations therein.

126. Mobility admits that at this time an actual and justiciable controversy exists between Apple and Mobility with respect to the '987 patent. Mobility admits that it has brought an action against Apple alleging that Apple infringes the '987 patent by making, using, offering for sale, selling, and/or importing Apple's iPhone 4 product. Mobility denies the remaining allegations of Paragraph 126, including, but not limited to, specifically denying that the '987 patent is invalid and that Mobility is wrongfully asserting the '987 patent against Apple, thereby causing Apple any harm.

127. Mobility denies each and every allegation of Paragraph 127.

128. Mobility denies each and every allegation of Paragraph 128.

SECOND COUNTERCLAIM – DECLARATORY JUDGMENT

U.S. PATENT NO. 5,754,119

129. Mobility admits that Apple purports to counterclaim against Mobility pursuant to the patent laws of the United States, Title 35 of the United States Code and the Declaratory Judgments Act, 28 U.S.C. §§ 2201 and 2202. Mobility specifically denies Apple's allegations regarding non-infringement, invalidity, or unenforceability of the asserted Mobility patents, including U.S. Patent No. 5,754,119. Mobility denies the remaining allegations of Paragraph 129.

130. Admitted. U.S. Patent No. 5,754,119 has been assigned to Mobility.

A. Declaration of Noninfringement

131. Mobility repeats and realleges its responses to Paragraphs 112 through 130 above as if fully set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1-111 of its Amended Answer and Counterclaims, Mobility, to the extent so required, admits that Apple so responds to those Paragraphs in Mobility's Complaint and denies any of Apple's allegations therein.

132. Mobility admits that at this time an actual and justiciable controversy exists between Apple and Mobility with respect to the '119 patent. Mobility admits that it has brought an action against Apple alleging that Apple infringes the '119 patent by making, using, offering for sale, selling, and/or importing Apple's MobileMe service, certain iPhone products, certain iPad products, iPod Touch products, MacBook products, MacBook Pro products, MacBook Air products, iMac Products, Mac mini products, and Mac Pro products. Mobility denies the remaining allegations of Paragraph 132, including, but not limited to, specifically denying that Apple does not infringe the '119 patent and that Mobility is wrongfully asserting the '119 patent against Apple, thereby causing Apple any harm.

133. Mobility denies each and every allegation of Paragraph 133.

134. Mobility denies each and every allegation of Paragraph 134.

B. Declaration of Invalidity

135. Mobility repeats and realleges its responses to Paragraphs 112 through 134 above as if fully set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1-111 of its Amended Answer and Counterclaims, Mobility, to the extent so required, admits that Apple so responds to those Paragraphs in Mobility's Complaint and denies any of Apple's allegations therein.

136. Mobility admits that at this time an actual and justiciable controversy exists between Apple and Mobility with respect to the '119 patent. Mobility admits that it has brought an action against Apple alleging that Apple infringes the '119 patent by making, using, offering for sale, selling, and/or importing Apple's MobileMe service, certain iPhone products, certain iPad products, iPod Touch products, MacBook products, MacBook Pro products, MacBook Air products, iMac Products, Mac mini products, and Mac Pro products. Mobility denies the remaining allegations of Paragraph 136, including, but not limited to, specifically denying that the '119 patent is invalid and that Mobility is wrongfully asserting the '119 patent against Apple, thereby causing Apple any harm.

137. Mobility denies each and every allegation of Paragraph 137.

138. Mobility denies each and every allegation of Paragraph 138.

THIRD COUNTERCLAIM – DECLARATORY JUDGMENT

U.S. PATENT NO. 5,958,006

139. Mobility admits that Apple purports to counterclaim against Mobility pursuant to the patent laws of the United States, Title 35 of the United States Code and the Declaratory Judgments Act, 28 U.S.C. §§ 2201 and 2202. Mobility specifically denies Apple's allegations regarding non-infringement, invalidity, or unenforceability of the asserted Mobility patents, including U.S. Patent No. 5,958,006. Mobility denies the remaining allegations of Paragraph 139.

140. Admitted. U.S. Patent No. 5,958,006 has been assigned to Mobility.

A. Declaration of Noninfringement

141. Mobility repeats and realleges its responses to Paragraphs 112 through 140 above as if fully set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1-111 of its Amended Answer and

Counterclaims, Mobility, to the extent so required, admits that Apple so responds to those Paragraphs in Mobility's Complaint and denies any of Apple's allegations therein.

142. Mobility admits that at this time an actual and justiciable controversy exists between Apple and Mobility with respect to the '006 patent. Mobility admits that it has brought an action against Apple alleging that Apple infringes the '006 patent by making, using, offering for sale, selling, and/or importing Apple's MobileMe service, certain iPhone products and iPad with 3G product. Mobility denies the remaining allegations of Paragraph 142, including, but not limited to, specifically denying that Apple does not infringe the '006 patent and that Mobility is wrongfully asserting the '006 patent against Apple, thereby causing Apple any harm.

143. Mobility denies each and every allegation of Paragraph 143.

144. Mobility denies each and every allegation of Paragraph 144.

B. Declaration of Invalidity

145. Mobility repeats and realleges its responses to Paragraphs 112 through 144 above as if fully set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1-111 of its Amended Answer and Counterclaims, Mobility, to the extent so required, admits that Apple so responds to those Paragraphs in Mobility's Complaint and denies any of Apple's allegations therein.

146. Mobility admits that at this time an actual and justiciable controversy exists between Apple and Mobility with respect to the '006 patent. Mobility admits that Mobility has brought an action against Apple alleging that Apple infringes the '006 patent by making, using, offering for sale, selling, and/or importing Apple's MobileMe service, certain iPhone products and iPad with 3G product. Mobility denies the remaining allegations of Paragraph 146,

including specifically denying that the '006 patent is invalid and that Mobility is wrongfully asserting the '006 patent against Apple, thereby causing Apple any harm.

147. Mobility denies each and every allegation of Paragraph 147.

148. Mobility denies each and every allegation of Paragraph 148.

C. Declaration of Unenforceability

149. Mobility repeats and realleges its responses to Paragraphs 112 through 148 above as if fully set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1-111 of its Amended Answer and Counterclaims, Mobility, to the extent so required, admits that Apple so responds to those Paragraphs in Mobility's Complaint and denies any of Apple's allegations therein.

150. Mobility admits that at this time an actual and justiciable controversy exists between Apple and Mobility with respect to the '006 patent. Mobility admits that it has brought an action against Apple alleging that Apple infringes the '006 patent by making, using, offering for sale, selling, and/or importing Apple's MobileMe service, certain iPhone products and iPad with 3G product. Mobility denies the remaining allegations of Paragraph 150, including specifically denying that the '006 patent is invalid and that Mobility is wrongfully asserting the '006 patent against Apple, thereby causing Apple any harm.

151. Mobility denies each and every allegation of Paragraph 151, including, but not limited to, specifically denying Apple's allegations of inequitable conduct as described in Apple's affirmative defenses. Mobility specifically denies that Gene Eggleston, Mitch Hansen, or the prosecuting attorneys for the '006 patent were aware of specific material information, including any prior art, that they withheld, concealed, or mischaracterized with the intent to

deceive the Patent Office. Mobility incorporates by reference its response to Apple's Fourteenth Affirmative Defense set forth below.

152. Mobility denies each and every allegation of Paragraph 152.

FOURTH COUNTERCLAIM – DECLARATORY JUDGMENT

U.S. PATENT NO. 6,008,737

153. Mobility admits that Apple purports to counterclaim against Mobility pursuant to the patent laws of the United States, Title 35 of the United States Code and the Declaratory Judgments Act, 28 U.S.C. §§ 2201 and 2202. Mobility specifically denies Apple's allegations regarding non-infringement, invalidity, or unenforceability of the asserted Mobility patents, including U.S. Patent No. 6,008,737. Mobility denies the remaining allegations of Paragraph 153.

154. Admitted. U.S. Patent No. 6,008,737 has been assigned to Mobility.

A. Declaration of Noninfringement

155. Mobility repeats and realleges its responses to Paragraphs 112 through 154 above as if fully set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1-111 of its Amended Answer and Counterclaims, Mobility, to the extent so required, admits that Apple so responds to those Paragraphs in Mobility's Complaint and denies any of Apple's allegations therein.

156. Mobility admits that at this time an actual and justiciable controversy exists between Apple and Mobility with respect to the '737 patent. Mobility admits that it has brought an action against Apple alleging that Apple infringes the '737 patent by making, using, offering for sale, selling, and/or importing Apple's App Store service, certain iPhone products, certain iPad products, and the iPod touch products. Mobility denies the remaining allegations of Paragraph 156, including, but not limited to, specifically denying that Apple does not infringe

the '737 patent and that Mobility is wrongfully asserting the '737 patent against Apple, thereby causing Apple any harm.

157. Mobility denies each and every allegation of Paragraph 157.

158. Mobility denies each and every allegation of Paragraph 158.

B. Declaration of Invalidity

159. Mobility repeats and realleges its responses to Paragraphs 112 through 158 above as if fully set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1-111 of its Amended Answer and Counterclaims, Mobility, to the extent so required, admits that Apple so responds to those Paragraphs in Mobility's Complaint and denies any of Apple's allegations therein.

160. Mobility admits that at this time an actual and justiciable controversy exists between Apple and Mobility with respect to the '737 patent. Mobility admits that Mobility has brought an action against Apple alleging that Apple infringes the '737 patent by making, using, offering for sale, selling, and/or importing Apple's App Store service, certain iPhone products, certain iPad products, and the iPod touch products. Mobility denies the remaining allegations of Paragraph 160, including specifically denying that the '737 patent is invalid and that Mobility is wrongfully asserting the '737 patent against Apple, thereby causing Apple any harm.

161. Mobility denies each and every allegation of Paragraph 161.

162. Mobility denies each and every allegation of Paragraph 162.

FIFTH COUNTERCLAIM – DECLARATORY JUDGMENT

U.S. PATENT NO. 6,101,531

163. Mobility admits that Apple purports to counterclaim against Mobility pursuant to the patent laws of the United States, Title 35 of the United States Code and the Declaratory Judgments Act, 28 U.S.C. §§ 2201 and 2202. Mobility specifically denies Apple's allegations

regarding non-infringement, invalidity, or unenforceability of the asserted Mobility patents, including U.S. Patent No. 6,101,531. Mobility denies the remaining allegations of Paragraph 163.

164. Admitted. U.S. Patent No. 6,101,531 has been assigned to Mobility.

A. Declaration of Noninfringement

165. Mobility repeats and realleges its responses to Paragraphs 112 through 164 above as if fully set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1-111 of its Amended Answer and Counterclaims, Mobility, to the extent so required, admits that Apple so responds to those Paragraphs in Mobility's Complaint and denies any of Apple's allegations therein.

166. Mobility admits that at this time an actual and justiciable controversy exists between Apple and Mobility with respect to the '531 patent. Mobility admits that it has brought an action against Apple alleging that Apple infringes the '531 patent by making, using, offering for sale, selling, and/or importing Apple's MobileMe service, certain iPhone products, and its iPad with 3G product. Mobility denies the remaining allegations of Paragraph 166, including, but not limited to, specifically denying that Apple does not infringe the '531 patent and that Mobility is wrongfully asserting the '531 patent against Apple, thereby causing Apple any harm.

167. Mobility denies each and every allegation of Paragraph 167.

168. Mobility denies each and every allegation of Paragraph 168.

B. Declaration of Invalidity

169. Mobility repeats and realleges its responses to Paragraphs 112 through 168 above as if fully set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1-111 of its Amended Answer and

Counterclaims, Mobility, to the extent so required, admits that Apple so responds to those Paragraphs in Mobility's Complaint and denies any of Apple's allegations therein.

170. Mobility admits that at this time an actual and justiciable controversy exists between Apple and Mobility with respect to the '531 patent. Mobility admits that it has brought an action against Apple alleging that Apple infringes the '531 patent by making, using, offering for sale, selling, and/or importing Apple's MobileMe service, certain iPhone products, and its iPad with 3G product. Mobility denies the remaining allegations of Paragraph 170, including, but not limited to, specifically denying that the '531 patent is invalid and that Mobility is wrongfully asserting the '531 patent against Apple, thereby causing Apple any harm.

171. Mobility denies each and every allegation of Paragraph 171.

172. Mobility denies each and every allegation of Paragraph 172.

SIXTH COUNTERCLAIM – DECLARATORY JUDGMENT

U.S. PATENT NO. 6,377,161

173. Mobility admits that Apple purports to counterclaim against Mobility pursuant to the patent laws of the United States, Title 35 of the United States Code and the Declaratory Judgments Act, 28 U.S.C. §§ 2201 and 2202. Mobility specifically denies Apple's allegations regarding non-infringement, invalidity, or unenforceability of the asserted Mobility patents, including U.S. Patent No. 6,377,161. Mobility denies the remaining allegations of Paragraph 173.

174. Admitted. U.S. Patent No. 6,377,161 has been assigned to Mobility.

A. Declaration of Noninfringement

175. Mobility repeats and realleges its responses to Paragraphs 112 through 174 above as if fully set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1-111 of its Amended Answer and

Counterclaims, Mobility, to the extent so required, admits that Apple so responds to those Paragraphs in Mobility's Complaint and denies any of Apple's allegations therein.

176. Mobility admits that at this time an actual and justiciable controversy exists between Apple and Mobility with respect to the '161 patent. Mobility admits that it has brought an action against Apple alleging that Apple infringes the '161 patent by making, using, offering for sale, selling, and/or importing certain of Apple's iPhone products. Mobility denies the remaining allegations of Paragraph 176, including, but not limited to, specifically denying that Apple does not infringe the '161 patent and that Mobility is wrongfully asserting the '161 patent against Apple, thereby causing Apple any harm.

177. Mobility denies each and every allegation of Paragraph 177.

178. Mobility denies each and every allegation of Paragraph 178.

B. Declaration of Invalidity

179. Mobility repeats and realleges its responses to Paragraphs 112 through 178 above as if fully set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1-111 of its Amended Answer and Counterclaims, Mobility, to the extent so required, admits that Apple so responds to those Paragraphs in Mobility's Complaint and denies any of Apple's allegations therein.

180. Mobility admits that at this time an actual and justiciable controversy exists between Apple and Mobility with respect to the '161 patent. Mobility admits that it has brought an action against Apple alleging that Apple infringes the '161 patent by making, using, offering for sale, selling, and/or importing certain of Apple's iPhone products. Mobility denies the remaining allegations of Paragraph 180, including, but not limited to, specifically denying that

the '161 patent is invalid and that Mobility is wrongfully asserting the '161 patent against Apple, thereby causing Apple any harm.

181. Mobility denies each and every allegation of Paragraph 181.

182. Mobility denies each and every allegation of Paragraph 182.

SEVENTH COUNTERCLAIM – INFRINGEMENT OF U.S. PATENT NO. 5,583,560

183. Counterclaim-Defendants repeat and reallege their responses to Paragraphs 112 through 182 above as if fully set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1-111 of its Amended Answer and Counterclaims, Counterclaim-Defendants, to the extent so required, admit that Apple so responds to those Paragraphs in Mobility's Complaint and deny any of Apple's allegations therein.

184. Counterclaim-Defendants lack knowledge or information sufficient to form a belief regarding Apple's allegation that it is the owner of the entire right, title, and interest to and in U.S. Patent No. 5,583,560 ("the '560 patent"). Counterclaim-Defendants admit that Apple alleges that a copy of the '560 patent is attached to its counterclaims as Exhibit F, but lack knowledge or information sufficient to form a belief regarding Apple's allegation that Exhibit F is a correct copy. Counterclaim-Defendants admit that the face of the document Apple alleges is a copy of the '560 patent states that it is entitled "Method and Apparatus for Audio-Visual Interface for the Selective Display of Listing Information on a Display" and that it was issued on December 10, 1996. Counterclaim-Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 184 regarding the '560 patent, including any allegations regarding inventorship, and on that basis deny them. To the extent such allegations are contained in Paragraph 184, Counterclaim-Defendants deny that the '560 patent is valid or enforceable.

185. Counterclaim-Defendants deny each and every allegation contained in Paragraph 185 and Footnote 1 thereto.

186. Counterclaim-Defendants deny each and every allegation contained in Paragraph 186.

187. Counterclaim-Defendants deny each and every allegation contained in Paragraph 187.

188. Counterclaim-Defendants deny each and every allegation contained in Paragraph 188.

189. Counterclaim-Defendants deny each and every allegation contained in Paragraph 189.

EIGHTH COUNTERCLAIM – INFRINGEMENT OF U.S. PATENT NO. 5,594,509

190. Counterclaim-Defendants repeat and reallege their responses to Paragraphs 112 through 189 above as if fully set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1-111 of its Amended Answer and Counterclaims, Counterclaim-Defendants, to the extent so required, admit that Apple so responds to those Paragraphs in Mobility’s Complaint and deny any of Apple’s allegations therein.

191. Counterclaim-Defendants lack knowledge or information sufficient to form a belief regarding Apple’s allegation that it is the owner of the entire right, title, and interest to and in U.S. Patent No. 5,594,509 (“the ’509 patent”). Counterclaim-Defendants admit that Apple alleges that a copy of the ’509 patent is attached to its counterclaims as Exhibit G, but lack knowledge or information sufficient to form a belief regarding Apple’s allegation that Exhibit G is a correct copy. Counterclaim-Defendants admit that the face of the document Apple alleges is a copy of the ’509 patent states that it is entitled “Method and Apparatus for Audio-Visual

Interface for the Display of Multiple Levels of Information on a Display” and that it was issued on January 14, 1997. Counterclaim-Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 191 regarding the ’509 patent, including any allegations regarding inventorship, and on that basis deny them. To the extent such allegations are contained in Paragraph 191, Counterclaim-Defendants deny that the ’509 patent is valid or enforceable.

192. Counterclaim-Defendants deny each and every allegation contained in Paragraph 192.

193. Counterclaim-Defendants deny each and every allegation contained in Paragraph 193.

194. Counterclaim-Defendants deny each and every allegation contained in Paragraph 194.

195. Counterclaim-Defendants deny each and every allegation contained in Paragraph 195.

196. Counterclaim-Defendants deny each and every allegation contained in Paragraph 196.

NINTH COUNTERCLAIM – INFRINGEMENT OF U.S. PATENT NO. 5,621,456

197. Counterclaim-Defendants repeat and reallege their responses to Paragraphs 112 through 196 above as if fully set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1-111 of its Amended Answer and Counterclaims, Counterclaim-Defendants, to the extent so required, admit that Apple so responds to those Paragraphs in Mobility’s Complaint and deny any of Apple’s allegations therein.

198. Counterclaim-Defendants lack knowledge or information sufficient to form a belief regarding Apple’s allegation that it is the owner of the entire right, title, and interest to and in U.S. Patent No. 5,621,456 (“the ’456 patent”). Counterclaim-Defendants admit that Apple alleges that a copy of the ’456 patent is attached to its counterclaims as Exhibit H, but lack knowledge or information sufficient to form a belief regarding Apple’s allegation that Exhibit H is a correct copy. Counterclaim-Defendants admit that the face of the document Apple alleges is a copy of the ’456 patent states that it is entitled “Methods and Apparatus for Audio-Visual Interface for the Display of Multiple Program Categories” and that it was issued on April 15, 1997. Counterclaim-Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 198 regarding the ’456 patent, including any allegations regarding inventorship, and on that basis deny them. To the extent such allegations are contained in Paragraph 198, Counterclaim-Defendants deny that the ’456 patent is valid or enforceable.

199. Counterclaim-Defendants deny each and every allegation contained in Paragraph 199.

200. Counterclaim-Defendants deny each and every allegation contained in Paragraph 200.

201. Counterclaim-Defendants deny each and every allegation contained in Paragraph 201.

202. Counterclaim-Defendants deny each and every allegation contained in Paragraph 202.

203. Counterclaim-Defendants deny each and every allegation contained in Paragraph 203.

TENTH COUNTERCLAIM – INFRINGEMENT OF U.S. PATENT NO. 6,282,646

204. Counterclaim-Defendants repeat and reallege their responses to Paragraphs 112 through 203 above as if fully set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1-111 of its Amended Answer and Counterclaims, Counterclaim-Defendants, to the extent so required, admit that Apple so responds to those Paragraphs in Mobility’s Complaint and deny any of Apple’s allegations therein.

205. Counterclaim-Defendants lack knowledge or information sufficient to form a belief regarding Apple’s allegation that it is the owner of the entire right, title, and interest to and in U.S. Patent No. 6,282,646 (“the ’646 patent”). Counterclaim-Defendants admit that Apple alleges that a copy of the ’646 patent is attached to its counterclaims as Exhibit I, but lack knowledge or information sufficient to form a belief regarding Apple’s allegation that Exhibit I is a correct copy. Counterclaim-Defendants admit that the face of the document Apple alleges is a copy of the ’646 patent states that it is entitled “System for Real-Time Adaptation to Changes in Display Configuration” and that it was issued on August 28, 2001. Counterclaim-Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 205 regarding the ’646 patent, including any allegations regarding inventorship, and on that basis deny them. To the extent such allegations are contained in Paragraph 205, Counterclaim-Defendants deny that the ’646 patent is valid or enforceable.

206. Counterclaim-Defendants deny each and every allegation contained in Paragraph 206.

207. Counterclaim-Defendants deny each and every allegation contained in Paragraph 207.

208. Counterclaim-Defendants deny each and every allegation contained in Paragraph 208.

209. Counterclaim-Defendants deny each and every allegation contained in Paragraph 209.

ELEVENTH COUNTERCLAIM – INFRINGEMENT OF U.S. PATENT NO. 7,380,116

210. Counterclaim-Defendants repeat and reallege their responses to Paragraphs 112 through 209 above as if fully set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1-111 of its Amended Answer and Counterclaims, Counterclaim-Defendants, to the extent so required, admit that Apple so responds to those Paragraphs in Mobility’s Complaint and deny any of Apple’s allegations therein.

211. Counterclaim-Defendants lack knowledge or information sufficient to form a belief regarding Apple’s allegation that it is the owner of the entire right, title, and interest to and in U.S. Patent No. 7,380,116 (“the ’116 patent”). Counterclaim-Defendants admit that Apple alleges that a copy of the ’116 patent is attached to its counterclaims as Exhibit J, but lack knowledge or information sufficient to form a belief regarding Apple’s allegation that Exhibit J is a correct copy. Counterclaim-Defendants admit that the face of the document Apple alleges is a copy of the ’116 patent states that it is entitled “System for Real-Time Adaptation to Changes in Display Configuration” and that it was issued on May 27, 2008. Counterclaim-Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 211 regarding the ’116 patent, including any allegations regarding inventorship, and on that basis deny them. To the extent such allegations are contained in Paragraph 211, Counterclaim-Defendants deny that the ’116 patent is valid or enforceable.

212. Counterclaim-Defendants deny each and every allegation contained in Paragraph 212.

213. Counterclaim-Defendants deny each and every allegation contained in Paragraph 213.

214. Counterclaim-Defendants deny each and every allegation contained in Paragraph 214.

215. Counterclaim-Defendants deny each and every allegation contained in Paragraph 215.

TWELFTH COUNTERCLAIM – INFRINGEMENT OF U.S. PATENT NO. 7,657,849

216. Counterclaim-Defendants repeat and reallege their responses to Paragraphs 112 through 215 above as if fully set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1-111 of its Amended Answer and Counterclaims, Counterclaim-Defendants, to the extent so required, admit that Apple so responds to those Paragraphs in Mobility’s Complaint and deny any of Apple’s allegations therein.

217. Counterclaim-Defendants lack knowledge or information sufficient to form a belief regarding Apple’s allegation that it is the owner of the entire right, title, and interest to and in U.S. Patent No. 7,657,849 (“the ’849 patent”). Counterclaim-Defendants admit that Apple alleges that a copy of the ’849 patent is attached to its counterclaims as Exhibit K, but lack knowledge or information sufficient to form a belief regarding Apple’s allegation that Exhibit K is a correct copy. Counterclaim-Defendants admit that the face of the document Apple alleges is a copy of the ’849 patent states that it is entitled “Unlocking a Device by Performing Gestures on an Unlock Image” and that it was issued on February 2, 2010. Counterclaim-Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations

in Paragraph 217 regarding the '849 patent, including any allegations regarding inventorship, and on that basis deny them. To the extent such allegations are contained in Paragraph 217, Counterclaim-Defendants deny that the '849 patent is valid or enforceable.

218. Counterclaim-Defendants deny each and every allegation contained in Paragraph 218.

219. Counterclaim-Defendants deny each and every allegation contained in Paragraph 219.

220. Counterclaim-Defendants deny each and every allegation contained in Paragraph 220.

221. Counterclaim-Defendants deny each and every allegation contained in Paragraph 221.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Counterclaim-Defendants demand a trial by jury of this action.

REQUEST FOR RELIEF

Counterclaim-Defendants deny each and every allegation contained in the Section of Apple's Counterclaims headed "Request for Relief," including Apple's allegation that it is entitled to or should be granted any relief in this matter, including any of the relief Apple seeks in lettered Paragraphs A through H.

**MOBILITY'S REPLY TO APPLE'S FOURTEENTH DEFENSE
OF INEQUITABLE CONDUCT**

GENERAL DENIAL OF ALL AFFIRMATIVE DEFENSES

Unless expressly admitted below, Mobility denies each and every allegation Apple has set forth in its Amended Affirmative Defenses, including, as set forth below, specifically denying the allegations contained in Apple's Fourteenth Defense regarding alleged inequitable conduct.

RESPONSE TO APPLE'S SPECIFIC ALLEGATIONS

Answering the specific allegations of Apple's Fourteenth Defense, Mobility responds with the following Paragraphs, which correspond sequentially to the Paragraphs in Apple's Fourteenth Defense:³

73. Mobility denies each and every allegation of Paragraph 73, including specifically denying Apple's allegations that the '006 patent is unenforceable and Apple's allegations of inequitable conduct. Mobility specifically denies that Gene Eggleston, Mitch Hansen, and the prosecuting attorneys for the '006 patent were aware of any material information, including any prior art, that they withheld, concealed, or mischaracterized with the intent to deceive the Patent Office or that any such prior art exists, including any allegation that the references discussed in Apple's Fourteenth Affirmative Defense are prior art.

74. Mobility admits that the United States patent application number 08/574,541 and 08/574,537 were filed on December 19, 1995. Mobility denies each and every allegation of Paragraph 74, including specifically denying Apple's allegations of inequitable conduct. Mobility specifically denies that Gene Eggleston, Mitch Hansen, and the prosecuting attorneys for the '006 patent were aware of any material information, including any prior art, that they

³ To the extent the headers used by Apple in its Fourteenth Affirmative Defense contain allegations requiring response, Mobility hereby denies them.

withheld, concealed, or mischaracterized with the intent to deceive the Patent Office or that any such prior art exists, including any allegation that the references discussed in Apple's Fourteenth Affirmative Defense are prior art.

75. Mobility admits that Eggleston and Hansen were named as inventors on the '006 application and related application. Mobility admits that Sarli and Hughes are named as prosecuting attorneys involved in the prosecution of the '006 application. Mobility denies each and every allegation of Paragraph 75, including specifically denying Apple's allegations of inequitable conduct. Mobility specifically denies that Gene Eggleston, Mitch Hansen, and the prosecuting attorneys for the '006 patent were aware of any material information, including any prior art, that they withheld, concealed, or mischaracterized with the intent to deceive the Patent Office or that any such prior art exists, including any allegation that the references discussed in Apple's Fourteenth Affirmative Defense are prior art.

76. Mobility lacks information sufficient to form a belief regarding the allegations contained in Paragraph 76, and on that basis, denies them.

77. Any allegations contained in Paragraph 77 constitute legal conclusions, and on that basis, to the extent that a response is required, Mobility denies each and every allegation in Paragraph 77. To the extent there are any remaining allegations in Paragraph 77, they are incomplete and on that basis Mobility denies them.

78. Mobility denies each and every allegation of Paragraph 78, including specifically denying Apple's allegations of inequitable conduct. Mobility specifically denies that Gene Eggleston, Mitch Hansen, and the prosecuting attorneys for the '006 patent were aware of any material information, including any prior art, that they withheld, concealed, or mischaracterized

with the intent to deceive the Patent Office or that any such prior art exists, including any allegation that the references discussed in Apple's Fourteenth Affirmative Defense are prior art.

79. Mobility denies each and every allegation of Paragraph 79, including specifically denying Apple's allegations of inequitable conduct. Mobility specifically denies that Gene Eggleston, Mitch Hansen, and the prosecuting attorneys for the '006 patent were aware of any material information, including any prior art, that they withheld, concealed, or mischaracterized with the intent to deceive the Patent Office or that any such prior art exists, including any allegation that the references discussed in Apple's Fourteenth Affirmative Defense are prior art.

80. Any allegations contained in Paragraph 80 constitute legal conclusions, and on that basis, to the extent that a response is required, Mobility denies each and every allegation in Paragraph 80. To the extent there are any remaining allegations in Paragraph 80, they are incomplete and on that basis Mobility denies them.

81. Mobility states that the '006 application and the "related application" speak for themselves, and therefore denies Apple's allegations regarding them on that basis. Any other allegations contained in Paragraph 81 constitute legal conclusions, and on that basis, to the extent that a response is required, Mobility denies each and every allegation in Paragraph 81. To the extent there are any remaining allegations in Paragraph 81, they are incomplete and on that basis Mobility denies them.

82. Mobility states that the '006 application and the "related application" speak for themselves, and therefore denies Apple's allegations regarding them on that basis. Any allegations contained in Paragraph 82 constitute legal conclusions, and on that basis, to the extent that a response is required, Mobility denies each and every allegation in Paragraph 82. To the

extent there are any remaining allegations in Paragraph 82, they are incomplete and on that basis Mobility denies them.

83. Any allegations contained in Paragraph 83 constitute legal conclusions, and on that basis, to the extent that a response is required, Mobility denies each and every allegation in Paragraph 83. To the extent there are any remaining allegations in Paragraph 83, they are incomplete and on that basis Mobility denies them. Mobility further specifically denies that Gene Eggleston, Mitch Hansen, and the prosecuting attorneys for the '006 patent were aware of any material information, including any prior art, that they withheld, concealed, or mischaracterized with the intent to deceive the Patent Office or that any such prior art exists, including any allegation that the references discussed in Apple's Fourteenth Affirmative Defense are prior art.

84. Any allegations contained in Paragraph 84 constitute legal conclusions, and on that basis, to the extent that a response is required, Mobility denies each and every allegation in Paragraph 84. To the extent there are any remaining allegations in Paragraph 84, they are incomplete and on that basis Mobility denies them. Mobility further specifically denies that Gene Eggleston, Mitch Hansen, and the prosecuting attorneys for the '006 patent were aware of any material information, including any prior art, that they withheld, concealed, or mischaracterized with the intent to deceive the Patent Office or that any such prior art exists, including any allegation that the references discussed in Apple's Fourteenth Affirmative Defense are prior art.

85. Mobility states the April 24, 1997 Office Action speaks for itself, and on that basis denies Apple's allegations regarding it. Any remaining allegations contained in Paragraph 85 constitute legal conclusions, and on that basis, to the extent that a response is required,

Mobility denies each and every allegation in Paragraph 85. To the extent there are any remaining allegations in Paragraph 85, they are incomplete and on that basis Mobility denies them.

86. Mobility states the July 22, 1997 amendment speaks for itself, and on that basis denies Apple's allegations regarding it. To the extent there are any remaining allegations in Paragraph 86, they are incomplete and on that basis Mobility denies them.

87. Mobility states the November 4, 1997 Office Action, mailed November 19, 1997, speaks for itself, and on that basis denies Apple's allegations regarding it. Any remaining allegations contained in Paragraph 87 constitute legal conclusions, and on that basis, to the extent that a response is required, Mobility denies each and every allegation in Paragraph 87. To the extent there are any remaining allegations in Paragraph 87, they are incomplete and on that basis Mobility denies them.

88. Mobility states the April 15, 1998 amendment speaks for itself, and on that basis denies Apple's allegations regarding it. Any remaining allegations contained in Paragraph 88 constitute legal conclusions, and on that basis, to the extent that a response is required, Mobility denies each and every allegation in Paragraph 88. To the extent there are any remaining allegations in Paragraph 87, they are incomplete and on that basis Mobility denies them.

89. Mobility states April 21, 1998 Advisory Action and Notice of Abandonment speak for themselves. Any remaining allegations contained in Paragraph 89 constitute legal conclusions, and on that basis, to the extent that a response is required, Mobility denies each and every allegation in Paragraph 89. To the extent there are any remaining allegations in Paragraph 89, they are incomplete and on that basis Mobility denies them.

90. Mobility states the April 26, 1999 notice of allowance speaks for itself, and on that basis denies Apple's allegations regarding it. Any remaining allegations contained in Paragraph 90 constitute legal conclusions, and on that basis, to the extent that a response is required, Mobility denies each and every allegation in Paragraph 90. To the extent there are any remaining allegations in Paragraph 90, they are incomplete and on that basis Mobility denies them.

91. Any allegations contained in Paragraph 91 constitute legal conclusions, and on that basis, to the extent that a response is required, Mobility denies each and every allegation in Paragraph 91. To the extent there are any remaining allegations in Paragraph 91, they are incomplete and on that basis Mobility denies them. Mobility further specifically denies that Gene Eggleston, Mitch Hansen, and the prosecuting attorneys for the '006 patent were aware of any material information, including any prior art, that they withheld, concealed, or mischaracterized with the intent to deceive the Patent Office or that any such prior art exists, including any allegation that the references discussed in Apple's Fourteenth Affirmative Defense are prior art.

92. Any allegations contained in Paragraph 92 constitute legal conclusions, and on that basis, to the extent that a response is required, Mobility denies each and every allegation in Paragraph 92. To the extent there are any remaining allegations in Paragraph 92, they are incomplete and on that basis Mobility denies them. Mobility further specifically denies that Gene Eggleston, Mitch Hansen, and the prosecuting attorneys for the '006 patent were aware of any material information, including any prior art, that they withheld, concealed, or mischaracterized with the intent to deceive the Patent Office or that any such prior art exists,

including any allegation that the references discussed in Apple's Fourteenth Affirmative Defense are prior art.

93. Any allegations contained in Paragraph 93 constitute legal conclusions, and on that basis, to the extent that a response is required, Mobility denies each and every allegation in Paragraph 93. To the extent there are any remaining allegations in Paragraph 93, they are incomplete and on that basis Mobility denies them. Mobility further specifically denies that Gene Eggleston, Mitch Hansen, and the prosecuting attorneys for the '006 patent were aware of any material information, including any prior art, that they withheld, concealed, or mischaracterized with the intent to deceive the Patent Office or that any such prior art exists, including any allegation that the references discussed in Apple's Fourteenth Affirmative Defense are prior art.

94. Mobility admits that Apple purports to attach a copy of "Vaudreuil" as Exhibit A. Mobility the remaining allegations of Paragraph 94, including specifically denying that Gene Eggleston, Mitch Hansen, and the prosecuting attorneys for the '006 patent were aware of any material information, including any prior art, that they withheld, concealed, or mischaracterized with the intent to deceive the Patent Office or that any such prior art exists, including any allegation that the references discussed in Apple's Fourteenth Affirmative Defense are prior art.

95. Any allegations contained in Paragraph 95 constitute legal conclusions, and on that basis, to the extent that a response is required, Mobility denies each and every allegation in Paragraph 95. To the extent there are any remaining allegations in Paragraph 95, they are incomplete and on that basis Mobility denies them. Mobility further specifically denies that Gene Eggleston, Mitch Hansen, and the prosecuting attorneys for the '006 patent were aware of any material information, including any prior art, that they withheld, concealed, or

mischaracterized with the intent to deceive the Patent Office or that any such prior art exists, including any allegation that the references discussed in Apple's Fourteenth Affirmative Defense are prior art.

96. Mobility states that Exhibit A speaks for itself, and on that basis denies Apple's allegations regarding it. Any allegations contained in Paragraph 96 constitute legal conclusions, and on that basis, to the extent that a response is required, Mobility denies each and every allegation in Paragraph 96. To the extent there are any remaining allegations in Paragraph 96, they are incomplete and on that basis Mobility denies them. Mobility further specifically denies that Gene Eggleston, Mitch Hansen, and the prosecuting attorneys for the '006 patent were aware of any material information, including any prior art, that they withheld, concealed, or mischaracterized with the intent to deceive the Patent Office or that any such prior art exists, including any allegation that the references discussed in Apple's Fourteenth Affirmative Defense are prior art.

97. Mobility states that Exhibit A speaks for itself, and on that basis denies Apple's allegations regarding it. Any allegations contained in Paragraph 97 constitute legal conclusions, and on that basis, to the extent that a response is required, Mobility denies each and every allegation in Paragraph 97. To the extent there are any remaining allegations in Paragraph 97, they are incomplete and on that basis Mobility denies them. Mobility further specifically denies that Gene Eggleston, Mitch Hansen, and the prosecuting attorneys for the '006 patent were aware of any material information, including any prior art, that they withheld, concealed, or mischaracterized with the intent to deceive the Patent Office or that any such prior art exists, including any allegation that the references discussed in Apple's Fourteenth Affirmative Defense are prior art.

98. Any allegations contained in Paragraph 98 constitute legal conclusions, and on that basis, to the extent that a response is required, Mobility denies each and every allegation in Paragraph 98. To the extent there are any remaining allegations in Paragraph 98, they are incomplete and on that basis Mobility denies them.

99. Any allegations contained in Paragraph 99 constitute legal conclusions, and on that basis, to the extent that a response is required, Mobility denies each and every allegation in Paragraph 99. To the extent there are any remaining allegations in Paragraph 99, they are incomplete and on that basis Mobility denies them. Mobility further specifically denies that Gene Eggleston, Mitch Hansen, and the prosecuting attorneys for the '006 patent were aware of any material information, including any prior art, that they withheld, concealed, or mischaracterized with the intent to deceive the Patent Office or that any such prior art exists, including any allegation that the references discussed in Apple's Fourteenth Affirmative Defense are prior art.

100. Any allegations contained in Paragraph 100 constitute legal conclusions, and on that basis, to the extent that a response is required, Mobility denies each and every allegation in Paragraph 100. To the extent there are any remaining allegations in Paragraph 100, they are incomplete and on that basis Mobility denies them.

101. Mobility lacks information sufficient to form a belief regarding the allegations contained in Paragraph 101, and on that basis, denies them.

102. Any allegations contained in Paragraph 102 constitute legal conclusions, and on that basis, to the extent that a response is required, Mobility denies each and every allegation in Paragraph 102. To the extent there are any remaining allegations in Paragraph 102, they are incomplete and on that basis Mobility denies them. Mobility further specifically denies that

Gene Eggleston, Mitch Hansen, and the prosecuting attorneys for the '006 patent were aware of any material information, including any prior art, that they withheld, concealed, or mischaracterized with the intent to deceive the Patent Office or that any such prior art exists, including any allegation that the references discussed in Apple's Fourteenth Affirmative Defense are prior art.

103. Mobility admits that Apple purports to attach a copy of "Harkins" as Exhibit B. Mobility the remaining allegations of Paragraph 103, including specifically denying that Gene Eggleston, Mitch Hansen, and the prosecuting attorneys for the '006 patent were aware of any material information, including any prior art, that they withheld, concealed, or mischaracterized with the intent to deceive the Patent Office or that any such prior art exists, including any allegation that the references discussed in Apple's Fourteenth Affirmative Defense are prior art.

104. Mobility admits that the examiner reviewing the '537 application issued an office action rejecting all claims and listed Harkins on the examiner's Notice of References Cited. Mobility denies each and every other allegation of Paragraph 104, including specifically denying that the inventors and prosecuting attorney had knowledge regarding material prior art at least by April 24, 1997 or during the pendency of U.S. Patent Application No. 08/574,541 ("the '541 application") that they withheld, concealed, or mischaracterized with the intent to deceive the Patent Office Patent. Mobility further denies that Harkins constitutes prior art.

105. Mobility denies each and every allegation of Paragraph 105, including Apple's allegation that Eggleston, Hansen and Hughes knew that Harkins was material prior art to the '541 application and '006 patent "because Harkins discloses a 'Network Having Selectively Accessible Recipient Prioritized Communication Channel Profiles'" or because Harkins was identified to the Patent Office during prosecution of the '531 patent, and that they withheld,

concealed, or mischaracterized any material prior art with the intent to deceive the Patent Office. Mobility further denies that Harkins constitutes prior art. Any remaining allegations contained in Paragraph 105 constitute legal conclusions or are incomplete, and on that basis, to the extent that a response is required, Mobility denies each and every allegation in Paragraph 105.

106. Mobility admits that the '006 patent is currently undergoing an *ex parte* reexamination. Mobility states that the document at Exhibit E speaks for itself, and on that basis denies Apple's allegations regarding it. Mobility denies each and every remaining allegation of Paragraph 106, including Apple's allegations regarding the materiality of Harkins.

107. Any allegations contained in Paragraph 107 constitute legal conclusions, and on that basis, to the extent that a response is required, Mobility denies each and every allegation in Paragraph 107. To the extent there are any remaining allegations in Paragraph 107, they are incomplete and on that basis Mobility denies them. Mobility further specifically denies Apple's allegation that any inventions claimed in Harkins anticipate and/or render obvious the '006 patent.

108. Mobility denies each and every allegation of Paragraph 108, including specifically denying Apple's allegations of inequitable conduct. Mobility specifically denies that Gene Eggleston, Mitch Hansen, and the prosecuting attorneys for the '006 patent failed to disclose Harkins during prosecution of the '006 patent with an intent to deceive the Patent Office or were aware of material information, including any prior art, that they withheld, concealed, or mischaracterized with the intent to deceive the Patent Office or that any such prior art exists. Mobility further reincorporates its response to Paragraph 105, including specifically denying that Eggleston, Hansen, and Hughes knew that Harkins was material prior art to the '541 application and '006 patent "because Harkins discloses a 'Network Having Selectively Accessible Recipient

Prioritized Communication Channel Profiles” or because Harkins was identified to the Patent Office during prosecution of the ’531 patent and that they withheld, concealed, or mischaracterized any material prior art with the intent to deceive the Patent Office.

109. Any allegations contained in Paragraph 109 constitute legal conclusions, and on that basis, to the extent that a response is required, Mobility denies each and every allegation in Paragraph 109. To the extent there are any remaining allegations in Paragraph 109, they are incomplete and on that basis Mobility denies them.

110. Mobility lacks information sufficient to form a belief regarding the allegations contained in Paragraph 110, and on that basis denies each and every allegation in Paragraph 110.

111. Mobility denies each and every allegation of Paragraph 111, including, but not limited to, specifically denying Apple’s allegations that the ’006 patent is unenforceable or that the named inventors and prosecuting attorneys committed fraud on the Patent Office or any inequitable conduct by withholding, concealing, or mischaracterizing any material prior art with the intent to deceive the Patent Office.

COUNTERCLAIM-DEFENDANTS’ AFFIRMATIVE AND OTHER DEFENSES

Counterclaim-Defendants assert the following affirmative and other defenses set forth below, and in making such defenses do not concede that they bear the burden of proof as to any of them. Discovery is just beginning in this matter, and, therefore, Counterclaim-Defendants have not yet fully collected and reviewed all of the information and materials that may be relevant to the matters and issues raised herein. Accordingly, Counterclaim-Defendants reserve the right to amend, modify, or expand these defenses and to take further positions as discovery proceeds in this matter.

FIRST DEFENSE AND AFFIRMATIVE DEFENSE
(Invalidity)

Upon information and belief, and without prejudice to further amendment upon information found during discovery, each asserted claim of the patents asserted by Apple is invalid for failure to satisfy the conditions of patentability as specified under one or more sections of Title 35 of the United States Code, including, without limitation, 35 U.S.C. §§ 102, 103, and/or 112.

SECOND DEFENSE AND AFFIRMATIVE DEFENSE
(Non-Infringement)

Counterclaim-Defendants have not and do not infringe any claim of the patents asserted by Apple.

THIRD DEFENSE AND AFFIRMATIVE DEFENSE
(Prosecution History Estoppel)

Upon information and belief, by reason of the proceedings in the U.S. Patent and Trademark Office (“USPTO”) during the prosecution of the applications resulting in the issuance of the patents asserted by Apple, namely, the admissions, representations, and amendments made on behalf of the applicants for those patents, Apple is estopped from extending the coverage of the asserted claims in the asserted patents, including under the doctrine of equivalents, to cover the accused instrumentalities.

FOURTH DEFENSE AND AFFIRMATIVE DEFENSE
(Acquiescence, Estoppel, Waiver, or Laches)

Upon information and belief, Apple has made claims that are barred in whole or in part by the doctrines of acquiescence, estoppel, laches, or waiver.

FIFTH DEFENSE AND AFFIRMATIVE DEFENSE
(35 U.S.C. § 287 – Failure to Mark)

Upon information and belief, Apple’s pre-lawsuit claims for damages as to the asserted patents are barred, in whole or in part, for failure to comply with 35 U.S.C. § 287.

SIXTH DEFENSE AND AFFIRMATIVE DEFENSE
(28 U.S.C. § 1498)

Upon information and belief, Mobility may sell and/or offer for sale in the United States the accused instrumentalities to the United States government or to third parties who sell the accused instrumentalities to the United States government. Mobility therefore is entitled to assert 28 U.S.C. § 1498 as a defense to Apple’s allegations.

SEVENTH DEFENSE AND AFFIRMATIVE DEFENSE
(Failure to State a Claim Upon Which Relief Can Be Granted)

Upon information and belief, Apple has failed to state a claim against either Counterclaim-Defendant upon which relief may be granted.

EIGHTH DEFENSE AND AFFIRMATIVE DEFENSE
(Reservation of Remaining Defenses)

Counterclaim-Defendants reserve all affirmative defenses under Rule 8(c) of the Federal Rules of Civil Procedure, the Patent Laws of the United States and any other defenses, at law or in equity, that may now exist or in the future be available based on discovery and further factual investigation in this case.

MOTOROLA, INC AND MOTOROLA MOBILITY, INC’S JOINT COUNTERCLAIMS

1. Counterclaim-Plaintiffs Motorola Solutions, Inc. (“Motorola”) and Motorola Mobility, Inc. (“Mobility”), for their joint counterclaims against Counterclaim-Defendant Apple, Inc. (“Apple”) repeat and re-allege as follows:

PARTIES

2. Motorola Solutions, Inc. is a corporation organized under the laws of Delaware with its principle place of business at 1303 East Algonquin Road, Schaumburg, Illinois 60196. 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.

3. In its counterclaims, Apple Inc. alleges 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. These are counterclaims for Declaratory Relief for which this Court has jurisdiction under Title 35 of the United States Code, as well as under 28 U.S.C. §§ 1331, 1332, 1338, 2201, and 2202.

5. This Court has personal jurisdiction over Apple by virtue of the counterclaims Apple filed in this Court and Apple’s significant contacts with this forum. On information and belief, Apple manufactures (directly or indirectly through third party manufacturers) and/or assembles products that are and have been offered for sale, sold, purchased, and used in the Southern District of Florida and the Counterclaim-Plaintiffs’ claims arise out of those acts. On information and belief, Apple, directly and/or through its distribution network, places devices

within the stream of commerce, with the knowledge and/or understanding that such devices will be sold in the Southern District of Florida. Moreover, on information and belief, Apple operates retail stores within the Southern District of Florida and expects or should reasonably expect its actions to have consequences in the Southern District of Florida. On information and belief, Apple has operated, conducted, conducted, engaged in, or carried on a business or business venture in this State or has an office or agency in this State and Apple had committed tortious acts within this State and that causes of action herein arise from these acts. Upon information and belief, Apple has engaged in substantial and not isolated activity within this State. Apple also has a registered agent for the purposes of, *inter alia*, accepting service of process and thus it lacks any objection to this Court's personal jurisdiction. Therefore, exercise of jurisdiction over Apple will not offend traditional notions of fair play and substantial justice. Such an exercise is consistent with the Florida long-arm statute, Fla. Stat. § 48.193.

6. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391.

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

7. Motorola and Mobility incorporate by reference the preceding averments set forth in Counterclaim Paragraphs 1–6.

8. By the filing of its counterclaims, Apple has purported to assert claims against Motorola and Mobility for the alleged infringement of U.S. Patent No. 5,583,560 (“the ’560 patent”).

9. Motorola and Mobility deny Apple's infringement allegations.

10. The claims of the ’560 patent are invalid for failure to satisfy one or more of the requirements of Title 35 of the United States Code, including without limitation 35 U.S.C. §§ 102, 103 and/or 112 *et seq.*

11. Accordingly, there exists a substantial and continuing justiciable controversy between Apple and Motorola/Mobility as to the infringement and validity of the '560 patent.

12. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*, Motorola and Mobility are entitled to a judgment finding that the '560 patent is not infringed by any of Motorola's or Mobility's products, services, or processes and that every claim of the '560 patent is invalid.

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

13. Motorola and Mobility incorporate by reference the preceding averments set forth in Counterclaim Paragraphs 1–6.

14. By the filing of its counterclaims, Apple has purported to assert claims against Motorola and Mobility for the alleged infringement of U.S. Patent No. 5,594,509 (“the '509 patent”).

15. Motorola and Mobility deny Apple's infringement allegations.

16. The claims of the '509 patent are invalid for failure to satisfy one or more of the requirements of Title 35 of the United States Code, including without limitation 35 U.S.C. §§ 102, 103 and/or 112 *et seq.*

17. Accordingly, there exists a substantial and continuing justiciable controversy between Apple and Motorola/Mobility as to the infringement and validity of the '509 patent.

18. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*, Motorola and Mobility are entitled to a judgment finding that the '509 patent is not infringed by any of Motorola's or Mobility's products, services, or processes and that every claim of the '509 patent is invalid.

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

19. Motorola and Mobility incorporate by reference the preceding averments set forth in Counterclaim Paragraphs 1–6.

20. By the filing of its counterclaims, Apple has purported to assert claims against Motorola and Mobility for the alleged infringement of U.S. Patent No. 5,621,456 (“the ’456 patent”).

21. Motorola and Mobility deny Apple’s infringement allegations.

22. The claims of the ’456 patent are invalid for failure to satisfy one or more of the requirements of Title 35 of the United States Code, including without limitation 35 U.S.C. §§ 102, 103 and/or 112 *et seq.*

23. Accordingly, there exists a substantial and continuing justiciable controversy between Apple and Motorola/Mobility as to the infringement and validity of the ’456 patent.

24. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*, Motorola and Mobility are entitled to a judgment finding that the ’456 patent is not infringed by any of Motorola’s or Mobility’s products, services, or processes and that every claim of the ’456 patent is invalid.

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

25. Motorola and Mobility incorporate by reference the preceding averments set forth in Counterclaim Paragraphs 1–6.

26. By the filing of its counterclaims, Apple has purported to assert claims against Motorola and Mobility for the alleged infringement of U.S. Patent No. 6,282,646 (“the ’646 patent”).

27. Motorola and Mobility deny Apple’s infringement allegations.

28. The claims of the '646 patent are invalid for failure to satisfy one or more of the requirements of Title 35 of the United States Code, including without limitation 35 U.S.C. §§ 102, 103 and/or 112 *et seq.*

29. Accordingly, there exists a substantial and continuing justiciable controversy between Apple and Motorola/Mobility as to the infringement and validity of the '646 patent.

30. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*, Motorola and Mobility are entitled to a judgment finding that the '646 patent is not infringed by any of Motorola's or Mobility's products, services, or processes and that every claim of the '646 patent is invalid.

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

31. Motorola and Mobility incorporate by reference the preceding averments set forth in Counterclaim Paragraphs 1–6.

32. By the filing of its counterclaims, Apple has purported to assert claims against Motorola and Mobility for the alleged infringement of U.S. Patent No. 7,380,116 (“the '116 patent”).

33. Motorola and Mobility deny Apple's infringement allegations.

34. The claims of the '116 patent are invalid for failure to satisfy one or more of the requirements of Title 35 of the United States Code, including without limitation 35 U.S.C. §§ 102, 103 and/or 112 *et seq.*

35. Accordingly, there exists a substantial and continuing justiciable controversy between Apple and Motorola/Mobility as to the infringement and validity of the '116 patent.

36. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*, Motorola and Mobility are entitled to a judgment finding that the '116 patent is not infringed by

any of Motorola's or Mobility's products, services, or processes and that every claim of the '116 patent is invalid.

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

37. Motorola and Mobility incorporate by reference the preceding averments set forth in Counterclaim Paragraphs 1–6.

38. By the filing of its counterclaims, Apple has purported to assert claims against Motorola and Mobility for the alleged infringement of U.S. Patent No. 7,657,849 (“the '849 patent”).

39. Motorola and Mobility deny Apple's infringement allegations.

40. The claims of the '849 patent are invalid for failure to satisfy one or more of the requirements of Title 35 of the United States Code, including without limitation 35 U.S.C. §§ 102, 103 and/or 112 *et seq.*

41. Accordingly, there exists a substantial and continuing justiciable controversy between Apple and Motorola/Mobility as to the infringement and validity of the '849 patent.

42. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*, Motorola and Mobility are entitled to a judgment finding that the '849 patent is not infringed by any of Motorola's or Mobility's products, services, or processes and that every claim of the '849 patent is invalid.

DEMAND FOR JURY TRIAL

43. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Motorola and Mobility demand a trial by jury of this action.

JOINT REQUEST FOR RELIEF ON COUNTERCLAIMS I-VI

44. WHEREFORE, Motorola and Mobility respectfully pray for relief as follows:

A. For a Declaratory Judgment that the '560, '509, '456, '646, '116, and '849 patents, and each and every asserted claim thereof, are invalid and not infringed;

B. That Apple's counterclaims be dismissed with prejudice, with Apple taking nothing;

C. That pursuant to 35 U.S.C. § 285, Federal Rule of Civil Procedure 11, and/or other applicable authority, Apple be ordered to pay all of Motorola's and Mobility's reasonable attorneys' fees incurred in defending against Apple's claims;

D. That Motorola and Mobility be awarded such other relief as the Court deems just and equitable.

Dated: May 15, 2012

Respectfully submitted,

MOTOROLA MOBILITY, INC.

By: /s/ Edward M. Mullins
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 15, 2012, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF filing system, and that the foregoing document is being served this date on all counsel of record either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel who do not electronically receive Notices of Electronic Filing.

/s/ Regan N. Kruse

Regan N. Kruse

SERVICE LIST

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Case No.: 1:12-cv-20271-SCOLA/BANDSTRA
United States District Court, Southern District of Florida

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