

EXHIBIT 5

From: Vlasis, Robert
Sent: Monday, September 17, 2012 11:42 AM
To: Marshall Searcy (marshallsearcy@quinnemanuel.com)
Cc: Moto-Apple-SDFL (Moto-Apple-SDFL@quinnemanuel.com); Weil_TLG Apple Moto FL External
Subject: Apple/Motorola FL: Cutoff for New Products

Marshall,

Following up on last Monday's meet-and-confer, Apple continues to believe for reasons we have repeated that a firm date should be set for adding new products to the case, and that the date should be tied to the contentions deadline. Now that the contentions deadlines have been moved to November 7 and December 5, Apple proposes that the cutoff date for adding new products should be October 8. Apple's next generation iPhone, iPod, and iOS6 products were announced last week; thus, any concern by Motorola that a cutoff date prior to the close of discovery would exclude Apple's new products is unfounded.

While we understood from a previous meet-and-confer that Motorola would propose a product-based cutoff, we were surprised to hear on Monday that Motorola continues to believe that new products should be added to the case up through the close of discovery and even thereafter "on a case-by-case basis." This proposal is unworkable because it risks reopening discovery and would involve last-minute requests for supplemental contentions, expert reports, depositions, etc. It also will interfere with trial and witness preparation to the extent your proposal would permit new products to be added up through trial.

If Motorola cannot agree to Apple's proposal or provide a reasonable counter-proposal by Friday, September 21, then Apple intends to seek relief from Judge Scola on this issue.

Best regards,
Robert



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