

# EXHIBIT A

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

Case No. 1:10cv023580-Civ-UU

MOTOROLA MOBILITY, INC.,

Plaintiff,

v.

APPLE INC.,

Defendant.

**JURY TRIAL DEMANDED**

APPLE INC.,

Counterclaim Plaintiff,

v.

MOTOROLA, INC. and  
MOTOROLA MOBILITY, INC.,

Counterclaim Defendants.

**APPLE'S RULE 26(A)(1) INITIAL DISCLOSURES**

Defendant/Counterclaim Plaintiff Apple Inc. ("Apple") provides the following Initial Disclosures to Plaintiff/Counterclaim Defendant Motorola Mobility, Inc. and Counterclaim Defendant Motorola, Inc. (collectively, "Motorola") pursuant to Federal Rule of Civil Procedure 26(a)(1). Apple makes these initial disclosures based upon information reasonably known to Apple as of the date hereof, and based on information obtained to date and available to Apple, without the benefit of complete discovery or specific identification or explanation by Motorola of what activities Motorola alleges to infringe U.S. Patents Nos.

5,710,987 (“the ’987 patent”), 5,754,119 (“the ’119 patent”), 5,958,006 (“the ’006 patent”), 6,008,737 (“the ’737 patent”), 6,101,531 (“the ’531 patent”), and 6,377,161 (“the ’161 patent”) (collectively, “the Motorola patents-in-suit”), how Motorola contends that each element of the asserted claims of the Motorola patents-in-suit is found in the accused Apple products, or Motorola’s contentions as to U.S. Patent Nos. 5,583,560 (“the ’560 patent”), 5,594,509 (“the ’509 patent”), 5,621,456 (“the ’456 patent”), 6,282,646 (“the ’646 patent”), 7,380,116 (“the ’116 patent”), and 7,657,849 (“the ’849 patent”) (collectively, “the Apple patents-in-suit”). Moreover, Apple notes that its own investigation is ongoing and, accordingly, Apple reserves the right to modify, amend, or otherwise supplement this disclosure, pursuant to Rule 26(e) of the Federal Rules of Civil Procedure, as additional information becomes available during the course of this lawsuit.

Apple’s disclosures are made without, in any way, waiving: (a) the right to object to any discovery requests or to the admissibility of any evidence on the grounds of privilege, work product immunity, relevance, competency, materiality, hearsay, or any other proper ground in this action or in any other action; (b) the right to object to the use of any such information, for any purpose, in whole or in part, in any proceeding in this action or in any other action, or (c) the right to object on any and all grounds to any other discovery request or proceeding involving or relating to the subject matter of these disclosures in any proceeding in this action or in any other action.

**A. Witnesses**

Apple is a large company with many employees, some of whom may have knowledge of the subject matter of this litigation, including the products or methods that embody the Apple patents-in-suit or that Motorola may accuse of infringing Motorola’s patents, and the vagueness of Motorola’s Complaint and Motorola’s Answer to Apple’s Counterclaims limits Apple’s ability to identify witnesses. Nonetheless, pursuant to Rule

26(a)(1)(A)(i), Apple submits, based upon information reasonably available to Apple at this time, and subject to the limitations set forth above, the following list of witnesses likely to have discoverable information that Apple may use to support its claims or defenses, unless solely for impeachment, and the subject of the information. Discovery is continuing and Apple reserves its rights to and plans to supplement these disclosures. Contact with individuals identified by an asterisk (\*) related to this litigation may only occur through Weil, Gotshal & Manges:

<u>Individual(s)</u>	<u>Potential Area(s) of Knowledge (at least)</u>
<p>Inventors of Apple patents-in-suit, including:</p> <p>The following individuals, who may be contacted through counsel:</p> <ul style="list-style-type: none"> <li>*Eric Anderson, '646 and '116 patents</li> <li>*Freddy Allen Anzures, '849 patent</li> <li>*Imran Chaudhri, '849 patent</li> <li>*Greg Christie, '849 patent</li> <li>*Scott Forstall, '849 patent</li> <li>*Ian Hendry, '646 and '116 patents</li> <li>*Stephen O. Lemay, '849 patent</li> <li>*Bas Ording, '849 patent</li> <li>*Fernando Urbina, '646 and '116 patents</li> <li>*Marcel Van Os, '849 patent</li> </ul> <p>Apple, Inc. 1 Infinite Loop Cupertino, CA 95014</p>	<p>The pertinent Apple patent-in-suit, including, conception, reduction to practice, claim construction, compliance with 35 U.S.C. § 112, and inventorship of Apple's patents-in-suit; Apple products embodying the inventions claimed by the Apple patents-in-suit; the Accused Apple Products; other Apple products; Motorola products; prior art related to Motorola's patents-in-suit.</p>

<u>Individual(s)</u>	<u>Potential Area(s) of Knowledge (at least)</u>
<p>Apple expects that the following individuals will be represented by Weil, Gotshal &amp; Manges LLP, and may be contacted through counsel.</p> <p>*Michael Buettner, '560, '509, and '456 patents</p> <p>*Glenn Corey, '560, '509, and '456 patents</p> <p>*Fabrice Florin, '560, '509, and '456 patents</p> <p>*Janey Fritsche, '560, '509, and '456 patents</p> <p>*Peter Maresca, '560, '509, and '456 patents</p> <p>*Peter Miller, '560, '509, and '456 patents</p> <p>*Stuart Sharpe, '560, '509, and '456 patents</p> <p>*Bill Purdy, '560, '509, and '456 patents</p> <p>*Nick West, '560, '509, and '456 patents</p>	
<p>Inventors of Motorola patents-in-suit, including:</p> <p>Thomas Eugene Paulick, '987 patent</p> <p>Last known address: 913 Crestview Palatine, IL 60067</p> <p>Michael J. Deluca, '737 and '119 patents</p> <p>Last known address: 550 S.W. 6th Avenue Boca Raton, FL 33486</p> <p>Joan S. Deluca, '119 patent</p> <p>Last known address: 550 S.W. 6th Avenue Boca Raton, FL 33486</p>	<p>The pertinent Motorola patent(s)-in-suit, including without limitation, inventorship, ownership, compliance with 35 U.S.C. §101-103 and 112, claim construction, conception, diligence, reduction to practice, and inequitable conduct; the preparation and prosecution of the pertinent patent application and/or any related patent applications; Motorola products embodying the inventions claimed by the Motorola patents-in-suit; prior art relevant to Motorola's patent(s)-in-suit; alleged infringement of Motorola's patent(s)-in-suit; licensing and/or other commercial activity related to the Motorola patent(s)-in-suit.</p>

<u>Individual(s)</u>	<u>Potential Area(s) of Knowledge (at least)</u>
<p>Doug Kraul, '737 patent</p> <p>Last known address: 7911 Salem Lane Parkland, FL 33067</p> <p>Walter L. Davis, '737 patent</p> <p>Last known address: 5820 N.W. 96th Drive Parkland, FL 33076</p> <p>Gene Eggleston, '531 and '006 patents</p> <p>Last known address: 1303 Mink Trail Cary, IL 60013</p> <p>Mitch Hansen, '531 and '006 patents</p> <p>Last known address: 241 Foxmoor Fox River Grove, IL 60021</p> <p>Anthony Rzany, '006 patent</p> <p>Last known address: 702 Silk Oak Lane Crystal Lake, IL 60014</p> <p>Lisa Jane Gromelski, '161 patent</p> <p>Last known address: 4608 Deal Drive Fort Worth, TX 76135</p> <p>Gregory Lewis Cannon, '161 patent</p> <p>Last known address: 9135 Indian River Run S. Boynton Beach, FL 33437</p>	

<u>Individual(s)</u>	<u>Potential Area(s) of Knowledge (at least)</u>
<p>Attorneys or agents involved in the prosecution of the Motorola patents-in-suit and any parent applications, including:</p> <p>Kevin D. Kaschke, '987 patent, Application Ser. No. 08/023,234</p> <p>Last known address: Motorola, Inc. (IL)</p> <p>John A. Fisher, '987 patent, Application Ser. No. 08/023,234</p> <p>Last known address: Motorola, Inc. (IL)</p> <p>John H. Moore, '119, '161 and '737 patents</p> <p>Last known address: Motorola, Inc. (FL)</p> <p>Robert Breeden, '119, '161 and '737 patents; Application Ser. No. 08/452,785</p> <p>Last known address: Motorola, Inc. (FL)</p> <p>Keith Chanroo, '119 and '737 patents; Application Ser. No. 08/452,785</p> <p>Last known address: Motorola, Inc. (FL)</p> <p>David Andrew Floam, '119 and '737 patent; Application Ser. No. 08/452,785</p> <p>Last known address: Motorola, Inc. (FL)</p> <p>Kelly Gardner, '119 and '737 patents; Application Ser. No. 08/452,785</p> <p>Last known address: Motorola, Inc. (FL)</p> <p>James Lamb, '119 and '737 patents; Application Ser. No. 08/452,785</p> <p>Last known address: Motorola, Inc. (FL)</p>	<p>Matters related to the preparation and prosecution of the Motorola patent(s)-in-suit and related patents, including without limitation, preparation and prosecution of the patent applications from which the Motorola patent(s)-in-suit issued or relied on for priority, inventorship, compliance with 35 U.S.C. §101-103 and 112, claim construction, conception, diligence, and reduction to practice, inequitable conduct, and prior art relevant to the patent(s)-in-suit.</p>

<u>Individual(s)</u>	<u>Potential Area(s) of Knowledge (at least)</u>
<p>Philip Macnak, '119, '161 and '737 patents; Application Ser. No. 08/452,785</p> <p>Last known address: Motorola, Inc. (FL)</p> <p>Pablo Meles, '119 and '737 patents; Application Ser. No. 08/452,785</p> <p>Last known address: Motorola, Inc. (FL)</p> <p>John Moore, '119 and '737 patents; Application Ser. No. 08/452,785</p> <p>Last known address: Motorola, Inc. (FL)</p> <p>Daniel Nichols, '119, '161 and '737 patents; Application Ser. No. 08/452,785</p> <p>Last known address: Motorola, Inc. (FL)</p> <p>Gregg Razor, '119 and '737 patents; Application Ser. No. 08/452,785</p> <p>Last known address: Motorola, Inc. (FL)</p> <p>Michael Zazzara, '119 and '737 patents; Application Ser. No. 08/452,785</p> <p>Last known address: Motorola, Inc. (FL)</p> <p>Anthony J. Sarli, Jr., '006 and '531 patents; Application Ser. No. 08/557,657; Application Ser. No. 08/452,785; Application Ser. No. 08/574,537</p> <p>Last known address: Motorola, Inc. (IL)</p> <p>Aaron Bernstein, '006 and '531 patents; Application Ser. No. 08/557,657; Application Ser. No. 08/574,537</p> <p>Last known address: Motorola, Inc. (IL)</p>	



<u>Individual(s)</u>	<u>Potential Area(s) of Knowledge (at least)</u>
<p>Thomas Berry, '006 and '531 patents; Application Ser. No. 08/556,657; Application Ser. No. 08/452,785; Application Ser. No. 08/574,537</p> <p>Last known address: Motorola, Inc. (IL)</p> <p>Kevin Buford, '006 and '531 patents; Application Ser. No. 08/556,657; Application Ser. No. 08/574,537</p> <p>Last known address: Motorola, Inc. (IL)</p> <p>Donna Maddox, '006 and '531 patents; Application Ser. No. 08/557,657; Application Ser. No. 08/574,537</p> <p>Last known address: Motorola, Inc. (IL)</p> <p>J. Ray Wood, '006 patent; Application Ser. No. 08/557,657</p> <p>Last known address: Motorola, Inc. (IL)</p> <p>Susan L. Lukasik, '006 patent</p> <p>Last known address: Motorola, Inc. (IL)</p> <p>Charles Bethards, '737 and ' 161 patents</p> <p>Last known address: Motorola, Inc. (FL)</p> <p>Daniel Collopy, '737 patent; Application Ser. No. 08/452,785</p> <p>Last known address: Motorola, Inc. (FL)</p> <p>Romi N. Bose, '531 patent</p> <p>Last known address: Motorola, Inc. (IL)</p> <p>Terri S. Hughes, '531 and '006 patents</p> <p>Last known address: Motorola, Inc. (IL)</p>	

<u>Individual(s)</u>	<u>Potential Area(s) of Knowledge (at least)</u>
<p>Roland K. Bowler II, '161 patent; Application Ser. No. 08/452,785</p>	
<p>Last known address: Motorola Mobility, Inc. (IL)</p>	
<p>L. Bruce Terry, '161 patent</p>	
<p>Last known address: Motorola Mobility, Inc. (IL)</p>	
<p>Mario J. Donato, Jr., '161 patent</p>	
<p>Last known address: Motorola Mobility, Inc. (IL)</p>	
<p>Simon Anolick, '161 patent; Application Ser. No. 08/452,785</p>	
<p>Last known address: Motorola Mobility, Inc. (IL)</p>	
<p>John Bretscher, '161 patent; Application Ser. No. 08/452,785</p>	
<p>Last known address: Motorola Mobility, Inc. (IL)</p>	
<p>Sylvia Chen, '161 patent; Application Ser. No. 08/452,785</p>	
<p>Last known address: Motorola Mobility, Inc. (IL)</p>	
<p>Larry Cullen, '161 patent; Application Ser. No. 08/452,785</p>	
<p>Last known address: Motorola Mobility, Inc. (IL)</p>	
<p>Gary Cunningham, '161 patent; Application Ser. No. 08/452,785</p>	
<p>Last known address: Motorola Mobility, Inc. (IL)</p>	
<p>Kenneth Haas, '161 patent; Application Ser. No. 08/452,785</p>	
<p>Last known address: Motorola Mobility, Inc. (IL)</p>	

<u>Individual(s)</u>	<u>Potential Area(s) of Knowledge (at least)</u>
<p>Steven May, '161 patent; Application Ser. No. 08/452,785</p> <p>Last known address: Motorola Mobility, Inc. (IL)</p>	
<p>Lalita Pace, '161 patent; Application Ser. No. 08/452,785</p> <p>Last known address: Motorola Mobility, Inc. (IL)</p>	
<p>Stephen Shaw, '161 patent; Application Ser. No. 08/452,785</p> <p>Last known address: Motorola Mobility, Inc. (IL)</p>	
<p>Kenneth Taylor, Jr., '161 patent; Application Ser. No. 08/452,785</p> <p>Last known address: Motorola Mobility, Inc. (IL)</p>	
<p>Randal Vaas, '161 patent; Application Ser. No. 08/452,785</p> <p>Last known address: Motorola Mobility, Inc. (IL)</p>	
<p>Hisashi Watanabe, '161 patent; Application Ser. No. 08/452,785</p> <p>Last known address: Motorola Mobility, Inc. (IL)</p>	
<p>Stewart Weiner, '161 patent; Application Ser. No. 08/452,785</p> <p>Last known address: Motorola Mobility, Inc. (IL)</p>	
<p>Eduardo Guntin, Application Ser. No. 08/452,785</p> <p>Last known address: Motorola Mobility, Inc. (IL)</p>	

<u>Individual(s)</u>	<u>Potential Area(s) of Knowledge (at least)</u>
<p>In addition, Apple may rely on any other attorneys or agents who were involved in the prosecution of the Motorola patents-in-suit whether they worked at any of the following or at any other law firm or other business:</p> <p>Oblon, Spivak, McClelland, Maier &amp; Neustadt, LLP 1940 Duke Street Alexandria, VA 22314</p> <p>Motorola, Inc. 1303 East Algonquin Road Schaumburg, IL 60196</p> <p>Motorola, Inc. Intellectual Property Department - MS 96 1500 Gateway Boulevard Boynton Beach, FL 334260-8292</p> <p>Motorola, Inc. Intellectual Property Department 5401 North Beach Street, MS E230 Fort Worth, TX 76137</p> <p>Motorola Mobility, Inc. Intellectual Property Department (RKB) 600 North U.S. Highway 45, AN475 Libertyville, IL 60048</p>	
<p>*Bill Duffy</p> <p>*Graham Orndorff</p> <p>*Mitch Adler</p> <p>*Robert Schlub</p> <p>Apple, Inc. 1 Infinite Loop Cupertino, CA 95014</p>	<p>Matters related to the design, development, structure, function and operation of functionality in the Apple Accused Products.</p>
<p>Individual(s) yet to be determined, including, without limitation, Motorola directors, agents, and current or former employees.</p>	<p>Matters related to the design, development, operation, testing, verification, sales and marketing of Motorola's Accused Products; Motorola's finances, including units of products sold, revenue, costs of manufacturing, and profits for the</p>

<u>Individual(s)</u>	<u>Potential Area(s) of Knowledge (at least)</u>
	Motorola Accused Products and related products; Motorola's marketing, sales, offers to sell, importation, use, or distribution of the Motorola Accused Products; licensing related to the Motorola Accused Products, prosecution of the Motorola patents-in-suit; prior art to the Motorola patents-in-suit.
Authors, inventors, or other individuals responsible for generating or with knowledge of prior art to the Motorola patents-in-suit.	Prior art to the Motorola patents-in-suit.

In addition to the specific individuals named above, Apple may rely on any of the following: each person or entity disclosed or relied upon by Motorola; all individuals who have given or will give testimony in this litigation; all expert witnesses who have been disclosed or who will be disclosed at an appropriate time in this litigation; any and all experts or third parties relied upon by Motorola; all custodians and witnesses; all persons or entities subpoenaed by any party; all persons or entities identified in Motorola's discovery responses or in any version of Motorola's 26(a) disclosures; all persons or entities referenced in documents produced.

Apple has not yet designated certain expert witnesses, but may do so in accordance with the requirements set forth in the Federal Rules of Civil Procedure. Apple will disclose the identity of any retained expert whom Apple expects to call as a witness at trial in accordance with these requirements. Apple reserves the right to supplement these lists as additional information becomes available and to rely upon and to call as a witness any person listed in Motorola's Rule 26(a)(1) disclosures.

**B. Documents**

Based upon information reasonably available to Apple at this time, and subject to the limitations set forth above, Apple hereby identifies, pursuant to Rule

26(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, the following categories of documents, data compilations, and tangible things that are in Apple's possession, custody, or control, and may be used to support Apple's claims or defenses, other than solely for impeachment:

1. File histories and prior art references cited by the Patent Office during prosecution of the Apple patents-in-suit.
2. Documents reflecting the conception and reduction to practice of the inventions claimed in the Apple patents-in-suit;
3. Documents sufficient to show the structure and operation of the accused functionality of Apple's Accused Products.
4. Prior art to the Motorola patents-in-suit.
5. Documents reflecting Motorola's infringement of the Apple patents-in-suit;
6. Documents reflecting that Motorola's infringement of the Apple patents-in-suit was and continues to be willful.
7. Documents reflecting the damages resulting from Motorola's infringement of the Apple patents-in-suit.
8. Documents reflecting that Apple does not infringe any of the Motorola patents-in-suit.
9. Documents reflecting that the Motorola patents-in-suit are invalid.
10. Documents reflecting that the Motorola patents-in-suit are unenforceable due to inequitable conduct.
11. Documents reflecting that some or all of the relief Motorola seeks should be barred under the doctrine of laches.
12. Documents reflecting that some or all of the relief Motorola seeks

should be barred under the doctrine of equitable estoppel.

13. Documents reflecting the proper construction of terms used in the patents-in-suit.
14. Documents reflecting that some or all of the relief Motorola seeks is barred by the applicable statute of limitations.
15. Documents reflecting that some or all of the relief Motorola seeks is barred by Motorola's failure to give actual and/or constructive notice of Motorola's patents-in-suit.
16. Documents reflecting that some or all of the relief Motorola seeks is barred by the doctrine of intervening rights.
17. Documents reflecting that some or all of the relief Motorola seeks is barred by prosecution history estoppel.
18. Documents reflecting that some or all of the relief Motorola seeks is barred by the doctrines of patent exhaustion and/or implied license.
19. Documents reflecting that Motorola is not entitled to injunctive relief for any alleged infringement.

Discovery is continuing and Apple reserves its rights to supplement these initial disclosures.

**C. Computation of Damages**

Pursuant to Rule 26(a)(1)(A)(iii), Apple states as follows: Apple intends to seek an accounting for damages, enhanced or treble damages for Motorola's deliberate and willful infringement, and pre- and post-judgment interest, in addition to a permanent injunction. However, the amount of damages arising from Motorola's infringement of Apple's patents-in-suit is not ascertainable at this time; some or all of the injuries are ongoing; and the computation of damages may require discovery and expert testimony.

Apple does not infringe any valid claim of any Motorola patent; moreover, the Motorola patents are invalid and/or were procured through inequitable conduct. Therefore, Motorola is not entitled to any relief.

Apple intends to seek attorneys' fees and costs and such other relief as is deemed appropriate. The amount of fees and costs is not ascertainable at this time, nor is the amount of any other relief that may be deemed appropriate.

Apple reserves the right to supplement, modify or add to this disclosure as discovery progresses in this case.

**D. Insurance**

Apple is not presently aware of any insurance agreement under which any person carrying on an insurance business may be liable to Apple to satisfy any part of, or indemnify or reimburse Apple for payments made to satisfy, a judgment that may be entered in this action.



Dated: December 17, 2010

WEIL, GOTSHAL & MANGES LLP

By: /s/ Patricia Young

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*Attorneys for Apple Inc.*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on December 17, 2010, I served the foregoing document via electronic mail on all counsel of record identified on the attached Service List.

/s/Patricia Young  
Patricia Young

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

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