

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 10-24063-CIV-MORENO

_____	)
MOTOROLA MOBILITY, INC.,	)
	)
Plaintiff / Counterclaim Defendant,	)
	)
v.	)
	)
MICROSOFT CORPORATION,	)
	)
Defendant / Counterclaim Plaintiff.	)
_____	)

**DECLARATION OF LESLIE M. SPENCER**

I, Leslie M. Spencer, declare:

1. I am an attorney admitted to practice in the State of New York. I am admitted *pro hac vice* in this Court. I am an associate at the law firm of Ropes & Gray LLP, 1211 Avenue of the Americas, New York, NY 10036. Ropes & Gray LLP is counsel for Plaintiff Motorola, Inc. As such, I have personal knowledge of the facts set forth herein.

2. I make this declaration in support of Motorola’s Opening Claim Construction Brief, filed concurrently herewith.

3. Exhibit 1 is a true and correct copy of a document bearing production numbers MOTM-24063-0003923-3934, which is a copy of United States Patent No. 6,272,333.

4. Exhibit 2 is a true and correct copy of selected pages from United States Patent No. 6,272,333. Intrinsic evidence relating to the term “*controlling a delivery of data*” has been highlighted for emphasis.

5. Exhibit 3 is a true and correct copy of selected pages from “Microsoft Press Computer User’s Dictionary” and bears a copyright date of 1998. The definition of the term “***data***” has been highlighted for emphasis.

6. Exhibit 4 is a true and correct copy of selected pages of United States Patent No. 6,272,333. Intrinsic evidence relating to the term “***data***” has been highlighted for emphasis.

7. Exhibit 5 is a true and correct copy of selected pages from United States Patent No. 6,272,333. Intrinsic evidence relating to the term “***fixed portion of a/the wireless communication system***” has been highlighted for emphasis.

8. Exhibit 6 is a true and correct copy of selected pages from United States Patent No. 6,272,333. Intrinsic evidence relating to the term “***subscriber unit***” has been highlighted for emphasis.

9. Exhibit 7 is a true and correct copy of selected pages from United States Patent No. 6,272,333. Intrinsic evidence relating to the term “***application registry comprising a list of all software applications that are currently accessible to the subscriber unit***” has been highlighted for emphasis.

10. Exhibit 8 is a true and correct copy of selected pages from a document bearing production numbers MOTM-24063-0001653-1731, which is a copy of the prosecution history for United States Patent No. 6,272,333.

11. Exhibit 9 is a true and correct copy of a document bearing production numbers MOTM-24063-01866577-01866583, which is a copy of United States Patent No. 6,408,176.

12. Exhibit 10 is a true and correct copy of selected pages from United States Patent No. 6,408,176. Intrinsic evidence relating to the term “***caller-related information***” has been highlighted for emphasis.

13. Exhibit 11 is a true and correct copy of selected pages from a document bearing production numbers MOTM-24063-0001315-1570, which is a copy of the prosecution history for United States Patent No. 6,408,176. Intrinsic evidence relating to the term “***caller-related information***” has been highlighted for emphasis.

14. Exhibit 12 is a true and correct copy of selected pages from United States Patent No. 6,408,176. Intrinsic evidence relating to the ***order of operation of the steps of “extracting” the caller-related information and “converting” caller-related information*** has been highlighted for emphasis.

15. Exhibit 13 is a true and correct copy of selected pages from United States Patent No. 6,408,176. Intrinsic evidence relating to the term “***fixed network equipment***” has been highlighted for emphasis.

16. Exhibit 14 is a true and correct copy of a document bearing production numbers MOTM-24063-01866599-01866649, which is a copy of United States Patent No. 6,983,370.

17. Exhibit 15 is a true and correct copy of selected pages from United States Patent No. 6,983,370. Intrinsic evidence relating to the term “***messaging session***” has been highlighted for emphasis.

18. Exhibit 16 is a true and correct copy of selected pages from United States Patent No. 6,983,370. Intrinsic evidence relating to the term “***providing continuity between a plurality of messaging clients***” has been highlighted for emphasis.

19. Exhibit 17 is a true and correct copy of selected pages from United States Patent No. 6,983,370. Intrinsic evidence relating to the terms “***first messaging client***” and “***second messaging client***” has been highlighted for emphasis.

20. Exhibit 18 is a true and correct copy of selected pages from “Microsoft Press Computer User’s Dictionary” and bears a copyright date of 2002. The definition of the term “*messaging client*” has been highlighted for emphasis..

21. Exhibit 19 is a true and correct copy of selected pages from United States Patent No. 6,983,370. Intrinsic evidence relating to the terms “*a first messaging client, for establishing a first communication connection including a plurality of client data with a message server*” and “*a second messaging client for receiving the plurality of client data from the first messaging client and for establishing a second communication connection including the plurality of client data with the message server*” has been highlighted for emphasis.

22. Exhibit 20 is a true and correct copy of a document bearing production numbers MOTM-24063-01866553-01866566, which is a copy of United States Patent No. 5,784,001.

23. Exhibit 21 is a true and correct copy of selected pages from United States Patent No. 5,784,001. Intrinsic evidence relating to the terms “*a method for displaying messages in a data communication receiver*” and “*a data communication receiver for presenting information*” has been highlighted for emphasis.

24. Exhibit 22 is a true and correct copy of selected pages from United States Patent No. 5,784,001. Intrinsic evidence relating to the terms “*referencing a database to determine whether at least one word included in the alphanumeric message matches at least one key word included in the database,*” “*determining whether at least one word included in the alphanumeric message matches at least one key word included in the database*” and “*determining whether at least one alphanumeric word included in the message matches at least one key word included in the database*” has been highlighted for emphasis.

25. Exhibit 23 is a true and correct copy of selected pages from Microsoft Press Computer Dictionary Second Edition: The Comprehensive Standard for Business, School, Library, and Home” and bears a copyright date of 1994. The definition of the term “***alphanumeric***” has been highlighted for emphasis.

26. Exhibit 24 is a true and correct copy of selected pages from a document bearing production numbers MOTM-24063-0000555-0000803, which is a copy of the prosecution history for United States Patent No. 5,784,001. Intrinsic evidence relating to the terms “***graphic message that is accompanied by the alphanumeric message,***” “***graphic message accompanied by the alphanumeric message***” and “***graphic message accompanied by the message***” has been highlighted for emphasis.

27. Exhibit 25 is a true and correct copy of selected pages from International Publication Number WO 91/03885. Evidence relating to the terms “***a method for displaying messages in a data communication receiver***” and “***a data communication receiver for presenting information***” has been highlighted for emphasis.

28. Exhibit 26 is a true and correct copy of a document bearing production numbers MOTM-24063-0009785-0009799, which is a copy of United States Patent No. 6,757,544.

29. Exhibit 27 is a true and correct copy of selected pages from a document bearing production numbers MOTM-24063-9108-9336, which is a copy of the prosecution history for United States Patent No. 6,757,544. Intrinsic evidence relating to the term “***specific location information of the communication device***” has been highlighted for emphasis.

30. Exhibit 28 is a true and correct copy of selected pages from United States Patent No. 6,757,544. Intrinsic evidence relating to the term “***determining the location relevant to the user by comparing the list of location parameters with the specific location information***” has been highlighted for emphasis.

31. Exhibit 29 is a true and correct copy of a document bearing production numbers MOTM-24063-0015973-0015991, which is a copy of United States Patent No. 5,764,899.

32. Exhibit 30 is a true and correct copy of selected pages from United States Patent No. 5,764,899. Intrinsic evidence relating to the terms “*a host server*” and “*a host server in communication with the communication server*” has been highlighted for emphasis.

33. Exhibit 31 is a true and correct copy of selected pages from United States Patent No. 5,764,899. Intrinsic evidence relating to the terms “*email*” and “*e-mail*” has been highlighted for emphasis.

34. Exhibit 32 is a true and correct copy of selected pages from a document bearing production numbers MOTM-24063-0019496-0019618, which is a copy of United States Patent No. 5,502,839.

35. Exhibit 33 is a true and correct copy of selected pages from United States Patent No. 5,502,839. Intrinsic evidence relating to the term “*source of virtual input*” has been highlighted for emphasis.

36. Exhibit 34 is a true and correct copy of selected pages from United States Patent No. 5,502,839. Intrinsic evidence relating to the term “*picture element*” has been highlighted for emphasis.

37. Exhibit 35 is a true and correct copy of selected pages from United States Patent No. 5,502,839. Intrinsic evidence relating to the term “*means for performing processing operations on said virtual input and for generating virtual output*” has been highlighted for emphasis.

38. Exhibit 36 is a true and correct copy of selected pages from United States Patent No. 5,502,839. Intrinsic evidence relating to the term “*means for accepting said virtual output*” has been highlighted for emphasis.

39. Exhibit 37 is a true and correct copy of selected pages from United States Patent No. 5,502,839. Intrinsic evidence relating to the term ***“means for converting said virtual output into at least one physical output suitable for use by at least one physical output device”*** has been highlighted for emphasis.

40. Exhibit 38 is a true and correct copy of selected pages from United States Patent No. 5,502,839. Intrinsic evidence relating to the term ***“picture manager process”*** has been highlighted for emphasis.

41. Exhibit 39 is a true and correct copy of a document bearing production numbers MOTM-24063-38118-38128, which is a copy of United States Patent No. 7,024,214.

42. Exhibit 40 is a true and correct copy of selected pages from United States Patent No. 7,024,214. Intrinsic evidence relating to the term ***“synchronization mechanism”*** has been highlighted for emphasis.

43. Exhibit 41 is a true and correct copy of selected pages from a document bearing production numbers MOTM\_24063-01355463-01355713, which is a copy of the prosecution history for United States Patent No. 7,493,130. Intrinsic evidence relating to the term ***“synchronization mechanism”*** has been highlighted for emphasis.

44. Exhibit 42 is a true and correct copy of selected pages from United States Patent No. 7,024,214. Intrinsic evidence relating to the term ***“flexible schedule rules”*** has been highlighted for emphasis.

45. Exhibit 43 is a true and correct copy of a document bearing production numbers MOTM-24063-0039382-0039393, which is a copy of United States Patent No. 6,791,536.

46. Exhibit 44 is a true and correct copy of selected pages from United States Patent No. 6,791,536. Intrinsic evidence relating to the terms ***“generating at least one event representing an activation of the primary switch of the pointing device”*** and ***“generating at***

*least one event representing an activation of the secondary switch of the pointing device*” has been highlighted for emphasis.

47. Exhibit 45 is a true and correct copy of selected pages from a document bearing production numbers MOTM-24063-0039382-0039393, which is a copy of the prosecution history for United States Patent No. 6,791,536. Intrinsic evidence relating to the terms “*generating at least one event representing an activation of the primary switch of the pointing device*” and “*generating at least one event representing an activation of the secondary switch of the pointing device*” has been highlighted for emphasis.

48. Exhibit 46 is a true and correct copy of selected pages from “Microsoft Press Computer User’s Dictionary” and bears a copyright date of 2002. The definition of the term “*click*” has been highlighted for emphasis.

49. Exhibit 47 is a true and correct copy of a document bearing production numbers MOTM\_24063-0039394-0039406, which is a copy of United States Patent No. 6,897,853.

50. Exhibit 48 is a true and correct copy of selected pages from United States Patent No. 6,897,853. Intrinsic evidence relating to the terms “*determining ....*” has been highlighted for emphasis.

51. Exhibit 49 is a true and correct copy of U.S. Provisional Application 60/247,400.

52. Exhibit 50 is a true and correct copy of a document bearing production numbers MOTM\_24063\_II\_0014890-00014904 which is a copy of United States Patent No. 7,383,460.

53. Exhibit 51 is a true and correct copy of selected pages from a document bearing production numbers MOTM\_24063-0075009-0075041, which is titled “IA-PC HPET (High

Precision Event Timers) Specification and dated October 2004. Evidence relating to the term “*high precision event timer (HPET)*” has been highlighted for emphasis.

54. Exhibit 52 is a true and correct copy of a document bearing production numbers MOTM\_24063-009434-009445, which is a copy of United States Patent No. 6,897,904. Intrinsic evidence relating to the term “*program content currently being tuned*” has been highlighted for emphasis.

55. Exhibit 53 is a true and correct copy of select pages from a document bearing production numbers MOTM\_24063-01896665-01896815, which is a copy of SMAPI USER’S GUIDE – IBM VIA VOICE SOFTWARE DEVELOPER’S KIT.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 21, 2011, in New York, NY.

\_\_\_\_\_/s/ Leslie M. Spencer

Leslie M. Spencer  
ROPES & GRAY LLP