

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

Case No. 1:10-24063-CIV-MORENO

MOTOROLA MOBILITY, INC.,

Plaintiff / Counterclaim Defendant,

v.

MICROSOFT CORPORATION,

Defendant / Counterclaim Plaintiff.

**DECLARATION OF STUART W. YOTHERS IN SUPPORT OF
PLAINTIFF/COUNTERCLAIM DEFENDANT MOTOROLA MOBILITY, INC.'S
MOTION FOR LEAVE TO FILE OUT OF TIME**

1. I am an associate at the law firm of Ropes & Gray LLP, counsel to Motorola Mobility, Inc. ("Motorola"), Plaintiff and Counterclaim-Defendant in this action, and am a member in good standing of the bars of the State of New York and the Commonwealth of Massachusetts.

2. I submit this declaration in support of Motorola's Motion For Leave To File Out Of Time. I have personal knowledge of the statements made in this declaration.

3. On July 5, 2011, Microsoft offered to make Michael Fagan available for deposition on July 22, 2011 -- a day after the close of discovery.

4. On July 6, 2011, Motorola requested that Microsoft provide a date for Mr. Fagan's deposition on or before July 21, 2011.

5. Microsoft responded on July 6, 2011 that Mr. Fagan was not available for deposition before July 22, 2011.

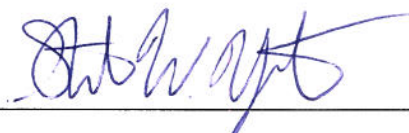
6. On July 10, 2011, Motorola confirmed the July 22, 2011 deposition of Mr. Fagan.

7. On July 20, 2011, Microsoft reported that due to an illness in Mr. Fagan's family, the deposition needed to be postponed until July 26, 2011.

8. Motorola immediately confirmed the July 26, 2011 date for Mr. Fagan's deposition.

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

Executed on August 4, 2011.



Stuart W. Yothers