

**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.

\_\_\_\_\_ /

**JOINT MOTION AND STIPULATION ON MOTIONS *IN LIMINE*  
AND INCORPORATED PROPOSED ORDER**

Motorola Mobility, Inc. (“Motorola Mobility”) and Microsoft Corporation (“Microsoft”) (collectively, the “Parties”) jointly move the Court and request that the following stipulations be adopted in response to the parties’ Motions *in Limine* (D.E. 128, 129):

MIL #	Agreed to language
<b>Microsoft MIL A</b>	<p>Any reference to discovery disputes between the parties is irrelevant to the trial of this case. To the extent the parties believed that any discovery response, document production, or disclosure is or was incomplete, that issue should have been brought to the attention of the Court prior to trial or resolved between the parties without Court intervention. Thus, the Court excludes any reference to the sufficiency of discovery responses, documents, and/or disclosures by either party. FED. R. EVID. 403.</p> <p>This Motion is hereby ____ <b>GRANTED AND SO ORDERED</b> / ____ <b>DENIED</b>.</p>
<b>Microsoft MIL B</b>	<p>Any reference to the timing of production of, or when the parties produced, documents would be irrelevant and confuse the jury. Thus, the Court excludes any reference to the timing of document production by either party. FED. R. EVID. 402, 403.</p> <p>This Motion is hereby ____ <b>GRANTED AND SO ORDERED</b> / ____ <b>DENIED</b>.</p>
<b>Microsoft MIL C  Motorola MIL #1</b>	<p>Any expert testimony not timely and adequately disclosed is excluded. Nothing in this stipulation constitutes a waiver of any party’s right to challenge opinion testimony on the basis that it was not timely or adequately disclosed, nor shall it prevent a party from arguing that its opinion testimony was timely and adequately disclosed.</p> <p>This Motion is hereby ____ <b>GRANTED AND SO ORDERED</b> / ____ <b>DENIED</b>.</p>

MIL #	Agreed to language
<b>Microsoft MIL H</b>	<p>Any reference to any communication between Microsoft, its counsel, or representatives with Motorola, its counsel or representatives concerning possible settlement of this case or any other case, including the contents of any such communications and responses thereto, would be highly prejudicial and not probative of any issue in this case. FED. R. EVID. 408. Any reference to these meetings by either party, including reference to any business discussions during these meetings, is excluded. FED. R. EVID. 403,408.</p> <p>This Motion is hereby ____ <b>GRANTED AND SO ORDERED</b> / ____ <b>DENIED</b>.</p>
<b>Microsoft MIL I</b>	<p>Any reference by either party to the mediation in this case or any statements made or materials revealed in connection with mediation in this case would be highly prejudicial and not probative of any issue in this case. Any such reference to the mediation is excluded. FED. R. EVID. 402, 403,408. S.D. Fla. L.R. 16.2(f)(g)(2).</p> <p>This Motion is hereby ____ <b>GRANTED AND SO ORDERED</b> / ____ <b>DENIED</b>.</p>
<b>Microsoft MIL M</b>	<p>Unless permitted by a prior order of court, any litigation, judgment, rulings, consent decrees, charges, or verdicts in other cases involving Microsoft and any non-party or Motorola and any non-party, including but not limited to antitrust litigation and litigation involving patents not at issue in this case, are deemed to be irrelevant and are excluded. FED. R. EVID. 402. Those cases involve different parties, issues, patents, technologies, products, claim constructions, infringement allegations, invalidity allegations (including different prior art references), and damages theories. Any such evidence therefore would be entirely irrelevant to the current action. FED. R. EVID. 402. Such evidence also is excluded because it would be highly prejudicial and unfair, and would pose a serious danger of confusing the issues, misleading the jury, and wasting time. FED. R. EVID. 403.</p> <p>This Motion is hereby ____ <b>GRANTED AND SO ORDERED</b> / ____ <b>DENIED</b>.</p>
<b>Microsoft MIL N</b>	<p>Any reference to either party's claim of attorney-client privilege, work product immunity, or any other applicable privilege or immunity in response to any request for information is improper and is precluded. A claim of privilege is a proper act and will not be commented on by counsel or witnesses. No inference will be made from a claim of privilege. Such evidence is irrelevant, would be unfairly prejudicial, and would mislead the jury into resolving this case based on factors other than the evidence and the law. FED. R. EVID. 402, 403.</p> <p>This Motion is hereby ____ <b>GRANTED AND SO ORDERED</b> / ____ <b>DENIED</b>.</p>
<b>Microsoft MIL O</b>	<p>Any questioning, by either party, clearly calculated to invoke an assertion of attorney-client privilege, work product immunity or any other applicable privilege or immunity would undermine the policies supporting privileges and would confuse the jury and distract from the real issues in this litigation and thus is not permitted. FED. R. EVID. 402, 403. Invocation of attorney-client privilege in response to questions not clearly calculated to elicit such a response shall not be considered a violation of this agreement.</p>

MIL #	Agreed to language
	This Motion is hereby ____ <b>GRANTED AND SO ORDERED</b> / ____ <b>DENIED</b> .
<b>Microsoft MIL P</b>	<p>In the absence of a prior order of court, any reference by either party to any pretrial or discovery ruling made by this Court, excluding those reflecting the Court's claim construction, or the lack of ruling by this Court on any pretrial or discovery issue; or reference to any argument or claims rejected, dismissed, severed or stayed are irrelevant and is excluded. FED. R. EVID. 1 03( c), 104(a), 403, 605.</p> <p>This Motion is hereby ____ <b>GRANTED AND SO ORDERED</b> / ____ <b>DENIED</b>.</p>
<b>Microsoft MIL R</b>	<p>A party or expert shall not argue or testify that a claim construction ruling by the Court in this case should be altered or testify regarding the effect such proposed alterations would have on any issue in this case and any (including expert) opinion about such proposed alterations should be excluded. The Court will have construed the claims of the patents, and any attempt to change or opine about proposed changes to the claim construction ruling or their effect would be irrelevant and would confuse the jury and thus is excluded. FED. R. EVID. 402, 403, 702, 703.</p> <p>This Motion is hereby ____ <b>GRANTED AND SO ORDERED</b> / ____ <b>DENIED</b>.</p>
<b>Microsoft MIL S</b>	<b>Withdrawn</b> by agreement pursuant to the parties' proposed stipulation under Microsoft MIL R.
<b>Microsoft MIL W</b> <b>Motorola MIL #2</b>	<p>The parties are precluded from introducing any testimony or evidence regarding claim construction for the contested terms. The Court will have construed the contested claim terms of the patents, and any attempt to introduce any evidence relating to claim construction with respect to these terms would be irrelevant and would confuse the jury. FED. R. EVID. 402, 403, 702, 703.</p> <p>This Motion is hereby ____ <b>GRANTED AND SO ORDERED</b> / ____ <b>DENIED</b>.</p>
<b>Microsoft MIL X</b>	<p>Any reference by either party to the fact that the parties have filed a Motion in Limine requesting relief from this Court or that this Court has granted or denied such relief is irrelevant and would confuse the jury. FED. R. EVID. 402, 403. Any reference by either party to Motions in Limine or any relief that might have been granted or denied is excluded. FED. R. EVID. 1 03(c), 403.</p> <p>This Motion is hereby ____ <b>GRANTED AND SO ORDERED</b> / ____ <b>DENIED</b>.</p>

DONE AND ORDERED in Chambers, at Miami-Dade County, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
THE HONORABLE FEDERICO A. MORENO  
CHIEF UNITED STATES DISTRICT JUDGE

Respectfully submitted,

**Dated: August 8, 2011**

By: /s/ Edward M. Mullins

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on August 8, 2011, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF filing system. I also certify that the foregoing document is being served this date on all counsel of record or pro se parties on the Service List below in the manner specified, either via transmission of Notices of Electronic Filing generated by the CM/ECF system or; in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

/s/ Edward M. Mullins

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**SERVICE LIST**

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