

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 1:10-cv-24063-MORENO

MOTOROLA MOBILITY, INC.,

Plaintiff / Counterclaim Defendant,

v.

MICROSOFT CORPORATION,

Defendant / Counterclaim Plaintiff.

**JOINT MOTION FOR CLARIFICATION
OF PAGE LIMITS FOR CLAIM CONSTRUCTION BRIEFS**

Motorola Mobility, Inc. (“Motorola Mobility”) and Microsoft Corporation (“Microsoft”) (collectively, the “Parties”) jointly move the Court for clarification of the page limitation applicable to claim construction briefings in this case. In support of their Motion, the Parties state that:

1. This action involves claims by both Motorola Mobility and Microsoft for patent infringement with respect to fourteen (14) patents collectively – seven each for Motorola and Microsoft.

2. This Court is required to construe the meaning of disputed terms in a patent claim prior to the submission to the jury. This process is claim construction. Markman v. Westview Instruments, Inc., 517 U.S. 370 (1996).

3. On January 20, 2011, the Court entered an Order Continuing Trial and Certain Pretrial Dates (DE 36) (“Scheduling Order”). The Scheduling Order does not specifically address deadlines for claim construction briefings.

4. In order to facilitate this Court's claim construction rulings, the Parties jointly moved to have this Court enter an agreed-upon schedule for the claims construction proceedings in this case on April 10, 2011. See Joint Motion To Include Pretrial Dates on Claim Construction and Expert Discovery (hereinafter, "Joint Motion for Schedule") (DE 49) (**copy attached as Ex. A**). That joint motion remains pending before the Court.

5. The parties have been and continue to work diligently to meet the proposed deadlines set forth in the Joint Motion for Schedule and will continue to do so. **In particular, the agreed deadline for filing of opening claim construction briefs is May 20, 2011, with responsive briefs due one week later on May 27, 2011.**

6. As the Court is aware, there are no page limits set forth in the Local Rules for claim construction briefings. Furthermore, in light of the number of patents at issue and in an abundance of caution in light of Local Rule 7.1,¹ the parties hereby notify the Court that they have agreed to specific page limits for the claim construction briefs, subject to the Court's approval.

7. The parties have agreed to claim construction briefing limits as follows: 80 double-spaced pages for opening, simultaneous briefings on all terms to be construed; and 50 double-spaced pages for simultaneous response briefings.

8. The parties have worked diligently to streamline the issues for the Court and, in the Joint Motion for Schedule, previously agreed to limit the number of claim limitations for construction to twenty-five (25) per party, *i.e.*, 50 in total. Thus, the parties' briefing schedule set forth above would provide the parties little more than a page per claim limitation, but the

¹ It is unclear that the page limitations set forth in Local Rule 7.1, with respect to motions, apply to briefs addressing claim construction.

parties nonetheless believe that they can provide at least a minimum amount of information necessary for the Court to construe the claim limitations. In the event that the Court is inclined to expand the page limit further, however, the parties believe that the Court would benefit from additional discussion and background that could be provided to assist the Court in undertaking its duty to construe the claims.

9. A proposed Order granting the Request for a Page Limits is attached as Exhibit B.

WHEREFORE, the Parties respectfully request that the Court enter the Order setting page limits attached as Exhibit B.

Dated: May 12, 2011

Dated: May 12, 2011

By: /s Edward M. Mullins

By: /s/ Curtis Miner

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