

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

Civil Action No. 1:10-cv-24063-MORENO/TORRES

MOTOROLA MOBILITY, INC.)
))
Plaintiff,)
))
v.)
))
MICROSOFT CORPORATION,)
))
Defendant.)

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

JURY TRIAL DEMANDED

**PLAINTIFF AND COUNTERCLAIM DEFENDANT
MOTOROLA MOBILITY, INC.'S INITIAL DISCLOSURES**

Plaintiff and Counterclaim Defendant Motorola Mobility, Inc. (“Motorola”) respectfully makes the following Initial Disclosures pursuant to Rule 26(a)(1), Fed. R. Civ. P., and the Court’s Pretrial Order Setting Conference (Docket No. 23).

These Initial Disclosures are based on information reasonably available to Motorola at this time. Motorola’s investigation into this matter is ongoing and Motorola reserves the right to supplement and/or amend these Initial Disclosures as required by Rule 26(e), Fed. R. Civ. P.

Motorola provides these Initial Disclosures without waiving in any manner: (1) the right to object on any basis permitted by law to the use of any Initial Disclosure information contained

herein for any purpose in any subsequent proceeding in this or any other action; and (2) the right to object on any basis permitted by law to any discovery request or proceeding involving or related to the subject matter of these Initial Disclosures.

DISCLOSURES

- a) **The name and, if known, the address and telephone number of each individual likely to have discoverable information--along with the subjects of that information--that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment.**

Motorola hereby gives notice that the following individuals are likely to have discoverable information that Motorola may use to support its claims or defenses. Motorola does not consent to or authorize Microsoft or its counsel to communicate with any of Motorola's current or former employees. Any such individual should be contacted only through Motorola's counsel of record.

<u>INDIVIDUAL</u>	<u>CONTACT INFORMATION</u>	<u>SUBJECT(S) OF INFORMATION</u>
Frank Kolnick	Ontario, Canada (Former Employee); may only be contacted through the undersigned counsel for Motorola.	Inventions disclosed and/or claimed in United States Patent No. 5,502,839 (the '839 Patent); state of the art of the '839 Patent; conception and reduction to practice of the invention disclosed in the '839 Patent and the prosecution of the '839 Patent.
Gene Eggleston	May only be contacted through the undersigned counsel for Motorola.	Inventions disclosed and/or claimed in United States Patent No. 5,764,899 (the '899 Patent); state of the art of the '899 Patent; conception and reduction to practice of the invention disclosed in the '899 Patent and the prosecution of the '899 Patent.

<u>INDIVIDUAL</u>	<u>CONTACT INFORMATION</u>	<u>SUBJECT(S) OF INFORMATION</u>
Mitch Hansen	Fox River Grove, IL (Former Employee); may only be contacted through the undersigned counsel for Motorola.	Inventions disclosed and/or claimed in United States Patent No. 5,764,899 (the '899 Patent); state of the art of the '899 Patent; conception and reduction to practice of the invention disclosed in the '899 Patent and the prosecution of the '899 Patent.
Anthony Rzany	May only be contacted through the undersigned counsel for Motorola.	Inventions disclosed and/or claimed in United States Patent No. 5,764,899 (the '899 Patent); state of the art of the '899 Patent; conception and reduction to practice of the invention disclosed in the '899 Patent and the prosecution of the '899 Patent.
Joan DeLuca	Boca Raton, FL (Former Employee); may only be contacted through the undersigned counsel for Motorola.	Inventions disclosed and/or claimed in United States Patent No. 5,784,001 (the '001 Patent); state of the art of the '001 Patent; conception and reduction to practice of the invention disclosed in the '001 Patent and the prosecution of the '001 Patent.
Doug Kraul	Gloucester, MA (Former Employee); may only be contacted through the undersigned counsel for Motorola.	Inventions disclosed and/or claimed in United States Patent No. 5,784,001 (the '001 Patent); state of the art of the '001 Patent; conception and reduction to practice of the invention disclosed in the '001 Patent and the prosecution of the '001 Patent.

<u>INDIVIDUAL</u>	<u>CONTACT INFORMATION</u>	<u>SUBJECT(S) OF INFORMATION</u>
Charles Batey, Jr.	Austin, TX (Former Employee); may only be contacted through the undersigned counsel for Motorola.	Inventions disclosed and/or claimed in United States Patent No. 5,784,001 (the '001 Patent); state of the art of the '001 Patent; conception and reduction to practice of the invention disclosed in the '001 Patent and the prosecution of the '001 Patent.
Dwight Smith	May only be contacted through the undersigned counsel for Motorola.	Inventions disclosed and/or claimed in United States Patent No. 6,272,333 (the '333 Patent); state of the art of the '333 Patent; conception and reduction to practice of the invention disclosed in the '333 Patent and the prosecution of the '333 Patent.
Kamala Urs	May only be contacted through the undersigned counsel for Motorola.	Inventions disclosed and/or claimed in United States Patent No. 6,408,176 (the '176 Patent); state of the art of the '176 Patent; conception and reduction to practice of the invention disclosed in the '176 Patent and the prosecution of the '176 Patent.
Jayanthi Rangarajan	Chicago, IL (Former Employee); may only be contacted through the undersigned counsel for Motorola.	Inventions disclosed and/or claimed in United States Patent No. 6,757,544 (the '544 Patent); state of the art of the '544 Patent; conception and reduction to practice of the invention disclosed in the '544 Patent and the prosecution of the '544 Patent.

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David Ladd	Lisle, IL (Former Employee); may only be contacted through the undersigned counsel for Motorola.	Inventions disclosed and/or claimed in United States Patent No. 6,757,544 (the '544 Patent); state of the art of the '544 Patent; conception and reduction to practice of the invention disclosed in the '544 Patent and the prosecution of the '544 Patent.
Senaka Balasuriya	Weston, FL (Former Employee); may only be contacted through the undersigned counsel for Motorola.	Inventions disclosed and/or claimed in United States Patent No. 6,757,544 (the '544 Patent); state of the art of the '544 Patent; conception and reduction to practice of the invention disclosed in the '544 Patent and the prosecution of the '544 Patent.
Curtis Tuckey	Chicago, IL (Former Employee); may only be contacted through the undersigned counsel for Motorola.	Inventions disclosed and/or claimed in United States Patent No. 6,757,544 (the '544 Patent); state of the art of the '544 Patent; conception and reduction to practice of the invention disclosed in the '544 Patent and the prosecution of the '544 Patent.
Eric Eaton	Lake Worth, FL (Former Employee); may only be contacted through the undersigned counsel for Motorola.	Inventions disclosed and/or claimed in United States Patent No. 6,983,370 (the '370 Patent); state of the art of the '370 Patent; conception and reduction to practice of the invention disclosed in the '370 Patent and the prosecution of the '370 Patent.

<u>INDIVIDUAL</u>	<u>CONTACT INFORMATION</u>	<u>SUBJECT(S) OF INFORMATION</u>
David Hayes	Lake Worth, FL (Former Employee); may only be contacted through the undersigned counsel for Motorola.	Inventions disclosed and/or claimed in United States Patent No. 6,983,370 (the '370 Patent); state of the art of the '370 Patent; conception and reduction to practice of the invention disclosed in the '370 Patent and the prosecution of the '370 Patent.
Von Mock	Boynton Beach, FL (Former Employee); may only be contacted through the undersigned counsel for Motorola.	Inventions disclosed and/or claimed in United States Patent No. 6,983,370 (the '370 Patent); state of the art of the '370 Patent; conception and reduction to practice of the invention disclosed in the '370 Patent and the prosecution of the '370 Patent.
Kirk Dailey	May only be contacted through the undersigned counsel for Motorola.	Corporate structure of Motorola.
Chris Collins	May only be contacted through the undersigned counsel for Motorola.	Business and financial information relating to the products accused by Microsoft sold in the United States.
Peter Prunuske	May only be contacted through the undersigned counsel for Motorola.	Program Manager for the Motorola Droid 2 phone.
Marjorie Silha	May only be contacted through the undersigned counsel for Motorola.	Program Manager for the Motorola Droid X phone.
Google, Inc.	1600 Amphitheatre Pkwy, Mountain View, CA 94043	Development, structure, design, and/or operation of the Android Platform.

<u>INDIVIDUAL</u>	<u>CONTACT INFORMATION</u>	<u>SUBJECT(S) OF INFORMATION</u>
Lawrence Robinson	May only be contacted through the undersigned counsel for Motorola.	Business, marketing and financial information relating to the DCH and BMC set-top boxes.
Tom Chester	May only be contacted through the undersigned counsel for Motorola.	Business and financial information concerning the DCH and BMC set-top boxes.
Jeff Newdeck Tim Newman	May only be contacted through the undersigned counsel for Motorola.	Development, structure, design, and/or operation for the DCH set-top boxes.
Janet Fryer	May only be contacted through the undersigned counsel for Motorola	Development, structure, design, and/or operation for the BMC set-top boxes.
Named inventors of Microsoft's alleged patents-in-suit	Contact Information Currently Unknown.	Named inventors on United States Patent Nos. 6,791,536; 6,897,853; 7,024,214; 7,493,130; 7,383,460; 6,897,904; and 6,785,901; believed to have knowledge regarding the conception and reduction to practice of the alleged invention disclosed in the aforementioned Patents and the prosecution of the aforementioned Patents.
Current and/or Former Microsoft Employees	Contact Information Currently Unknown	Believed to have knowledge regarding the design and/or development of the accused products and/or products which allegedly embody the Microsoft asserted patents.

Motorola further identifies the individuals listed on Microsoft's Initial Disclosures as persons potentially having knowledge of facts relevant to this case and reserves the right to rely

upon any of such individuals to support its claims, defenses and damages in this action. In addition, individuals to be identified in the parties' discovery responses and document production are expected to have discoverable information regarding Motorola's claims, defenses and damages sought in this case. Motorola expressly reserves the right to supplement its response pursuant to Rule 26(e), Fed. R. Civ. P., as its investigation continues, and further expressly reserve the right to call as witnesses such additional persons identified during the course of discovery and as its investigation continues.

- b) A copy--or a description by category and location--of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.**

Categories of documents in Motorola's custody, possession, and control that Motorola may use to support its claims, defenses and damages include:

- a) The Motorola patents-in-suit;
- b) The complete file histories of the Motorola patents-in-suit, including all cited references;
- c) Documents and/or things relevant to the conception and reduction to practice of the claimed inventions in the Motorola patents-in-suit;
- d) Copies of relevant and discoverable correspondence;
- e) Documents sufficient to describe the functionality of the products relating to the Motorola patents-in-suit;
- f) Documents sufficient to describe the structure, operation, and functionality of the products accused in Microsoft's counterclaims;
- g) Documents sufficient to show Motorola's relevant marketing and sales activities of the products relating to the Motorola patents-in-suit;
- h) Documents sufficient to show Motorola's relevant marketing and sales activities of the products accused in Microsoft's counterclaims;

- i) Financial documents relating to the sale and use of the products accused in Microsoft's counterclaims;
- j) The Microsoft patents-in-suit;
- k) Prior art articles, documents, and products relating to the invalidity of the Microsoft patents-in-suit;
- l) Documents relating to the level of ordinary skill in the field of art of the Motorola patents-in-suit;
- m) Documents relating to the level of ordinary skill in the field of art of the Microsoft patents-in-suit; and
- n) Documents relating to Microsoft's willful infringement of the Motorola patents-in-suit.

Many of the aforementioned documents contain Motorola and/or third-party confidential information and will be produced or made available for inspection subject only to any protective order issued in this action and at the time called for in this Court's Scheduling Order. Further, Motorola's identification of documents does not waive any privilege that may apply to those documents. Motorola also expressly reserves the right to object to any request for production on any appropriate ground, including that the requested information is subject to protection under the attorney-client privilege, the work product doctrine or any other immunity from discovery. Motorola's search for documents that it may use to support its claims, defenses and damages in this action is continuing and Motorola reserves the right to supplement this disclosure pursuant to Rule 26(e), Fed. R. Civ. P.

Motorola also reserves the right to refer to and/or introduce any and all demonstrative exhibits prepared in this case, any documents that are generated in this case after the date of this disclosure including, but not limited to, papers filed with the Court, written discovery, expert reports, correspondence and the like, and any documents not listed above in rebuttal.

- c) **A computation of each category of damages claimed by the disclosing party--who must also make available for inspection and copying as under Rule 34 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered.**

In addition to seeking a permanent injunction, Motorola seeks money damages adequate to compensate Motorola for Microsoft's infringement. The computation of Motorola's damages in this action requires information that is in the possession, custody, or control of Microsoft, and potentially third parties, and is not presently available to Motorola at this time. Motorola expressly reserves the right to supplement this disclosure at such time that discovery makes it appropriate to do so. Motorola's investigation of its claims, defenses and damages is ongoing and Motorola expressly reserves the right to supplement its response pursuant to Rule 26(e), Fed. R. Civ. P., as its investigation continues.

- d) **For inspection and copying as under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.**

Motorola is currently unaware of any applicable agreement that requires disclosure under Rule 26(a)(1)(A)(iv), Fed. R. Civ. P.

Motorola's investigation of its claims is ongoing and Motorola expressly reserves the right to supplement its response pursuant to Rule 26(e), Fed. R. Civ. P., as its investigation continues.

January 24, 2011

By: /s/ Leslie M. Spencer
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on January 24, 2011, the foregoing document is being served via E-mail this day on the counsel of record identified in the attached Service List.

By: /s/ Leslie M. Spencer

SERVICE LIST

Motorola Mobility, Inc. v. Microsoft Corp., Case No. 1:10-cv-24063-MORENO/TORRES

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