

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

MOTOROLA MOBILITY, INC.,

Plaintiff,

v.

MICROSOFT CORPORATION

Defendant.

Case Number: 10-24063-CIV-MORENO

JURY TRIAL DEMANDED

NOTICE OF SUBPOENA OF RESEARCH IN MOTION CORPORATION

PLEASE TAKE NOTICE that pursuant to Rules 30(a)(1), 34(c) and 45 of the Federal Rules of Civil Procedure, Plaintiff Motorola Mobility, Inc. (“Motorola”) will serve the attached subpoena for documents (identified in Schedule A) and deposition (topics identified in Schedule B) on Research In Motion Corporation (“RIM”), attached hereto.

Dated: April 26, 2011

Respectfully submitted,

/s/ Khue V. Hoang

Edward M. Mullins

Hal M. Lucas

Astigarraga Davis Mullins & Grossman, P.A.

701 Brickell Avenue, 16th Floor

Miami, FL 33131

Telephone: (305) 372-8282

Attorneys for Plaintiff /

Counterclaim Defendant

MOTOROLA MOBILITY, INC.

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Steven Pepe

Khue V. Hoang

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Megan F. Raymond

Ropes & Gray LLP

One Metro Center

700 12th Street NW, Suite 900

Washington, DC 20005

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF TEXAS

MOTOROLA MOBILITY, INC.,

Plaintiff,

v.

MICROSOFT CORPORATION,

Defendants.

SUBPOENA IN A CIVIL CASE

Case Number 10-24063-CIV-MORENO

(S.D. Florida)

To: RESEARCH IN MOTION CORPORATION
c/o C T CORPORATION SYSTEM
350 N. ST. PAUL ST. STE. 2900
DALLAS, TX 75201

YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case. The deposition will be transcribed; video taped; audio recorded. SEE SCHEDULE B ATTACHED HERETO.

PLACE OF DEPOSITION

DATE AND TIME

Jackson Walker LLP
Bank of America Plaza
901 Main Street, Suite 6000
Dallas, TX 75202

May 17, 2011 @ 9:00 AM CT

YOU ARE COMMANDED to produce and permit inspection, copying, testing or sampling of the following documents, electronically stored information or objects at the place, date, and time specified below (list documents, electronically stored information or objects): SEE SCHEDULE A ATTACHED HERETO.

PLACE

DATE AND TIME

1908 Kings Ct.
Flower Mound, TX 75028

May 10, 2011 @ 4:00 PM CT

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

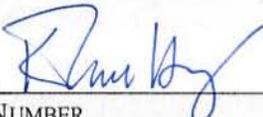
PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which a person will testify. Federal Rules of Civil Procedure. 30(b)(6).

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

DATE

Attorney for Plaintiff Motorola Mobility, Inc. 

April 26, 2011

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

TELEPHONE

Khue V. Hoang
Ropes & Gray LLP
1211 Avenue of the Americas
New York, New York 10036-8704

+1 212 596 9000

(See Federal Rule of Civil Procedure 45 (c), (d), and (e), on next page)

PROOF OF SERVICE

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct:

Executed on:

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Federal Rule of Civil Procedure 45 (c), (d), and (e), as amended on December 1, 2007:

(c) PROTECTING A PERSON SUBJECT TO A SUBPOENA.

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) **Command to Produce Materials or Permit Inspection.**

(A) **Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) **Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) **Quashing or Modifying a Subpoena.**

(A) **When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) DUTIES IN RESPONDING TO A SUBPOENA.

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) **Claiming Privilege or Protection.**

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) CONTEMPT.

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

SCHEDULE A

DEFINITIONS AND INSTRUCTIONS

For a statement of your obligations in producing documents under this subpoena, see Rules 45(d)(1) and (2) of the Federal Rules of Civil Procedure, which appears on the reverse side of the subpoena.

1. The terms "you," "your," and/or "RIM," shall mean Research in Motion Corporation, and any and all of its subsidiaries, parents, affiliates, divisions, successors, predecessors, agents, employees, representatives, directors, officers, trustees, and attorneys, or any other person or entity purporting to act on behalf of, or subject to the direction or control of any of the foregoing.

2. The term "Plaintiff" or "Motorola" shall refer to Motorola Mobility, Inc..

3. Each of the terms "any," "all," and "each" shall be construed as "any, all, and/or each."

4. The connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

5. The use of the singular form of any word includes the plural and vice versa.

6. The term "person" means any legal entity including natural persons, governmental bodies or agencies, corporations, partnerships, unincorporated associations, joint ventures, sole proprietorships, or any other entity or organization of individuals.

7. The terms "document" and "documents" are to be construed synonymously with their use in the Federal Rules of Civil Procedure, and includes without limitation all tangible things which come within the meaning of the terms "writings and recordings" used in Federal

Rule of Evidence 1001 and all electronically stored information. A draft or non-identical copy is a separate document within the meaning of this term.

8. The term "relating to," "relate(s) to," or "related to" means, in addition to its customary and usual meaning, discussing, referring, pertaining, reflecting, showing, recording, or having any logical or factual connection whatever with the subject matter in question.

9. The term "concerning" means in whole or in part, directly or indirectly, referring to, relating to, connected with, commenting on, responding to, showing, describing, analyzing, reflecting, and consulting.

10. The term "including" means including without limitation.

11. The term "communication" means any transmission, exchange, or transfer of information by any means regardless of content, format and medium.

12. The terms "identify" or "identity" with respect to a natural person means providing at least the following information for him or her: (a) full name; (b) present address and telephone number, or if not known, last known address and telephone number; (c) current employer; (d) title or position; and (e) employment duties, functions, and/or responsibilities.

13. If in answering these Requests for Production RIM withholds any information under a claim of privilege, work product immunity, or otherwise, please state that RIM is withholding information and explain why, including a detailed description of the information held and any grounds for an assertion of privilege. Information provided should include: (i) the date of the document; (ii) the subject matter of the document; (iii) the person(s) who prepared the document; (iv) all persons to whom the document was distributed, shown, or explained; (v) its present custodian; and (vi) the nature of the privilege asserted.

14. If RIM objects to or disagrees with any of the Definitions set forth in these Requests, or if it does not understand any term used in these Requests, please explain in detail the nature of RIM's disagreement with the definition, or lack of understanding of the term, and provide RIM's grounds for the objection to or definition of the term. In responding to the Request, please provide RIM's understanding of the objected-to term and respond to the Request using that definition.

15. These requests shall apply to all documents in RIM's possession, custody or control, whether they are at any individual's home or place of business or elsewhere. These requests cover all responsive documents stored by personal computers, servers, hard disks, electronic data storage devices, and data archives in RIM's possession, custody, or control.

16. If RIM is aware that a document or group of documents responsive to these requests once existed, but has been destroyed or discarded, RIM shall state when the document or group of documents was destroyed or discarded, why the document or group of documents was destroyed or discarded, the person most knowledgeable about the content of the document(s) and the circumstances under which the document or group of documents was destroyed or discarded.

17. All requested documents are to be produced in the same file or other organizational environment in which they are maintained in the ordinary course of business. For example, a document that is part of a file, docket or other grouping should be physically produced together with all other documents from said file, docket or grouping, in the same order or manner of arrangement as the original. Alternatively, as to each document and thing produced in response hereto, identify the request for production in response to which the document or thing is being produced.

18. Color copies of documents are to be produced where color is necessary to interpret or understand the contents.

19. If no documents are responsive to a particular request, please so state.

DOCUMENTS TO BE PRODUCED

1. A representative copy of each Installation Guide, User Guide, Getting Started Guide for each BlackBerry handheld device, as well as representative copies of other instructional guides directed to end-users of BlackBerry handhelds devices, published between 1999 and 2001, inclusive, including at least such guides for the RIM 850, RIM 857, RIM 950, and RIM 957 handheld devices.
2. A representative copy of each Technical White Paper concerning BlackBerry Enterprise Server published between 1999 and 2001, inclusive.
3. A representative copy of each Technical White Paper concerning BlackBerry Exchange Edition published between 1999 and 2001, inclusive.
4. Any documents that RIM reviews or relies on in preparing for the deposition on the topics listed in Schedule B to this subpoena.

SCHEDULE B

DEFINITIONS AND INSTRUCTIONS

1. Definitions and Instructions 1-19 in Schedule A to this subpoena are incorporated herein.

DEPOSITION TOPICS

1. Authentication of all documents produced pursuant to paragraphs 1-4 of Schedule A to this subpoena, including, but not limited to, authenticating the date of the drafting and publication of any such document.
2. The functioning of email, contacts, calendar, and application synchronization for BlackBerry Handhelds sold between 1999 and 2001, including synchronization described in documents produced pursuant to paragraphs 1-4 of schedule A to this subpoena, as well as how, in connection with such synchronization, BlackBerry Handhelds elect to communicate data over wireless radio, a serial connection, or some other synchronization mechanism.

CERTIFICATE OF SERVICE

I hereby certify that on April 26, 2011, a copy of the foregoing Notice Of Subpoena Of Research In Motion Corporation was served by e-mail upon the counsel of record included in the attached Service List.

/s/ Leslie M. Spencer

Leslie M. Spencer

SERVICE LIST

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

Roberto Martinez, Esq.
Curtis Miner, Esq.
COLSON HICKS EIDSON
255 Alhambra Circle, Penthouse
Coral Gables, FL 33134
Tel: (305) 476-7400
Email: curt@colson.com
bob@colson.com

*Attorneys for Defendant /
Counterclaim Plaintiff*
MICROSOFT CORPORATION

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Richard A. Cederoth
Douglas I. Lewis
John W. McBride
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UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE 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.)
)

)

**PLAINTIFF MOTOROLA MOBILITY, INC.’S NOTICE OF
SUBPOENA TO THIRD PARTY HTC AMERICA, INC.**

PLEASE TAKE NOTICE that pursuant to Rules 30(a)(1), 34(c), and 45 of the Federal Rules of Civil Procedure, Plaintiff Motorola Mobility, Inc. (“Motorola Mobility”) will serve the subpoena attached as Exhibit 1 on HTC America, Inc.

The documents set forth in the attached Schedule B are to be produced on or before May 25, 2011 at 9:00 am Pacific Time at the offices of the Summit Law Group, 315 Fifth Avenue South, Suite 1000, Seattle, WA 98104.

PLEASE TAKE FURTHER NOTICE that pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, Motorola Mobility, by and through its attorneys Ropes & Gray LLP, will

take the deposition upon oral examination of the entity listed above by a designated representative as to the matters set forth in the attached Schedule A on June 1, 2011 at 9:00 am Pacific Time at the office of the Summit Law Group, 315 Fifth Avenue South, Suite 1000, Seattle, WA 98104. The deposition will be recorded by stenographic and/or video means, taken before a Notary Public or other officer authorized by law to administer oaths, and will continue from day to day until completed.

Respectfully submitted,

Dated: May 10, 2011

By: /s/ Leslie M. Spencer

Jesse J. Jenner
Steven Pepe
Khue V. Hoang
Leslie M. Spencer
Ropes & Gray LLP
1211 Avenue of the Americas
New York, NY 10036
Telephone: (212) 596-9000

Norman H. Beamer
Mark D. Rowland
Gabrielle E. Higgins
Ropes & Gray LLP
1900 University Avenue, 6th Floor
East Palo Alto, CA 94303
Telephone: (650) 617-4000

Kevin J. Post
Megan F. Raymond
Ropes & Gray LLP
One Metro Center
700 12th Street NW, Suite 900
Washington, DC 20005
Telephone: (202) 508-4600

Edward M. Mullins
Hal M. Lucas
Astigarraga Davis Mullins & Grossman, P.A.

701 Brickell Avenue, 16th Floor
Miami, Florida 33131
Telephone: (305) 372-8282

Attorneys for Plaintiff / Counterclaim Defendant
MOTOROLA MOBILITY, INC.

CERTIFICATE OF SERVICE

I hereby certify that on May 10, 2011, copies of the foregoing Plaintiff Motorola Mobility, Inc.'s Notice Of Subpoena To Third Party HTC America, Inc. was served by e-mail upon the counsel of record included in the attached Service List.

/s/ Amanda F. Wieker
Amanda F. Wieker

SERVICE LIST

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

Roberto Martinez, Esq.
Curtis Miner, Esq.
COLSON HICKS EIDSON
255 Alhambra Circle, 2nd Floor
Coral Gables, Florida 33134
Tel: (305) 476-7400
Email: curt@colson.com
bob@colson.com

*Attorneys for Defendant /
Counterclaim Plaintiff*
MICROSOFT CORPORATION

Of Counsel:

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Richard A. Cederroth
Douglas I. Lewis
John W. McBride
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Brian R. Nester
Kevin C. Wheeler
SIDLEY AUSTIN LLP
1501 K Street NW
Washington, DC 20005
Tel: (202) 736-8000
Email: bnester@sidley.com
kwheeler@sidley.com

Exhibit 1

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

MOTOROLA MOBILITY, INC.,
Plaintiff,
Counterclaim-Defendant

SUBPOENA IN A CIVIL CASE

Case 1:10-cv-24063-MORENO¹
(S.D. Fla.)

v.

MICROSOFT CORPORATION,
Defendant,
Counterclaim-Plaintiff.

To: HTC America, Inc.
13920 SE Eastgate Way, Suite 400
Bellevue, WA 98005

YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case. The deposition will be transcribed; video taped; audio recorded.

PLACE OF DEPOSITION	DATE AND TIME
Summit Law Group PLLC 315 Fifth Avenue South, Suite 1000 Seattle, WA 98104-2682	June 1, 2011 See attached Schedule A

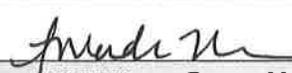
YOU ARE COMMANDED to produce and permit inspection, copying, testing or sampling of the following documents, electronically stored information or objects at the place, date, and time specified below (list documents, electronically stored information or objects):

PLACE	DATE AND TIME
Summit Law Group PLLC 315 Fifth Avenue South, Suite 1000 Seattle, WA 98104-2682	May 25, 2011 See attached Schedule B

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which a person will testify. Federal Rules of Civil Procedure. 30(b)(6).
SEE SCHEDULE A ATTACHED HERETO

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
Attorney for Plaintiff 	May 10, 2011
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER	TELEPHONE
Amanda F. Wieker, Esq.	202-626-3918

One Metro Center
700 12th St. NW Suite 900
Washington, D.C. 20005

(See Federal Rule of Civil Procedure 45 (c), (d), and (e), on next page)

¹If action is pending in district other than district of issuance, state district under case number.

PROOF OF SERVICE

DATE

PLACE

SERVED

Date

Place

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct:

Executed on:

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Federal Rule of Civil Procedure 45 (c), (d), and (e), as amended on December 1, 2007:

(c) PROTECTING A PERSON SUBJECT TO A SUBPOENA.

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) **Command to Produce Materials or Permit Inspection.**

(A) **Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

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(A) **When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

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(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) DUTIES IN RESPONDING TO A SUBPOENA.

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) **Claiming Privilege or Protection.**

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) CONTEMPT.

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

SCHEDULE A

DEFINITIONS AND INSTRUCTIONS

Each request in this Schedule is subject to and incorporates the following definitions and instructions as used herein.

1. “Motorola Mobility” or “Plaintiff” means, collectively and individually, Motorola Mobility, Inc., and all its predecessors or successors (merged, acquired, or otherwise), parents, divisions, subsidiaries, and affiliates thereof, and all officers, agents, employees, counsel and other persons acting on its behalf, or any other person or entity subject to Motorola Mobility’s control, or which controls Motorola Mobility, including but not limited to Motorola, Inc.

2. “HTC” or “HTC Corporation” means, collectively and individually, HTC Corporation, and all its predecessors or successors (merged, acquired, or otherwise), parents, divisions, subsidiaries, and affiliates thereof, and all officers, agents, employees, counsel and other persons acting on its behalf, or any other person or entity subject to HTC’s control, or which controls HTC.

3. “Microsoft,” “Microsoft Corporation,” or “Defendant” means, collectively and individually, Microsoft Corporation, and all its predecessors or successors (merged, acquired, or otherwise), parents, divisions, subsidiaries, and affiliates thereof, and all officers, agents, employees, counsel and other persons acting on its behalf, or any other person or entity subject to Microsoft’s control, or which controls Microsoft.

4. “Person” means any natural person or individual, and any and all legal entities, including without limitation, corporations, companies, firms, partnerships, joint ventures, proprietorships, associations, governmental bodies or agencies, or other form of business enterprise.

5. The terms “and” and “or” are terms of inclusion and not of exclusion and are to be construed either disjunctively or conjunctively as necessary to bring within the scope of these requests any documents or responses which might be otherwise construed to be outside the scope of these requests.

6. The term “any” includes “all,” and the term “all” includes “any.”

7. The singular of any term includes the plural of that term, and the plural includes the singular.

8. The term “concerning” means identifying, referring to, concerning, regarding, evidencing, demonstrating, summarizing, reflecting, constituting, containing, embodying, mentioning, pertaining to, commenting upon, connected with, discussing, describing, analyzing, showing, comprising, or relating to in any relevant way to a particular subject, in whole or in part, either directly or indirectly.

9. “Document” shall have the broadest meaning and scope ascribed under Rule 34 of the Federal Rules of Civil Procedure, and include all tangible things which come within the meaning of the terms “writings and recordings,” as used in Federal Rule of Evidence 1001 and all electronically stored information. A draft or non-identical copy is a separate document within the meaning of this term.

10. “Electronically stored information” means information created, manipulated, communicated, stored, and/or best utilized in any type of electronic, magnetic or any other nonpaper form or machine-readable medium.

11. “Communication” means any transmission, exchange, or transfer of information by any means regardless of content, format and medium.

12. “Identify” or “identity” with respect to a natural person or individual means providing at least the following information for him or her: (a) full name; (b) present address and telephone number, or if not known, last known address and telephone number; (c) current employer; (d) title or position; and (e) employment duties, functions, and/or responsibilities.

13. “Identify” or “identity” with respect to HTC’s products, devices, or other articles of manufacture means providing the following information: (a) any designation used internally by HTC or HTC’s employees for that product, device, or article of manufacture, including formal or informal nicknames; and (b) any designation used publicly by HTC or HTC’s employees for that product, device, or article of manufacture, including but not limited to the part or model number and name.

14. “Identify” or “identity” with respect to communications means providing the following information: (a) the identity of the person(s) creating such communication; (b) the identity of the recipient(s) of such communication; (c) the date of the communication; and (d) the nature, substance, and contents of the communication.

15. The “333 Patent” means United States Patent No. 6,272,333.

16. “Windows Mobile Phone Technology” means Microsoft Windows® operating system technology for mobile phones or devices, specifically including Windows Mobile 6.1, Windows Mobile 6.5, and Windows Phone 7.

17. “Windows Marketplace” means Microsoft’s virtual software application store, specifically including Marketplace (as used with Windows Phone 7) and Windows Marketplace for Mobile (as used with Windows Mobile 6.0, 6.1, and 6.5).

18. “Application Registry Technology” means all Microsoft products, software, instruction sets, programs, routines, data structures, object classes, commands or protocols

released since 2004 and designed or operable to present, register, transfer, download, upload, copy or manage software applications executable on a phone or mobile device, including but not limited to Marketplace (for Windows Phone 7) and Windows Marketplace for Mobile.

19. “HTC Windows Phones” means all mobile phones or devices sold or manufactured by HTC that incorporate or embed Windows Mobile Phone Technology, including but not limited to the HTC HD7, Arrive, Surround, Imagio, Touch, HD2, Tilt 2, Touch Pro2, Dash 3G, Ozone, Touch Cruise

20. “Technical Documentation” means documents that relate to structure, electronic circuitry, operation, function, and/or features, including but not limited to user guides, user manuals, reference manuals, service manuals, product manuals, use cases, product descriptions, white papers, administrator guides, installation guides, technical manuals, technical specifications, functional specifications, software manuals, software design documents, memory maps, block diagrams, theory of operation documents, road maps, datasheets, schematics, computer screen shots, prototype designs, assembly drawings, engineering drawings, software design drawings or software programming code samples, and HTC Internet resources.

DEPOSITION TOPICS

TOPIC NO. 1

For all HTC Windows Phones, the design, structure, electronic circuitry, operation, and functionality of the processor and all hardware components for transmitting and receiving data, including but not limited to Bluetooth, 3G, GPRS, EDGE, and Wi-Fi data.

TOPIC NO. 2

HTC's use, incorporation, installation, and deployment of Windows Mobile Phone Technology in HTC Windows Phones, including how HTC Windows Phones are adapted for, utilize, run, or interact with Windows Mobile Phone Technology.

TOPIC NO. 3

The features, characteristics, and functions of HTC Windows Phones related to installing software applications or updates, downloading, storing, updating, monitoring availability, deleting, tracking versions and updates, and/or transmitting information regarding any software application, including but not limited to use or incorporation of Windows Mobile Phone Technology for maintaining a list of installed software applications on a HTC Windows Phone, receiving software application installs or updates on a HTC Windows Phone from Windows Marketplace, deleting software applications from a HTC Windows Phone, and transmitting to Windows Marketplace information about a software application installation, deletion, update, and/or other change.

TOPIC NO. 4

All contracts, licenses, and agreements between HTC and Microsoft concerning Windows Mobile Phone Technology or HTC Windows Phones.

TOPIC NO. 5

All contracts, licenses, and agreements between HTC and Microsoft concerning any litigation between Motorola Mobility and Microsoft.

TOPIC NO. 6

The marketing, advertising, and promotion of HTC Windows Phones in the United States.

TOPIC NO. 7

The volume or quantities of HTC Windows Phones (in units and dollars) sold or offered for sale in the United States since 2004.

TOPIC NO. 8

The identity and location of all documents and things concerning the foregoing topics.

SCHEDULE B

DEFINITIONS AND INSTRUCTIONS

For a statement of your obligations in producing documents under this subpoena, see Rules 45(d)(1) and (2) of the Federal Rules of Civil Procedure, which appears on the reverse side of the subpoena.

1. Definitions and Instructions 1-20 in Schedule A to this subpoena are incorporated herein by reference.

2. If any document or thing is withheld subject to a claim of attorney-client privilege, attorney work product immunity, or any other privilege or immunity from disclosure, HTC shall describe in sufficient detail the nature of the document or thing withheld, its date, a description of the subject matter, the names and addresses of all persons who prepared the document and to whom the document was disclosed, its present custodian, and a statement of the grounds for withholding the information, such that will enable other parties to assess the claim of privilege or immunity.

3. These Requests require HTC to produce all documents and things in HTC's possession, custody or control; or in the possession, custody or control of HTC's agents, consultants, representatives, officers, directors, affiliates, predecessors and successors in interest, parents, divisions, subsidiaries, regional offices, assignees, trustees, employees, experts, attorneys, and/or anyone else acting on HTC's behalf or subject to its control.

4. All documents and things should be produced with information that identifies the file or other source in which each document responsive to these Requests is found, or a record of such source information shall be made available upon request by Plaintiff during the course of discovery. All documents and things should be produced in the same file or other organizational

environment in which they are maintained. For example, a document that is part of a file, docket or other grouping should be physically produced together with all other documents from said file, docket or grouping responsive to said request, in the same order or manner of arrangement as the original. Additionally, a document should be produced stapled, clipped or otherwise bound or connected in the same manner as the original. Where color is necessary to interpret or understand the content of the documents, please produce color copies.

5. All documents that constitute electronically stored information as defined in the Federal Rules of Civil Procedure shall be produced as single page TIFFs with image load files showing production numbers and document breaks or as otherwise agreed. Plaintiff reserves the right to request production of electronically stored information in its native format and/or with associated metadata where necessary.

6. If HTC cannot comply in full with any specific Request, after a diligent search, HTC shall comply to the fullest extent possible, specifying: (a) the information it fails to produce; and (b) why full compliance is not possible.

7. If HTC fails to produce a document or thing on the grounds that such document or thing is no longer in HTC's possession, custody or control, HTC shall state what disposition was made of that document or thing, including the circumstances of any loss or destruction of such document or thing, and the names and addresses of all persons having knowledge of the nature and contents of such document or thing.

8. If HTC has no documents responsive to a certain request, please so state. If HTC is aware that a document or group of documents responsive to these requests once existed, but has been destroyed or discarded, identify each such document or group of documents, including by stating: (i) the date of the document; (ii) the subject matter of the document; (iii) the person(s)

who prepared or authored the document; (iv) all persons to whom the document was distributed, shown, or explained; (v) when the document or group of documents was destroyed or discarded; (vi) why the document or group of documents was destroyed or discarded; and (vii) the person most knowledgeable about the content of the document(s) and the circumstances under which the document or group of documents was destroyed or discarded.

9. These requests are continuing in nature, and responses must be supplemented in accordance with Fed. R. Civ. P 26(e). If additional information is later discovered that is responsive to these requests, supplemental responses disclosing that information must be submitted as promptly as possible.

REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS

REQUEST NO. 1

Documents and things sufficient to show the design, structure, electronic circuitry, operation, and functionality of the processor and all hardware components for transmitting and receiving data, including but not limited to Bluetooth, 3G, GPRS, EDGE, and Wi-Fi data, for all HTC Windows Phones, including but not limited to all circuit diagrams, schematics, hardware design documents, engineering design drawings, parts lists, bills of materials, and other Technical Documentation.

REQUEST NO. 2

Documents and things sufficient to identify and describe all Technical Documentation that Microsoft distributes and/or makes available to HTC concerning Windows Mobile Phone Technology as used in HTC Windows Phones.

REQUEST NO. 3

Documents and things sufficient to show HTC's use, incorporation, installation, or deployment of Windows Mobile Phone Technology in HTC Windows Phones, including but not limited to documents and things sufficient to show how HTC Windows Phones are adapted for, utilize, run, or interact with Windows Mobile Phone Technology.

REQUEST NO. 4

Documents and things sufficient to show the operation, function, and performance of Windows Mobile Phone Technology and/or HTC Windows Phones related to installing software applications or updates, downloading, storing, updating, monitoring availability, deleting, tracking versions and updates, and/or transmitting information regarding any software application, including but not limited to use or incorporation of Windows Mobile Phone Technology for maintaining a list of installed software applications on a HTC Windows Phone, receiving software application installs or updates on a HTC Windows Phone from Windows Marketplace, deleting software applications from a HTC Windows Phone, and transmitting to Windows Marketplace information about a software application installation, deletion, update, and/or other change, including but not limited to Technical Documentation and documented, uncompiled source code.

REQUEST NO. 5

For any source code provided in response to Request No. 4, documents and things sufficient to show all differences between that version (or revision) and each prior version (or revision) since 2004.

REQUEST NO. 6

Documents and things sufficient to show all contracts, licenses, and agreements between Microsoft and HTC concerning Windows Mobile Phone Technology, HTC Windows Phones, or Application Registry Technology.

REQUEST NO. 7

Documents and things sufficient to show all contracts, licenses, and agreements between HTC and Microsoft concerning any litigation between Motorola Mobility and Microsoft.

REQUEST NO. 8

Documents and things sufficient to show HTC's marketing, advertising, and promotion of HTC Windows Phones in the United States.

REQUEST NO. 9

Documents sufficient show, on a yearly, quarterly or monthly periodic basis, the volume or quantities of HTC Windows Phones (in units and dollars) sold or offered for sale in the United States since 2004.

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
Miami Division

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

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

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

**PLAINTIFF MOTOROLA MOBILITY, INC.’S NOTICE OF
DEPOSITION OF THIRD PARTY NTI CORPORATION
TO DEFENDANT MICROSOFT CORPORATION**

PLEASE TAKE NOTICE that pursuant to Federal Rules of Civil Procedure 30 and 45, Plaintiff-Counterclaim Defendant Motorola Mobility, Inc. (“Motorola Mobility”) will take the deposition upon oral examination of NTI Corporation, commencing on May 17, 2011 at 9:00 a.m.

The deposition will take place at the offices of Quinn Emanuel Urquhart & Sullivan, LLP, 865 S. Figueroa St., 10th Floor, Los Angeles, California 90017, beginning on the date and time specified above, or at such other time and place as may be agreed to by counsel.

The deposition will be taken before an officer authorized to administer oaths by the laws of the United States and will be recorded by stenographic and videographic means. The deposition will continue from day to day until completed.

You are invited to attend.

Dated: April 20, 2011

By: /s/ Leslie M. Spencer

Jesse J. Jenner
Steven Pepe
Khue V. Hoang
Leslie M. Spencer
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701 Brickell Avenue
16th Floor
Miami, FL 33131
Telephone: (305) 372-8282
Attorneys for Plaintiff / Counterclaim Defendant
MOTOROLA MOBILITY, INC.

CERTIFICATE OF SERVICE

I hereby certify that on April 20, 2011, copies of Motorola Mobility, Inc.'s Notice of Deposition of Third Party NTI Corporation to Defendant Microsoft Corporation, Subpoena to NTI Corporation and Attachments thereto were served by e-mail upon the counsel of record included in the attached Service List.

/s/Erin L. Greenfield

Erin L. Greenfield

SERVICE LIST

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

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Counterclaim Plaintiff*
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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

Motorola Mobility, Inc.,
Plaintiff,

SUBPOENA IN A CIVIL CASE

v.

Case No. 10-cv-24063¹
(Southern District of Florida)

Microsoft Corporation,
Defendants.

TO: NTI Corporation
9999 Muirlands Boulevard
Irvine, CA 92618-2508

YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case. The deposition will be transcribed; video taped; audio recorded.

PLACE OF DEPOSITION	DATE AND TIME
Quinn Emanuel Urquhart & Sullivan, LLP 865 S. Figueroa St., 10th Floor Los Angeles, California 90017	05/17/2011 9:00 am SEE ATTACHMENT A FOR TOPICS

YOU ARE COMMANDED to produce and permit inspection, copying, testing or sampling of the following documents, electronically stored information or objects at the place, date, and time specified below (list documents, electronically stored information or objects): SEE ATTACHMENT B

PLACE	DATE AND TIME
Quinn Emanuel Urquhart & Sullivan, LLP 865 S. Figueroa St., 10th Floor Los Angeles, California 90017	05/04/2011 5:00 pm

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which a person will testify. Federal Rules of Civil Procedure. 30(b)(6).

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
Attorney for Plaintiff <i>Erin L. Greenfield</i>	April 20, 2011
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER	TELEPHONE
Erin L. Greenfield Ropes & Gray LLP 1211 Avenue of the Americas New York, New York 10036-8704	+1 212 596 9056

(See Federal Rule of Civil Procedure 45 (c), (d), and (e), on next page)

¹If action is pending in district other than district of issuance, state district under case number.
26511952_1

PROOF OF SERVICE

DATE

PLACE

SERVED

Date

Place

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct:

Executed on:

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Federal Rule of Civil Procedure 45 (c), (d), and (e), as amended on December 1, 2007:

(c) PROTECTING A PERSON SUBJECT TO A SUBPOENA.

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) **Command to Produce Materials or Permit Inspection.**

(A) **Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) **Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) **Quashing or Modifying a Subpoena.**

(A) **When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) DUTIES IN RESPONDING TO A SUBPOENA.

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) **Claiming Privilege or Protection.**

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) CONTEMPT.

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

ATTACHMENT A

DEFINITIONS AND INSTRUCTIONS

For the purposes of these topics, Motorola Mobility, Inc. (“Motorola Mobility”) hereby incorporates the Definitions set forth in Attachment B to this subpoena.

Pursuant to Rules 30(b)(6) and 45 of the Federal Rules of Civil Procedure, Motorola Mobility requests deposition testimony from a corporate representative of NTI Corporation knowledgeable concerning each of the following subjects:

DEPOSITION TOPICS

TOPIC NO. 1

The structure, operation, function, and/or performance of each release and/or version of Media Maker since 2004, with respect to interoperability, integration, interface with and/or, invocation or use of any Windows Client Technology and/or Accused Graphics Technology.

TOPIC NO. 2

Each and every NTI software product, module or application other than Media Maker 9, which software product, module or application is or was designed or operable to invoke or use Accused Graphics Technology.

TOPIC NO. 3

The source code and object code for the most recent commercially available release and/or version of Media Maker 9.

TOPIC NO. 4

For each release and/or version of Media Maker 9, differences or similarities between that version (or release) and each prior or concurrent version (or release).

TOPIC NO. 5

The structure, operation, function and/or performance of each NTI software product concerning human or user interaction with Graphics by means of an input device, including but not limited to keyboard, mouse, touch pad or screen.

TOPIC NO. 6

The structure, operation, function, and/or performance of each NTI software product concerning any data, data structure, elements, attributes, objects, tables, vectors or arrays comprising or representing any Graphics, including but not limited to Silverlight UIElement objects, Silverlight Shape objects, WPF buttons, controls, visual objects, primitives or composition nodes.

TOPIC NO. 7

The structure, operation, function, and/or performance of each NTI software product concerning generating, storing and/or representing Graphics independent of a physical device, including but not limited to density-independent graphics, resolution-independent graphics, device-independent bitmap (DIB) file format.

TOPIC NO. 8

The structure, operation, function, and/or performance of each NTI software product concerning rendering and/or compositing Graphics on a physical display device or screen, including but not limited to UI threads or streams, Composition thread or streams, Dispatcher processes, offscreen surfaces, screen buffers, display lists, Desktop Windows Managers, Windows Managers, Output Managers, View Managers.

TOPIC NO. 9

The structure, operation, function, and/or performance of each NTI software product concerning compiling, representing, relating, storing and/or drawing Graphics, including but not limited to RenderTargets, Transform Objects, Visual Trees and Object Trees.

TOPIC NO. 10

For Media Maker 9 and each software product identified in response to Request for Production No. 2, the quantities of each such software product (in units and dollars) sold or offered for sale on a yearly, quarterly or monthly periodic basis since 2004.

TOPIC NO. 11

Communications and Technical Documentation provided to or by Microsoft regarding using

any Media Maker 9 in combination with any Windows Client Technology and/or Accused Graphics Technology.

TOPIC NO. 12

Communications with any personal computer or mobile device manufacturer, including but not limited to Acer, regarding the decision to sell or offer for sale Media Maker 9, or any software product identified in response to Request for Production No. 2.

TOPIC NO. 13

Communications between NTI and Microsoft concerning any currently pending litigation between Motorola Mobility and Microsoft, including but not limited to the SDFL Action.

ATTACHMENT B

INTRODUCTION

For a statement of your obligations in producing documents under this subpoena, see Rule 45(d)(1) and (2) of the Federal Rules of Civil Procedure, which appears on the reverse side of the subpoena.

As stated in Rule 45(d)(2), information may be withheld if it is subject to a claim of privilege or work-product immunity as long as it is properly identified so as to enable Motorola Mobility, Inc. to evaluate your claim. Specifically, if you withhold from production any document or thing called for by the following paragraphs on the basis of privilege or immunity, or both, Motorola Mobility, Inc. requests that you provide a listing identifying all such withheld documents and things by (a) the type (*e.g.*, letter, memorandum, contract), date and general subject-matter of the document, (b) the name and address of the person now in possession of it, (c) the recipients and any other persons having access to it, and (d) the basis upon which it is withheld.

DEFINITIONS

- a) “839 Patent” means U.S. Patent No. 5,502,839.
- b) “Microsoft” refers to Microsoft Corporation, or any predecessor or successor in interest, parent, subsidiary, division or affiliate, and their respective officers, directors, employees, agents, representatives and all other persons acting or purporting to act on their behalf.
- c) “Motorola Mobility” or “Plaintiff” means, collectively and individually, Motorola Mobility, Inc., and all its predecessors or successors (merged, acquired, or otherwise), parents, divisions, subsidiaries, and affiliates thereof, and all officers, agents, employees, counsel and other persons acting on its behalf, or any other person or entity subject to Motorola Mobility’s control, or which controls Motorola Mobility, including but not limited to Motorola, Inc.
- d) “NTI” means NTI Corporation, and all its predecessors or successors (merged, acquired, or otherwise), parents, divisions, subsidiaries, and affiliates thereof, and all officers, agents, employees, counsel and other persons acting on its behalf, or any other person or entity subject to NTI Corporation’s control, or which controls NTI Corporation.
- e) “Acer” means Acer America Corporation, and all its predecessors or successors (merged, acquired, or otherwise), parents, divisions, subsidiaries, and affiliates thereof,

and all officers, agents, employees, counsel and other persons acting on its behalf, or any other person or entity subject to Acer America Corporation's control, or which controls Acer America Corporation.

f) "Acer Computer" means any computing device sold or offered for sale by Acer, including but not limited to a desktop, notebook, tablet or mobile device.

g) "Media Maker 9" means the software application manufactured and sold by NTI Corporation, as described at http://www.nticorp.com/en/us/product/media_maker_9.asp.

h) "Windows Client Technology" means all Microsoft Windows® operating system technology designed or operable to run on a personal computer or mobile device, including but not limited to Windows Vista, Windows 7, Windows Phone 7, Windows Phone 6.5, and all other such Microsoft Windows® products, including those identified at <http://www.microsoft.com/windows/products/default.aspx>.

i) "Application Programming Interface" means any software rules, specifications, instruction sets, programs, routines, data structures, object classes, commands or protocols designed or operable to facilitate communication between two different software applications or programs.

j) "Graphics" means any visual representation of data in an electronic medium, including but not limited to graphics, pictures, bitmaps, images, symbols, icons, cursors, animation or other media, and elements thereof such as points, lines, curves, shapes and polygons.

k) "Accused Graphics Technology" means any Microsoft Application Programming Interface or other Microsoft software designed or operable to build, draw, render, generate or composite Graphics, including but not limited to DirectDraw, DirectX, Direct2D, Direct3D 9Ex, DirectX 10 and DirectX Next, Direct3D 10, Direct3D 11, Windows Presentation Foundation (WPF) (any and all versions), Microsoft Silverlight (any and all versions, including Microsoft Silverlight for Windows Phone), Microsoft Surface and Microsoft XNA Framework (any and all versions).

l) "SDFL Action" refers to *Motorola Mobility, Inc. v. Microsoft Corporation*, Civil Action No. 10-cv-24063 (Moreno/Torres), filed on November 10, 2010 in the United States District Court for the Southern District of Florida.

m) “Thing” refers to any physical specimen or tangible item other than a document. For convenience, the term document throughout these requests will refer to all documents and things.

n) “Concern” shall be construed in its broadest sense to require information, documents, or things which construe, comprise, concern, relate, pertain to, mention, explain, identify, describe, discuss refer to (directly or indirectly), reflect, comment upon, or summarize the subject of the request for documents.

o) “Communicate” or “communication” means every manner or means of disclosure, transfer, transmission or exchange of information whether person-to-person, in a group, by telephone, by letter, facsimile, telex or telecopy, or by any other process, electric, electronic or otherwise, and includes any document as defined herein including any medium which abstracts, digests, records, or transcribes any such communication, or any subsequent review or discussion of such communication.

p) “Document” is defined by the definitions set forth in Local Rule 26.5(c) to be synonymous in meaning and equal in scope to the usage of this term in Fed. R. Civ. P. 34(a) and means all documents in the possession, custody or control of the deponent. By way of illustration and without limitation, documents include at least the following: originals, drafts and all non-identical copies of memoranda, reports, notes, graphs, laboratory notebooks, correspondence, interoffice communications, letters, diaries, calendars, photographs, motion pictures, sketches, drawings, promotional material, technical papers, printed publications, patents, and all other writings, as well as all non-paper information storage means such as sound reproductions, computer inputs and outputs, tape, film and computer memory devices, as well as tangible things such as models, mules, prototypes, and commercially saleable products.

q) “Technical Documentation” means documents that relate to structure, electronic circuitry, operation, function, and/or features, including but not limited to user guides, user manuals, reference manuals, service manuals, product manuals, use cases, product descriptions, white papers, administrator guides, installation guides, technical manuals, technical specifications, functional specifications, software manuals, software design documents, memory maps, block diagrams, theory of operation documents, road maps, datasheets, schematics, computer screen shots, prototype designs, assembly drawings, engineering drawings, software design drawings or software programming code samples, and Internet resources.

r) “Identify” when used in connection with a person, means: (1) if the person is a natural person, the person’s name, present or last known business address and telephone numbers; or (2) if the person is a legal, business or governmental entity or association, the person’s full name, present or last known address, and present or last known telephone number.

s) “Person” means any natural person or legal entity, including without limitation, natural persons, public or private corporations, companies, firms, joint ventures, proprietorships, partnerships, governmental bodies or agencies, associations, organizations, groups, trusts and estates.

t) “Relating to” or “relates to” means in whole or in part, constituting, containing, referring, concerning, embodying, reflecting, describing, analyzing, identifying, stating, dealing with, or in any way pertaining to.

u) “All” and “each” shall be construed individually as encompassing both all and each. The connectives “and” and “or” shall be construed in the disjunctive or conjunctive as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope. The singular and masculine form of a noun or pronoun shall embrace, and shall be read and applied as, the plural or the feminine or neuter, as the particular context makes appropriate.

v) “Include” or “including” shall be deemed to be followed by the words “without limitation.”

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1

Documents sufficient to show the structure, operation, function, and/or performance of each release and/or version since 2004 of Media Maker 9, with respect to interoperability, integration, interface with and/or, invocation or use of any Windows Client Technology and/or Accused Graphics Technology, including but not limited to all such Technical Documentation and documented, uncompiled source code.

REQUEST FOR PRODUCTION NO. 2

Documents sufficient to identify and describe each and every NTI software product, module or application other than Media Maker 9, which software product, module or application is or was designed or operable to invoke or use Accused Graphics Technology.

REQUEST FOR PRODUCTION NO. 3

For each release and/or version of Media Maker 9, documents sufficient to show all differences or similarities between that version (or release) and each prior or concurrent version (or release).

REQUEST FOR PRODUCTION NO. 4

For each software product identified in response to Request No. 2, documents sufficient to show all differences between the most current version (or release) and each prior version (or release).

REQUEST FOR PRODUCTION NO. 5

For Media Maker 9 and each software product identified in response to Request No. 2, documents sufficient to show the structure, operation, function, and/or performance of such software product concerning human or user interaction with Graphics by means of an input device, including but not limited to keyboard, mouse, touch pad or screen (including all Technical Documentation, source code and/or object code).

REQUEST FOR PRODUCTION NO. 6

For Media Maker 9 and each software product identified in response to Request No. 2,

documents sufficient to show the structure, operation, function, and/or performance of such software product concerning any data, data structure, elements, attributes, objects, tables, vectors or arrays comprising or representing any Graphics, including but not limited to Silverlight UIElement objects, Silverlight Shape objects, WPF buttons, controls, visual objects, primitives or composition nodes (including all Technical Documentation, source code and/or object code).

REQUEST FOR PRODUCTION NO. 7

For Media Maker 9 and each software product identified in response to Request No. 2, documents sufficient to show the structure, operation, function, and/or performance of such software product concerning generating, storing and/or representing Graphics independent of a physical device, including but not limited to density-independent graphics, resolution-independent graphics, device-independent bitmap (DIB) file format (including all Technical Documentation, source code and/or object code).

REQUEST FOR PRODUCTION NO. 8

For Media Maker 9 and each software product identified in response to Request No. 2, documents sufficient to show the structure, operation, function, and/or performance of such software product concerning rendering and/or compositing Graphics on a physical display device or screen, including but not limited to UI threads or streams, Composition thread or streams, Dispatcher processes, offscreen surfaces, screen buffers, display lists, Desktop Windows Managers, Windows Managers, Output Managers, View Managers (including all Technical Documentation, source code and/or object code).

REQUEST FOR PRODUCTION NO. 9

For Media Maker 9 and each software product identified in response to Request No. 2, documents sufficient to show the structure, operation, function, and/or performance of such software product concerning compiling, representing, relating, storing and/or drawing Graphics, including but not limited to RenderTargets, Transform Objects, Visual Trees and Object Trees.

REQUEST FOR PRODUCTION NO. 10

For Media Maker 9 and each software product identified in response to Request No. 2, documents sufficient show, on a yearly, quarterly or monthly periodic basis, the quantities of each such software product (in units and dollars) sold or offered for sale since 2004.

REQUEST FOR PRODUCTION NO. 11

All communications or Technical Documentation provided to or by Microsoft regarding using Media Maker 9 in combination with any Windows Client Technology and/or Accused Graphics Technology.

REQUEST FOR PRODUCTION NO. 12

All communications with any personal computer or mobile device manufacturer, including but not limited to Acer, regarding the decision to sell or offer for sale Media Maker 9, or any software product identified in response to Request No. 2.

REQUEST FOR PRODUCTION NO. 13

Documents sufficient to show all discussions, contracts, licenses agreements, and correspondence between NTI and Microsoft concerning any currently pending litigation between Motorola Mobility and Microsoft, including but not limited to the SDFL Action.

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
Miami Division

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

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

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

)

**PLAINTIFF MOTOROLA MOBILITY, INC.’S NOTICE OF
DEPOSITION OF THIRD PARTY ACER AMERICA CORPORATION
TO DEFENDANT MICROSOFT CORPORATION**

PLEASE TAKE NOTICE that pursuant to Federal Rules of Civil Procedure 30 and 45, Plaintiff-Counterclaim Defendant Motorola Mobility, Inc. (“Motorola Mobility”) will take the deposition upon oral examination of Acer America Corporation, commencing on May 18, 2011 at 9:00 a.m.

The deposition will take place at the offices of Ropes & Gray, LLP, 1900 University Avenue, 6th Floor, East Palo Alto, California 94303-2284, beginning on the date and time specified above, or at such other time and place as may be agreed to by counsel. The

deposition will be taken before an officer authorized to administer oaths by the laws of the United States and will be recorded by stenographic and videographic means. The deposition will continue from day to day until completed.

You are invited to attend.

Dated: April 20, 2011

By: /s/ Leslie M. Spencer

Jesse J. Jenner
Steven Pepe
Khue V. Hoang
Leslie M. Spencer
Ropes & Gray LLP
1211 Avenue of the Americas
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Norman H. Beamer
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East Palo Alto, CA 94303
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Megan F. Raymond
Ropes & Gray LLP
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700 12th Street NW, Suite 900
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Telephone: (202) 508-4600

Edward M. Mullins
Hal M. Lucas
Astigarraga Davis Mullins & Grossman, P.A.
701 Brickell Avenue
16th Floor
Miami, FL 33131
Telephone: (305) 372-8282

Attorneys for Plaintiff / Counterclaim Defendant
MOTOROLA MOBILITY, INC.

CERTIFICATE OF SERVICE

I hereby certify that on April 20, 2011, copies of Motorola Mobility, Inc.'s Notice of Deposition of Third Party Acer America Corporation to Defendant Microsoft Corporation, Subpoena to Acer America Corporation and Attachments thereto were served by e-mail upon the counsel of record included in the attached Service List.

/s/Erin L. Greenfield
Erin L. Greenfield

SERVICE LIST

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

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Counterclaim Plaintiff*
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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

Motorola Mobility, Inc.,
Plaintiff,

SUBPOENA IN A CIVIL CASE

Case No. 10-cv-24063¹
(Southern District of Florida)

v.

Microsoft Corporation,
Defendants.

TO: Acer America Corporation
333 West San Carlos Street
San Jose, CA 95110-2726

YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case. The deposition will be transcribed; video taped; audio recorded.

PLACE OF DEPOSITION	DATE AND TIME
Ropes & Gray LLP 1900 University Avenue, 6 th Floor East Palo Alto, CA 94303-2284	05/18/2011 9:00 am SEE ATTACHMENT A FOR TOPICS

YOU ARE COMMANDED to produce and permit inspection, copying, testing or sampling of the following documents, electronically stored information or objects at the place, date, and time specified below (list documents, electronically stored information or objects): SEE ATTACHMENT B

PLACE	DATE AND TIME
Ropes & Gray LLP 1900 University Avenue, 6 th Floor East Palo Alto, CA 94303-2284	05/04/2011 5:00 pm

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which a person will testify. Federal Rules of Civil Procedure. 30(b)(6).

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
Attorney for Plaintiff <i>Erin L. Greenfield</i>	April 20, 2011

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER	TELEPHONE
Erin L. Greenfield Ropes & Gray LLP 1211 Avenue of the Americas New York, New York 10036-8704	+1 212 596 9056

(See Federal Rule of Civil Procedure 45 (c), (d), and (e), on next page)

¹If action is pending in district other than district of issuance, state district under case number.
26512240_1

PROOF OF SERVICE

DATE

PLACE

SERVED

Date

Place

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct:

Executed on:

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Federal Rule of Civil Procedure 45 (c), (d), and (e), as amended on December 1, 2007:

(c) PROTECTING A PERSON SUBJECT TO A SUBPOENA.

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) **Command to Produce Materials or Permit Inspection.**

(A) **Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) **Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) **Quashing or Modifying a Subpoena.**

(A) **When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) DUTIES IN RESPONDING TO A SUBPOENA.

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) **Claiming Privilege or Protection.**

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) CONTEMPT.

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

ATTACHMENT A

DEFINITIONS AND INSTRUCTIONS

For the purposes of these topics, Motorola Mobility, Inc. (“Motorola Mobility”) hereby incorporates the Definitions set forth in Attachment B to this subpoena.

Pursuant to Rules 30(b)(6) and 45 of the Federal Rules of Civil Procedure, Motorola Mobility requests deposition testimony from a corporate representative of Acer America Corporation (“Acer”) knowledgeable concerning each of the following subjects:

DEPOSITION TOPIC

TOPIC NO. 1

Each and every product name and/or model of Acer Computers sold or offered for sale that includes any Windows Client Technology, including but not limited to Microsoft’s Windows 7 Operating System, and also includes any Accused Graphics Technology, including but not limited to Media Maker 9, pre-loaded or installed prior to shipment or delivery to the customer.

TOPIC NO. 2

Each and every software product, module or application designed or operable to invoke or use Accused Graphics Technology, including but not limited to applications using Direct2D, WPF or Silverlight, which software product, module or application is or was sold or offered for sale with any Acer Computer, including but not limited to Media Maker 9.

TOPIC NO. 3

For any software product identified in response to Request for Production No. 2, the structure, operation, function, and/or performance of any such software product with respect to interoperability, integration, interface with and/or, invocation or use of any Windows Client Technology and/or Accused Graphics Technology, including but not limited to all such Technical Documentation and documented, uncompiled source code.

TOPIC NO. 4

For any software product identified in response to Request for Production No. 2, the source

code and object code or the most recent commercially available release and/or version of such software product.

TOPIC NO. 5

For any software product identified in response to Request for Production No. 2, the quantities of each such software product (in units and dollars) sold or offered for sale with any Acer Computer on a yearly, quarterly or monthly basis since 2004.

TOPIC NO. 6

The decision to sell or offer for sale any Acer Computer with any Windows Client Technology, including any discussions with Microsoft.

TOPIC NO. 7

Communications with NTI regarding the functionality of Media Maker 9.

TOPIC NO. 8

The decision to sell or offer for sale any Acer Computer with Media Maker 9, including but not limited to discussions with NTI.

TOPIC NO. 9

Communications with any third party other than NTI regarding the decision to sell or offer for sale any Acer Computer with any software identified in response to Request for Production No. 2.

TOPIC NO. 10

Communications between Acer and Microsoft concerning any currently pending litigation between Motorola Mobility and Microsoft, including but not limited to the SDFL Action.

ATTACHMENT B

INTRODUCTION

For a statement of your obligations in producing documents under this subpoena, see Rule 45(d)(1) and (2) of the Federal Rules of Civil Procedure, which appears on the reverse side of the subpoena.

As stated in Rule 45(d)(2), information may be withheld if it is subject to a claim of privilege or work-product immunity as long as it is properly identified so as to enable Motorola Mobility, Inc. to evaluate your claim. Specifically, if you withhold from production any document or thing called for by the following paragraphs on the basis of privilege or immunity, or both, Motorola Mobility, Inc. requests that you provide a listing identifying all such withheld documents and things by (a) the type (*e.g.*, letter, memorandum, contract), date and general subject-matter of the document, (b) the name and address of the person now in possession of it, (c) the recipients and any other persons having access to it, and (d) the basis upon which it is withheld.

DEFINITIONS

- a) “839 Patent” means U.S. Patent No. 5,502,839.
- b) “Microsoft” refers to Microsoft Corporation, or any predecessor or successor in interest, parent, subsidiary, division or affiliate, and their respective officers, directors, employees, agents, representatives and all other persons acting or purporting to act on their behalf.
- c) “Motorola Mobility” or “Plaintiff” means, collectively and individually, Motorola Mobility, Inc., and all its predecessors or successors (merged, acquired, or otherwise), parents, divisions, subsidiaries, and affiliates thereof, and all officers, agents, employees, counsel and other persons acting on its behalf, or any other person or entity subject to Motorola Mobility’s control, or which controls Motorola Mobility, including but not limited to Motorola, Inc.
- d) “Acer” means Acer America Corporation, and all its predecessors or successors (merged, acquired, or otherwise), parents, divisions, subsidiaries, and affiliates thereof, and all officers, agents, employees, counsel and other persons acting on its behalf, or any other person or entity subject to Acer America Corporation’s control, or which controls Acer America Corporation.

e) “NTI” means NTI Corporation, and all its predecessors or successors (merged, acquired, or otherwise), parents, divisions, subsidiaries, and affiliates thereof, and all officers, agents, employees, counsel and other persons acting on its behalf, or any other person or entity subject to NTI Corporation’s control, or which controls NTI Corporation.

f) “Acer Computer” means any computing device sold or offered for sale by Acer, whether a desktop, notebook, tablet or mobile device.

g) “Media Maker 9” means the software application manufactured and sold by NTI Corporation, as described at http://www.nticorp.com/en/us/product/media_maker_9.asp.

h) “Windows Client Technology” means all Microsoft Windows® operating system technology designed or operable to run on a personal computer or mobile device, including but not limited to Windows Vista, Windows 7, Windows Phone 7, Windows Phone 6.5, and all other such Microsoft Windows® products, including those identified at <http://www.microsoft.com/windows/products/default.aspx>.

i) “Application Programming Interface” means any software rules, specifications, instruction sets, programs, routines, data structures, object classes, commands or protocols designed or operable to facilitate communication between two different software applications or programs.

j) “Graphics” means any visual representation of data in an electronic medium, including but not limited to graphics, pictures, bitmaps, images, symbols, icons, cursors, animation or other media, and elements thereof such as points, lines, curves, shapes and polygons.

k) “Accused Graphics Technology” means any Microsoft Application Programming Interface or other Microsoft software designed or operable to build, draw, render, generate or composite Graphics, including but not limited to DirectDraw, DirectX, Direct2D, Direct3D 9Ex, DirectX 10 and DirectX Next, Direct3D 10, Direct3D 11, Windows Presentation Foundation (WPF) (any and all versions), Microsoft Silverlight (any and all versions, including Microsoft Silverlight for Windows Phone), Microsoft Surface and Microsoft XNA Framework (any and all versions).

l) “SDFL Action” refers to *Motorola Mobility, Inc. v. Microsoft Corporation*, Civil Action No. 10-cv-24063 (Moreno/Torres), filed on November 10, 2010 in the United States District Court for the Southern District of Florida.

m) “Thing” refers to any physical specimen or tangible item other than a document. For convenience, the term document throughout these requests will refer to all documents and things.

n) “Concern” shall be construed in its broadest sense to require information, documents, or things which construe, comprise, concern, relate, pertain to, mention, explain, identify, describe, discuss refer to (directly or indirectly), reflect, comment upon, or summarize the subject of the request for documents.

o) “Communicate” or “communication” means every manner or means of disclosure, transfer, transmission or exchange of information whether person-to-person, in a group, by telephone, by letter, facsimile, telex or telecopy, or by any other process, electric, electronic or otherwise, and includes any document as defined herein including any medium which abstracts, digests, records, or transcribes any such communication, or any subsequent review or discussion of such communication.

p) “Document” is defined by the definitions set forth in Local Rule 26.5(c) to be synonymous in meaning and equal in scope to the usage of this term in Fed. R. Civ. P. 34(a) and means all documents in the possession, custody or control of the deponent. By way of illustration and without limitation, documents include at least the following: originals, drafts and all non-identical copies of memoranda, reports, notes, graphs, laboratory notebooks, correspondence, interoffice communications, letters, diaries, calendars, photographs, motion pictures, sketches, drawings, promotional material, technical papers, printed publications, patents, and all other writings, as well as all non-paper information storage means such as sound reproductions, computer inputs and outputs, tape, film and computer memory devices, as well as tangible things such as models, mules, prototypes, and commercially saleable products.

q) “Technical Documentation” means documents that relate to structure, electronic circuitry, operation, function, and/or features, including but not limited to user guides, user manuals, reference manuals, service manuals, product manuals, use cases, product descriptions, white papers, administrator guides, installation guides, technical manuals, technical specifications, functional specifications, software manuals, software design documents, memory maps, block diagrams, theory of operation documents, road maps, datasheets, schematics, computer screen shots, prototype designs, assembly drawings, engineering drawings, software design drawings or software programming code samples, and Internet resources.

r) “Identify” when used in connection with a person, means: (1) if the person is a natural person, the person’s name, present or last known business address and telephone numbers; or (2) if the person is a legal, business or governmental entity or association, the person’s full name, present or last known address, and present or last known telephone number.

s) “Person” means any natural person or legal entity, including without limitation, natural persons, public or private corporations, companies, firms, joint ventures, proprietorships, partnerships, governmental bodies or agencies, associations, organizations, groups, trusts and estates.

t) “Relating to” or “relates to” means in whole or in part, constituting, containing, referring, concerning, embodying, reflecting, describing, analyzing, identifying, stating, dealing with, or in any way pertaining to.

u) “All” and “each” shall be construed individually as encompassing both all and each. The connectives “and” and “or” shall be construed in the disjunctive or conjunctive as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope. The singular and masculine form of a noun or pronoun shall embrace, and shall be read and applied as, the plural or the feminine or neuter, as the particular context makes appropriate.

v) “Include” or “including” shall be deemed to be followed by the words “without limitation.”

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1

Documents sufficient to identify and describe each and every product name and/or model of Acer Computers sold or offered for sale that includes any Windows Client Technology, including but not limited to Microsoft's Windows 7 Operating System, and also includes any Accused Graphics Technology, including but not limited to Media Maker 9, pre-loaded or installed prior to shipment or delivery to the customer.

REQUEST FOR PRODUCTION NO. 2

Documents sufficient to identify and describe each and every software product, module or application designed or operable to invoke or use Accused Graphics Technology, including but not limited to applications using Direct2D, WPF or Silverlight, which software product, module or application is or was sold or offered for sale with any Acer Computer, including but not limited to Media Maker 9.

REQUEST FOR PRODUCTION NO. 3

For any software product identified in response to Request No. 2, documents sufficient to show the structure, operation, function, and/or performance of any such software product with respect to interoperability, integration, interface with and/or, invocation or use of any Windows Client Technology and/or Accused Graphics Technology, including but not limited to all such Technical Documentation and documented, uncompiled source code..

REQUEST FOR PRODUCTION NO. 4

For any software product identified in response to Request No. 2, documents sufficient to show, on a yearly, quarterly or monthly basis, the quantities of each such software product (in units and dollars) sold or offered for sale with any Acer Computer since 2004.

REQUEST FOR PRODUCTION NO. 5

Documents sufficient to show all communications with NTI regarding the decision to sell or offer for sale any Acer Computer with Media Maker 9.

REQUEST FOR PRODUCTION NO. 6

Documents sufficient to show all communications with any third party other than NTI regarding the decision to sell or offer for sale any Acer Computer with any software identified in response to Request No. 2.

REQUEST FOR PRODUCTION NO. 7

Documents sufficient to show all discussions, contracts, licenses agreements, and correspondence between Acer and Microsoft concerning any currently pending litigation between Motorola Mobility and Microsoft, including but not limited to the SDFL Action.