

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

APPLE INC. and NeXT SOFTWARE,)
INC. (f/k/a NeXT COMPUTER, INC.),)

Plaintiffs,)

v.)

MOTOROLA, INC. and MOTOROLA)
MOBILITY, INC.)

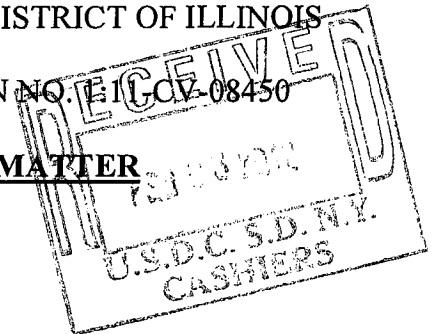
Defendants.)

CASE NO. 12 MSC 00037

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

CIVIL ACTION NO. 12-11-CV-08450

DISCOVERY MATTER



DECLARATION OF BRIAN CANNON IN SUPPORT OF MOTOROLA'S MOTION TO
COMPEL DOCUMENT PRODUCTION AND DEPOSITION FROM JEFFERSON HAN
AND PERCEPTIVE PIXEL

I, Brian Cannon, hereby declare as follows:

I am a partner with Quinn Emanuel Urquhart & Sullivan LLP, counsel for Motorola Mobility, Inc. and Motorola Solutions, Inc. (collectively, "Motorola"). The matters referenced in this declaration are based on personal knowledge and if called as a witness I could, and would, testify competently to these matters.

1. Attached hereto as Exhibit 1 is a true and correct copy of the complaint filed by Apple in the Western District of Wisconsin, No. 10-cv-662-BBC, without attachments.

2. Attached hereto as Exhibit 2 is a true and correct copy of the transfer order transferring this matter to the Northern District of Illinois.

3. Attached hereto as Exhibit 3 is a true and correct copy of the order assigning this case to Hon. Richard A. Posner sitting by designation.

4. Attached hereto as Exhibit 4 is a true and correct copy of the order setting the trial date for June 11, 2012.

5. Attached hereto as Exhibit 5 is a true and correct copy of excerpts of U.S. Patent No. 7,479,949.

6. Attached hereto as Exhibit 6 is a true and correct copy of an excerpt from Perceptive Pixel's website, found at <http://www.perceptivepixel.com/about/executive-team/>.

7. Attached hereto as Exhibit 7 is a true and correct copy of an excerpt from TED's website, found at <http://www.ted.com/pages/registration>.

8. Attached hereto as Exhibit 8 is a true and correct copy of a document bearing the production label MOTO-APPLE-0007162767.

9. Attached hereto as Exhibit 9 is a true and correct copy of a document bearing the production label MOTO-APPLE-0007162825.

10. Attached hereto as Exhibit 10 is a true and correct copy of a document bearing the production label MOTO-APPLE-0007162826-27.

11. On September 12, 2011, Motorola served subpoenas for documents and a deposition upon Jefferson Han and Perceptive Pixel. A true and correct copy of the subpoena to Mr. Han is attached hereto as Exhibit 11.

12. A true and correct copy of the subpoena to Perceptive Pixel is attached hereto as Exhibit 12.

13. I, or other attorneys at Quinn Emanuel representing Motorola, met and conferred with Mr. Han's counsel numerous times, beginning September 21, 2011, in an attempt to obtain the requested discovery. On October 14, 2011, Han and Perceptive Pixel informed me that they had retained new counsel. *See* Exhibit 13. The email from Han's counsel requested that Motorola, Samsung and HTC all coordinate with respect to the requested discovery. We agreed.

14. The parties continued to meet and confer as reflected in the chart attached hereto as Exhibit 14; the email correspondence is attached as Exhibit 13. As reflected in the written correspondence there were several meet and confer conferences.

15. On November 22, 2011 I received Perceptive Pixel's responses and objections to the subpoena. A true and correct copy of those responses is attached as Exhibit 15. Perceptive Pixel stated that it would produce source code, if any was found. I have not received responses and objections to the subpoena of Han.

16. No source code or documents from either Han or Perceptive Pixel have been produced as of this date. We understand through HTC's counsel that Han and Perceptive Pixel will not be looking for documents and will not schedule a deposition.

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

February 3, 2012 in Redwood Shores, California.



Brian Cannon