IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

MIRROR WORLDS, LLC, Plaintiff, v. APPLE INC., Defendant.	Civil Action No. 6:08-cv-88 LED JURY TRIAL DEMANDED
APPLE INC., Counterclaim Plaintiff, v. MIRROR WORLDS, LLC, MIRROR WORLDS TECHNOLOGIES, INC., Counterclaim Defendants.	

JOINT AGREED-UPON MOTIONS *IN LIMINE* (NOS. 1-5)

Pursuant to the Court's Docket Control Order (Doc. No. 32), Mirror Worlds, LLC and Mirror Worlds Technologies, Inc. (collectively, "Mirror Worlds") together with Apple Inc. ("Apple") jointly and respectfully bring the following agreed-upon motions *in limine* for orders precluding counsel for any party or any witnesses, from mentioning, referring to, or offering any evidence relating to the following subjects within the hearing of any member of the jury panel, either in *voir dire* or at any time during trial, without counsel first approaching the bench and securing a ruling as to the admissibility of the subject matter:

1. Remarks Regarding Counsel and Apple's Decision to Change Counsel

Any reference to or testimony about the law firms or lawyers representing any party including, without limitation, references to the size of the law firm, the geographic location of the law firm's offices, other matters handled by the law firm, other matters handled by the lawyer, other clients or types of clients represented by the law firm or lawyers, any disciplinary action or investigation into the law firm or lawyer representing any party, the wealth of any attorney or law firm, as well as Apple's substitution of counsel. Fed. R. Evid. 401, 402, 403.

GRANTED: _____ DENIED: _____

2. The Filing, Contents, and Rulings of any Motion *in Limine*

That the parties have filed motions *in limine*, disclosing any ruling by the Court in response to any such motion, or suggesting or inferring that any party has moved to prohibit proof or that the Court has excluded proof on any particular matters. Fed. R. Evid. 401, 402, 403, 605. The filing of motions, the substance of such motions, and the Court's rulings on specific motions is not relevant, and any reference thereto would be prejudicial, because it would confuse the issues, mislead the jury, and result in undue delay and waste of time. *See, e.g., Jones v. Benefit Trust Line Ins. Co.*, 800 F.2d 1397, 1400 (5th Cir. 1986) (judge's pretrial rulings are

not relevant evidence and admission would be "at odds with Fed. R. Evid. 605").

GRANTED: _____ DENIED: _____

3. The Non-Relevant Exchanges Between Counsel During Depositions

Any reference or attempt to read or show to the jury any non-relevant exchanges between counsel during depositions (including objections) for the reason that same are irrelevant and misleading. The parties request that all such exchanges be eliminated from the reading or showing of any depositions in this case. Fed. R. Evid. 401, 402, 403.

GRANTED: _____ DENIED: _____

4. Disputes During Discovery and Rulings on Discovery-related Motions

Any reference to, evidence of, or testimony about the parties' disputes during discovery, and the Court's ruling on any discovery-related motions for the reason that same are irrelevant, misleading, and unduly prejudicial. The filing of motions, the substance of such motions, and the Court's rulings on specific motions are not relevant, and any reference thereto would be prejudicial, because it would confuse the issues, mislead the jury, and result in undue delay and waste of time. *See, e.g., Jones v. Benefit Trust Line Ins. Co.*, 800 F.2d 1397, 1400 (5th Cir. 1986) (judge's pretrial rulings are not relevant evidence and admission would be "at odds with Fed. R. Evid. 605").

GRANTED: _____ DENIED: _____

5. Use of Commercial Products

The parties agree that their respective experts will not compare commercial products to commercial products for purposes of demonstrating infringement, either verbally or through use of demonstratives or exhibits. *See Zenith Labs. v. Bristol-Meyers Squibb Co.*, 19 F.3d 1418, 1423 (Fed. Cir. 1994) ("[I]t is error for a court to compare in its infringement analysis the

accused product or process with the patentee's commercial embodiment or other version of the product or process; the only proper comparison is with the claims of the patent."); *SRI Int'l v. Matsushita Elec. Corp. of Am.*, 775 F.2d 1107, 1121 (Fed. Cir. 1985) ("Infringement, literal or by equivalence, is determined by comparing an accused product not with a preferred embodiment described in the specification, or with a commercialized embodiment of the patentee, but with the properly and previously construed claims in suit.") (en banc). The parties also agree that their experts will not compare prior art to commercial products to demonstrate invalidity, either verbally or through use of demonstratives or exhibits.

GRANTED: _____ DENIED: _____

Respectfully submitted,

Dated: August 23, 2010

/s/ Alexander Solo

Joseph Diamante
Kenneth Stein
Ian G. DiBernardo
Alexander Solo
STROOCK & STROOCK & LAVAN LLP
1280 Maiden Lane
New York NY 10038
Telephone: 212-806-5400
Facsimile: 212-581-1071
asolo@stroock.com

Otis W. Carroll, Jr. (fedserv@icklaw.com)
Deborah J. Race (drace@icklaw.com)
IRELAND CARROLL & KELLEY
6101 S. Broadway, Suite 500
Tyler, TX 75730
Telephone: 903-561-1600
Facsimile: 903-581-1071
Fedserv@icklaw.com

Attorneys for MIRROR WORLDS, LLC and MIRROR WORLDS TECHNOLOGIES, INC.

Dated: August 23, 2010

/s/ Jeffrey G. Randall

Jeffrey G. Randall
Lead Attorney
PAUL, HASTINGS, JANOFSKY, AND WALKER LLP
1117 S. California Avenue
Palo Alto, California 94304-1106
Telephone: (650) 320-1850
Facsimile: (650) 320-1950
jeffrandall@paulhastings.com

Allan M. Soobert
PAUL, HASTINGS, JANOFSKY, AND WALKER LLP
875 15th Street, N.W.
Washington, DC 20005
Telephone: (202) 551-1822
Facsimile: (202) 551-0222
allansoobert@paulhastings.com

S. Christian Platt
PAUL, HASTINGS, JANOFSKY, AND WALKER LLP
4747 Executive Dr., 12th Floor

San Diego, CA 92121
Telephone: (858) 458-3034
Facsimile: (858) 458-3005
christianplatt@paulhastings.com

Eric M. Albritton
Texas State Bar No. 00790215
ALBRITTON LAW FIRM
P.O. Box 2649
Longview, Texas 75606
Telephone: (903) 757-8449
Facsimile: (903) 758-7397
ema@emafirm.com

Counsel for APPLE INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was filed electronically in compliance with Local Rule CV-5 on this 23rd day of August, 2010. As of this date, all counsel of record had consented to electronic service and are being served with a copy of this document through the Court's CM/ECF system under Local Rule CV-5(a)(3)(A) and by email by way of the parties' agreed upon service address: MW_v_Apple@stroock.com.

/s/ Jeffrey G. Randall

Jeffrey G. Randall