

**UNITED STATES DISTRICT COURT
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.

MIRROR WORLDS' RESPONSE TO APPLE'S MOTIONS *IN LIMINE* 10, 12 and 13

TABLE OF CONTENTS

10. Mirror Worlds Does Not Oppose Apple’s Motion *in Limine* No. 10 Provided Apple Abides by its Agreement..... 1

12. Mirror Worlds Does Not Oppose Apple’s Motion *in Limine* to No. 12..... 1

13. Mirror Worlds Does Not Oppose Apple’s Motion *in Limine* No. 13, Subject to the Parties Agreement That Mirror Worlds Can Supplement the Expert Reports of Dr. Levy and Mr. Bratic to Take Into Account Documents Produced by Apple After the Close of Discovery. 1

Mirror Worlds, LLC (“Mirror Worlds”), provides the following responses to each of Apple Inc.’s (“Apple”) motions *in limine* numbers 10, 12 and 13 (D.I. 323).

10. Mirror Worlds Does Not Oppose Apple’s Motion *in Limine* No. 10 Provided Apple Abides by its Agreement

Mirror Worlds agrees that hearsay statements, with no applicable exception, are not admissible. Apple and Mirror Worlds have agreed, however, that all documents produced by Apple, Mirror Worlds Technologies, Recognition Interface, Plainfield, Yale, inventors and witnesses from their records in this matter are authentic business records. Solo Dec., Ex. 6 (July 26, 2010 email from Apple counsel, Allan M. Soobert to Alexander Solo). Thus, all of these documents fall within the “records of regularly conducted activity” exception to hearsay. Fed. R. Evid. 803(6).

12. Mirror Worlds Does Not Oppose Apple’s Motion *in Limine* to No. 12

Apple seeks to preclude “[a]ny comment, statement or suggestion relating to the probable testimony of a witness who is absent, unavailable, or whom a party does not expect to call or does not call to testify in this case . . .” Motion at 10. Mirror Worlds agrees with regard to probable testimony of non-present witnesses, provided, however, that such agreement does not preclude witnesses, including experts, from discussing documents authored by non-present witnesses.

13. Mirror Worlds Does Not Oppose Apple’s Motion *in Limine* No. 13, Subject to the Parties Agreement That Mirror Worlds Can Supplement the Expert Reports of Dr. Levy and Mr. Bratic to Take Into Account Documents Produced by Apple After the Close of Discovery.

Apple seeks to preclude evidence “regarding any new theories of liability, new claims for damages, factual contentions never disclosed during discovery.” Apple’s Motion (D.I. 323) at 10. Mirror Worlds does not oppose this provided that Mirror Worlds is able to put forth the

theories of liability and damages disclosed in its Complaint, Interrogatory Responses, and Expert Reports and is permitted to supplement the expert reports of Dr. Levy and Walter Bratic to address Apple's late-produced documents and depositions.

Dated: August 23, 2010

Joseph Diamante (*Pro Hac Vice*)
Kenneth L. Stein (*Pro Hac Vice*)
Ian G. DiBernardo (*Pro Hac Vice*)
Alexander Solo (*Pro Hac Vice*)
STROOCK & STROOCK & LAVAN LLP
180 Maiden Lane
New York, N.Y. 10038
Tel: (212) 806-5400
Email: asolo@stroock.com
ATTORNEYS FOR PLAINTIFF,
MIRROR WORLDS, LLC

Respectfully submitted,

By: /s/ Alexander Solo

Otis Carroll, *Lead Counsel*
(Texas States Bar No. 03895700)
Deborah Race (Texas State Bar No. 16448700)
IRELAND CARROLL & KELLEY, P.C.
6101 S. Broadway, Suite 500
Tyler, Texas 75703
Tel: (903) 561-1600
Fax: (903) 581-1071
Email: Fedserv@icklawn.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document this 23rd day of August, 2010, via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ Alexander Solo
