

**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.

NOTICE OF WITHDRAWAL OF DOCKET NO. 349

Plaintiff Mirror Worlds, LLC (“Mirror Worlds”) hereby notifies the Court that it withdraws its “[Proposed] Stipulated Withdrawal with Prejudice of Certain Infringement Claims” (“Stipulated Withdrawal”) (D.I. 349). In its place, Mirror Worlds files a Notice of Dismissal with Prejudice of Certain Infringement Claims.

The Court’s order, issued at the Pre-Trial Conference held on August 26, 2010, required Mirror Worlds to identify claims subject to Apple’s pending motion for summary judgment of non-infringement (D.I. 225) for which Mirror Worlds agrees to dismissal with prejudice. Other claims subject to Apple’s summary judgment motion are still pending. Some of these other

claims are the subject of separate briefing ordered by the Court on the issue of whether all of the claims of Mirror Worlds' patents-in-suit require a "stream."

The parties have been unable to reach agreement on the language and form of a stipulation of dismissal with prejudice. Apple's primary complaint with the Stipulated Withdrawal, as originally filed, appeared to be its use of the phrase "withdraw with prejudice."¹ Mirror Worlds, accordingly, changed the Notice filed herewith to state that Mirror Worlds agrees to the "dismissal with prejudice" of the specified claims. The parties have subsequently conferred but have still been unable to reach agreement.²

¹ Apple's position is set forth in its Objections to the Proposed Stipulated Withdrawal (D.I. 355). Prior to filing the Proposed Stipulated Withdrawal, Mirror Worlds conferred with Apple, but the parties were not able to reach agreement prior to the filing deadline. On August 31, 2010, the Court's clerk rejected the filing of the Stipulated Withdrawal, advising Mirror Worlds that it should have been filed as an "Opposed Motion for Withdrawal." Since the parties had not finished conferring on the Stipulated Withdrawal, Mirror Worlds prepared a revised stipulation with the intention of conferring further with Apple and avoiding burdening the Court with this issue. Before Mirror Worlds could send that revised stipulation to Apple, Apple filed Objections to the Proposed Stipulated Withdrawal. The parties subsequently conferred but have been unable to reach agreement.

² Mirror Worlds believes that Apple's position regarding a stipulation goes far beyond what the Court ordered. The Court ordered Mirror Worlds to identify the claims subject to Apple's motion for summary judgment of non-infringement for which Mirrors Worlds agrees to dismissal with prejudice. Mirror Worlds' Notice of Dismissal with Prejudice of Certain Infringement Claims, filed herewith, identifies those claims. Apple's position, however, is that stipulations regarding claims that were not the subject of Apple's motion for summary judgment of non-infringement should also be included. In addition, Apple asserts that the following stipulations should be included: (1) stipulations regarding claims and products that are not part of Mirror Worlds' infringement contentions; (2) stipulations regarding non-infringement (in addition to the stipulations of dismissal with prejudice); and (3) stipulations regarding Apple products for which there was no discovery (such as the iPhone iOS 4.0). Such stipulations were not part of the Court's order.

Dated: September 1, 2010

Respectfully submitted,

By: /s/ Alexander Solo

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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 1st day of September, 2010, via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ Alexander Solo
