

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN**

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NOKIA CORPORATION,

Plaintiff,

Case No. 10CV249

v.

APPLE INC.,

Defendant.

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APPLE INC.,

Counterclaim-Plaintiff,

v.

NOKIA CORPORATION and NOKIA INC.,

Counterclaim-Defendants.

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**DECLARATION OF COBY S. NIXON IN SUPPORT OF NOKIA  
CORPORATION'S BRIEF IN OPPOSITION TO APPLE INC.'S  
MOTION TO TRANSFER VENUE**

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I, Coby S. Nixon, declare as follows:

1. I am an attorney at law licensed to practice before all of the courts of the State of Georgia. I am an associate in the law firm of Alston & Bird LLP, counsel for Plaintiff – Counterclaim-Defendant Nokia Corporation and Counterclaim-Defendant Nokia Inc. (collectively, “Nokia”). I have knowledge of all of the following facts and, if called as a witness, could and would competently testify thereto.

2. Attached as Exhibit 1 is a true and correct copy of Nokia's Complaint for Patent Infringement and Declaratory Judgment dated October 22, 2009, filed in the case of *Nokia Corp. v. Apple Inc.*, No. 09-CV-791 (D. Del.).

3. Attached as Exhibit 2 is a true and correct copy of Apple Inc.'s ("Apple's") First Amended Answer, Defenses, and Counterclaims dated February 19, 2010, filed in the case of *Nokia Corp. v. Apple Inc.*, No. 09-CV-791 (D. Del.).

4. Attached as Exhibit 3 is a true and correct copy of the parties' Joint Status Report dated March 8, 2010, filed in the case of *Nokia Corp. v. Apple Inc.*, No. 09-CV-791 (D. Del.).

5. Attached as Exhibit 4 is a true and correct copy of a July 14, 2010 Order entered by the United States Patent and Trademark Office granting *ex parte* reexamination of U.S. Patent No. 5,455,854.

6. Attached as Exhibit 5 is a true and correct copy of a July 14, 2010 Order entered by the United States Patent and Trademark Office granting *ex parte* reexamination of U.S. Patent No. 5,848,105.

7. Attached as Exhibit 6 is a true and correct copy of a July 14, 2010 Order entered by the United States Patent and Trademark Office granting *ex parte* reexamination of U.S. Patent No. 5,315,703.

8. Attached as Exhibit 7 is a true and correct copy of a July 14, 2010 Order entered by the United States Patent and Trademark Office granting *ex parte* reexamination of U.S. Patent No. 5,634,074.

9. Attached as Exhibit 8 is a true and correct copy of a July 14, 2010 Order entered by the United States Patent and Trademark Office granting *ex parte* reexamination of U.S. Patent No. 7,469,381.

10. Attached as Exhibit 9 is a true and correct copy of a June 16, 2010 Notice entered by the United States Patent and Trademark Office stating that a Request for Reexamination of U.S. Patent No. 6,189,034 was filed on June 2, 2010.

11. Attached as Exhibit 10 is a true and correct copy of a June 9, 2010 Notice entered by the United States Patent and Trademark Office stating that a Request for Reexamination of U.S. Patent No. 6,239,795 was filed on June 2, 2010.

12. Attached as Exhibit 11 is a true and correct copy of a June 10, 2010 Notice entered by the United States Patent and Trademark Office stating that a Request for Reexamination of U.S. Patent No. 7,383,453 was filed on June 3, 2010.

13. Attached as Exhibit 12 is a true and correct copy of Nokia's Motion to Dismiss dated March 11, 2010, filed in the case of *Nokia Corp. v. Apple Inc.*, No. 09-CV-791 (D. Del.).

14. Attached as Exhibit 13 is a true and correct copy of Nokia's Opening Brief in Support of its Motion for Leave to Amend Complaint dated July 2, 2010, filed in the case of *Nokia Corp. v. Apple Inc.*, No. 09-CV-791 (D. Del.).

15. Attached as Exhibit 14 is a true and correct copy of Nokia's Proposed First Amended Complaint dated July 2, 2010, filed in the case of *Nokia Corp. v. Apple Inc.*, No. 09-CV-791 (D. Del.).

16. Attached as Exhibit 15 is a true and correct copy of the parties' Scheduling Order, which was entered (with one minor exception not relevant here) by

The Honorable Gregory M. Sleet, Chief Judge United States District Court for the District of Delaware, on May 3, 2010 in the case of *Nokia Corp. v. Apple Inc.*, No. 09-CV-791 (D. Del.).

17. Attached as Exhibit 16 is a true and correct copy of Nokia's Complaint Under Section 337 of the Tariff Act of 1930, as Amended dated December 29, 2009, filed in *In re Certain Electronic Devices*, Inv. No. 337-TA-701 (U.S.I.T.C.).

18. Attached as Exhibit 17 is a true and correct copy of Nokia's Complaint for Patent Infringement dated December 29, 2009, filed in the case of *Nokia Corp. v. Apple Inc.*, No. 09-CV-1002 (D. Del.).

19. Attached as Exhibit 18 is a true and correct copy of Apple's Complaint Under Section 337 of the Tariff Act of 1930, as Amended dated January 15, 2010, filed in *In re Certain Mobile Communications and Computer Devices*, Inv. No. 337-TA-704 (U.S.I.T.C.).

20. Attached as Exhibit 19 is a true and correct copy of the parties' Stipulation and Order to Stay Litigation dated February 12, 2010, filed in the case of *Nokia Corp. v. Apple Inc.*, No. 09-CV-1002 (D. Del.).

21. Attached as Exhibit 20 is a true and correct copy of a March 3, 2010 Order entered by The Honorable Gregory M. Sleet, Chief Judge United States District Court for the District of Delaware, on the parties' Stipulation and Order to Stay Litigation in the case of *Nokia Corp. v. Apple Inc.*, No. 09-CV-1002 (D. Del.).

22. Attached as Exhibit 21 is a true and correct copy of Apple's Motion for Consolidation dated May 24, 2010, filed in the cases of *Nokia Corp. v. Apple Inc.*, No. 09-CV-791 (D. Del.), *Nokia Corp. v. Apple Inc.*, No. 09-CV-1002 (D. Del.), *Apple Inc. et*

23. Attached as Exhibit 22 is a true and correct copy of Nokia's Answering Brief in Opposition to Apple's Motion for Consolidation dated June 21, 2010, filed in the cases of *Nokia Corp. v. Apple Inc.*, No. 09-CV-791 (D. Del.) and *Nokia Corp. v. Apple Inc.*, No. 09-CV-1002 (D. Del.).

24. Attached as Exhibit 23 is a true and correct copy of HTC's Answering Brief in Opposition to Apple's Motion for Consolidation dated June 21, 2010, filed in the cases of *Apple Inc. et al. v. High Tech Computer Corp. et al.*, No. 10-CV-166 (D. Del.) and *Apple Inc. v. High Tech Computer Corp. et al.*, No. 10-CV-167 (D. Del.).

25. Attached as Exhibit 24 is a true and correct copy of Judicial Caseload Profile for the 12-month period ending September 30, 2009 for the United States District Court for the District of Delaware, available from the website of the Administrative Office of the U.S. Courts at [www.uscourts.gov](http://www.uscourts.gov) (last accessed July 6, 2010).

26. Attached as Exhibit 25 is a true and correct copy of Judicial Caseload Profile for the 12-month period ending September 30, 2009 for the United States District Court for the Western District of Wisconsin, available from the website of the Administrative Office of the U.S. Courts at [www.uscourts.gov](http://www.uscourts.gov) (last accessed July 6, 2010).

27. Attached as Exhibit 26 is a true and correct copy of Apple's First Amended Complaint dated May 17, 2006, filed in the case of *Apple Computer, Inc. v. Creative Labs, Inc.*, No. 06-CV-263 (W.D. Wis.).

28. Attached as Exhibit 27 is a true and correct copy of Apple's Complaint for Patent Infringement dated March 2, 2010, filed in the case of *Apple Inc. et al. v. High Tech Computer Corp. et al.*, No. 10-CV-166 (D. Del.).

29. Attached as Exhibit 28 is a true and correct copy of Apple's Complaint for Patent Infringement filed in the case of *Apple Inc. v. High Tech Computer Corp. et al.*, No. 10-CV-544 (D. Del.).

30. Attached as Exhibit 29 is a true and correct copy of Apple's Complaint for Patent Infringement filed in the case of *Apple Inc. v. High Tech Computer Corp. et al.*, No. 10-CV-167 (D. Del.).

31. Attached as Exhibit 30 is a true and correct copy of Nokia's Counterclaims and Demand for Trial by Jury dated May 23, 2007, filed in the case of *Qualcomm Inc. v. Nokia Corp. et al.*, No. 07-CV-187 (W.D. Wis.).

32. Attached as Exhibit 31 is a true and correct copy of Nokia's Memorandum in Support of its Motion to Transfer dated May 24, 2007, filed in the case of *Qualcomm Inc. v. Nokia Corp. et al.*, No. 07-CV-187 (W.D. Wis.).

33. Attached as Exhibit 32 is a true and correct copy of Nokia's U.S. Patent No. 6,373,345, entitled "Modulator Structure for a Transmitter and a Mobile Station."

34. Attached as Exhibit 33 is a true and correct copy of Nokia's U.S. Patent No. 6,359,904, entitled "Data Transfer in a Mobile Telephone Network."

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on July 20, 2010.

/s/ Coby S. Nixon  
ALSTON & BIRD LLP  
Coby S. Nixon (pro hac vice)  
One Atlantic Center  
1201 West Peachtree Street  
Atlanta, Georgia 30309  
(404) 881-7000  
coby.nixon@alston.com

*Attorney for Plaintiff – Counterclaim-Defendant  
Nokia Corporation and Counterclaim-Defendant  
Nokia Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on July 20, 2010 I caused true and correct copies of the Declaration of Coby S. Nixon in Support of Nokia Corporation's Brief in Opposition to Apple Inc.'s Motion to Transfer Venue and Exhibits 1-33 to be served on all counsel of record by the ECF Notification System.

/s/John C. Scheller  
John C. Scheller