

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

NOKIA CORPORATION,

Plaintiff,

v.

APPLE INC.,

Defendant.

Civil Action No. 10-CV-249

**JURY TRIAL DEMANDED**

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APPLE INC.,

Counterclaim-Plaintiff,

v.

NOKIA CORPORATION and NOKIA INC.,

Counterclaim-Defendants.

**NOKIA CORPORATION'S AND NOKIA INC.'S ANSWER TO  
APPLE INC.'S ANSWER, DEFENSES, AND COUNTERCLAIMS TO  
NOKIA'S FIRST AMENDED COMPLAINT**

Counterclaim-Defendants Nokia Corporation and Nokia Inc. (collectively, "Nokia") hereby respond to Counterclaim-Plaintiff Apple Inc.'s ("Apple") Answer, Defenses, And Counterclaims To Nokia's First Amended Complaint as follows:

**NATURE OF THE ACTION<sup>1</sup>**

1. Denied.
2. Denied, except that Apple's Counterclaims purport to accuse Nokia of infringement of U.S. Patent Nos. 5,946,647 ("the '647 Patent"), 5,612,719 ("the '719 Patent"),

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<sup>1</sup> For convenience and clarity, Nokia's Answer utilizes the same headings as set forth in Apple's Answer, Defenses, And Counterclaims To Nokia's First Amended Complaint. In doing so, Nokia does not admit any of the allegations contained in the headings.

7,710,290 (“the ‘290 Patent”), 7,380,116 (“the ‘116 Patent”), 7,054,981 (“the ‘981 Patent”), 5,379,430 (“the ‘430 Patent”), and 7,760,559 (“the ‘559 Patent”) (collectively “the Asserted Apple Patents”). Nokia denies that it has infringed any of the Asserted Apple Patents.

### **PARTIES**

3. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

4. Denied, except that Apple sells products including personal computers (*e.g.*, MacBook®s, Mac® Pro, iMac®s), portable digital music players (iPods®s), mobile communications devices (iPhone®s), the iPad™, software, peripherals, networking solutions, digital content through the iTunes® Store.

5. Denied, except that Nokia Corporation is incorporated under the laws of Finland, has its principal place of business in Finland, and that Nokia Inc. is a wholly owned United States subsidiary of Nokia Corporation incorporated in Delaware.

6. Denied, except that Nokia sells certain product offerings that compete with Apple’s iPhone®.

### **JURISDICTION AND VENUE**

7. Denied, except that this Court has jurisdiction over Apple’s Counterclaims.

8. Denied, except that this Court has personal jurisdiction over Nokia.

9. Denied, except that venue is proper in this District and that Apple has moved to transfer this case to Delaware pursuant to 28 U.S.C. § 1404(a).

### **BACKGROUND**

10. Denied.

11. Denied, except that Nokia was an early participant in the development and sale of mobile phones and that many “smartphones” can send and receive emails, surf the Internet, play videos and music, take and send pictures, and run software applications.

12. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments except that Apple sells devices such as the iPod®, iPod Touch®, iPhone®, and iPad™.

13. Denied, except that Apple introduced the iPhone® in 2007.

14. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments except that Apple introduced the iPhone® 4 on June 24, 2010.

15. Denied, except that the quote set out in Paragraph 15 appeared in the Guardian on September 2, 2009.

16. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

17. Denied.

18. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments except that Nokia launched the N97 in June 2009 and that Nokia has sold millions of N97s since that time.

19. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments except that Nokia launched the N900 in October 2009.

20. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments except that Nokia’s N8 has been launched in the United States.

21. Denied.

22. Denied, except that Nokia has filed complaints against Apple in the District of Delaware, the International Trade Commission, and here in the Western District of Wisconsin.

#### **THE ASSERTED APPLE PATENTS**

23. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

#### **USER INTERFACE PATENTS**

24. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments except that the Counterclaims purport to attach a copy of the '647 Patent as Exhibit A, that the face of the '647 Patent states that it is entitled "System and Method for Performing an Action on a Structure in Computer-Generated Data," and that it issued on August 31, 1999.

25. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

26. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments except that the Counterclaims purport to attach a copy of the '719 Patent as Exhibit B, that the face of the '719 Patent states that it is entitled "Gesture Sensitive Buttons for Graphical User Interfaces," and that it issued on March 18, 1997.

27. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

#### **LOCATION-BASED SOFTWARE PATENT**

28. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments except that the Counterclaims purport to attach a copy of

the '290 Patent as Exhibit C, that the face of the '290 Patent states that it is entitled "System and Method Situational Location Relevant Invocable Speed Reference," and that it issued on May 4, 2010.

29. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

#### **DEVICE INTERFACE PATENTS**

30. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments except that the Counterclaims purport to attach a copy of the '116 Patent as Exhibit D, that the face of the '116 Patent states that it is entitled "System for Real-Time Adaptation To Changes In Display Configuration," and that it issued on May 27, 2008.

31. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

32. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments except that the Counterclaims purport to attach a copy of the '981 Patent as Exhibit E, that the face of the '981 Patent states that it is entitled "Methods and Apparatus for Providing Automatic High Speed Data Connection in Portable Device," and that it issued on May 30, 2006.

33. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

#### **OPERATING SYSTEM PATENT**

34. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments except that the Counterclaims purport to attach a copy of

the '430 Patent as Exhibit F, that the face of the '430 Patent states that it is entitled "Object-Oriented System Locator System," and that it issued on January 3, 1995.

35. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

### **INTEGRATED CIRCUIT PATENT**

36. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments except that the Counterclaims purport to attach a copy of the '559 Patent as Exhibit G, that the face of the '559 Patent states that it is entitled "Integrated Circuit with Separate Supply Voltage For Memory That Is Different From Logic Circuit Supply Voltage," and that it issued on July 20, 2010.

37. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

### **CLAIMS FOR RELIEF**

#### **FIRST CAUSE OF ACTION**

#### **Infringement of the '647 Patent**

38. Nokia restates and incorporates by reference its answers to the allegations in Paragraphs 1 through 37 as if set forth fully herein.

39. Denied.

40. Denied, except that Apple identified various specific patents to Nokia prior to commencement of this lawsuit.

41. Denied.

42. Denied.

## **SECOND CAUSE OF ACTION**

### **Infringement of the '719 Patent**

43. Nokia restates and incorporates by reference its answers to the allegations in Paragraphs 1 through 42 as if set forth fully herein.

44. Denied.

45. Denied, except that Apple identified various specific patents to Nokia prior to commencement of this lawsuit.

46. Denied.

47. Denied.

## **THIRD CAUSE OF ACTION**

### **Infringement of the '290 Patent**

48. Nokia restates and incorporates by reference its answers to the allegations in Paragraphs 1 through 47 as if set forth fully herein.

49. Denied.

50. Denied, except that Apple identified various specific patents to Nokia prior to commencement of this lawsuit.

51. Denied.

52. Denied.

## **FOURTH CAUSE OF ACTION**

### **Infringement of the '116 Patent**

53. Nokia restates and incorporates by reference its answers to the allegations in Paragraphs 1 through 52 as if set forth fully herein.

54. Denied.

55. Denied, except that Apple identified various specific patents to Nokia prior to commencement of this lawsuit.

56. Denied.

57. Denied.

## **FIFTH CAUSE OF ACTION**

### **Infringement of the '981 Patent**

58. Nokia restates and incorporates by reference its answers to the allegations in Paragraphs 1 through 57 as if set forth fully herein.

59. Denied.

60. Denied, except that Apple identified various specific patents to Nokia prior to commencement of this lawsuit.

61. Denied.

62. Denied.

## **SIXTH CAUSE OF ACTION**

### **Infringement of the '430 Patent**

63. Nokia restates and incorporates by reference its answers to the allegations in Paragraphs 1 through 62 as if set forth fully herein.

64. Denied.

65. Denied, except that Apple identified various specific patents to Nokia prior to commencement of this lawsuit.

66. Denied.

67. Denied.



## **SEVENTH CAUSE OF ACTION**

### **Infringement of the '559 Patent**

68. Nokia restates and incorporates by reference its answers to the allegations in Paragraphs 1 through 67 as if set forth fully herein.

69. Denied.

70. Denied, except that Apple identified various specific patents to Nokia prior to commencement of this lawsuit.

71. Denied.

72. Denied.

## **EIGHTH CAUSE OF ACTION**

### **Declaratory Judgment of Non-Infringement of the '083 Patent**

73. Nokia restates and incorporates by reference its answers to the allegations in Paragraphs 1 through 72 as if set forth fully herein.

74. Denied.

75. Denied.

## **NINTH CAUSE OF ACTION**

### **Declaratory Judgment of Invalidity of the '083 Patent**

76. Nokia restates and incorporates by reference its answers to the allegations in Paragraphs 1 through 75 as if set forth fully herein.

77. Denied.

78. Denied.

**TENTH CAUSE OF ACTION**

**Declaratory Judgment of Non-Infringement of the '894 Patent**

79. Nokia restates and incorporates by reference its answers to the allegations in Paragraphs 1 through 78 as if set forth fully herein.

80. Denied.

81. Denied.

**ELEVENTH CAUSE OF ACTION**

**Declaratory Judgment of Invalidity of the '894 Patent**

82. Nokia restates and incorporates by reference its answers to the allegations in Paragraphs 1 through 81 as if set forth fully herein.

83. Denied.

84. Denied.

**TWELFTH CAUSE OF ACTION**

**Declaratory Judgment of Non-Infringement of the '345 Patent**

85. Nokia restates and incorporates by reference its answers to the allegations in Paragraphs 1 through 84 as if set forth fully herein.

86. Denied.

87. Denied.

**THIRTEENTH CAUSE OF ACTION**

**Declaratory Judgment of Invalidity of the '345 Patent**

88. Nokia restates and incorporates by reference its answers to the allegations in Paragraphs 1 through 87 as if set forth fully herein.

89. Denied.

90. Denied.

#### **FOURTEENTH CAUSE OF ACTION**

##### **Declaratory Judgment of Non-Infringement of the '431 Patent**

91. Nokia restates and incorporates by reference its answers to the allegations in Paragraphs 1 through 90 as if set forth fully herein.

92. Denied.

93. Denied.

#### **FIFTEENTH CAUSE OF ACTION**

##### **Declaratory Judgment of Invalidity of the '431 Patent**

94. Nokia restates and incorporates by reference its answers to the allegations in Paragraphs 1 through 93 as if set forth fully herein.

95. Denied.

96. Denied.

#### **SIXTEENTH CAUSE OF ACTION**

##### **Declaratory Judgment of Non-Infringement of the '696 Patent**

97. Nokia restates and incorporates by reference its answers to the allegations in Paragraphs 1 through 96 as if set forth fully herein.

98. Denied.

99. Denied.

#### **SEVENTEENTH CAUSE OF ACTION**

##### **Declaratory Judgment of Invalidity of the '696 Patent**

100. Nokia restates and incorporates by reference its answers to the allegations in Paragraphs 1 through 99 as if set forth fully herein.

101. Denied.

102. Denied.

#### **EIGHTEENTH CAUSE OF ACTION**

##### **Declaratory Judgment of Non-Infringement of the '680 Patent**

103. Nokia restates and incorporates by reference its answers to the allegations in Paragraphs 1 through 102 as if set forth fully herein.

104. Denied.

105. Denied.

#### **NINETEENTH CAUSE OF ACTION**

##### **Declaratory Judgment of Invalidity of the '680 Patent**

106. Nokia restates and incorporates by reference its answers to the allegations in Paragraphs 1 through 105 as if set forth fully herein.

107. Denied.

108. Denied.

#### **TWENTIETH CAUSE OF ACTION**

##### **Declaratory Judgment of Non-Infringement of the '172 Patent**

109. Nokia restates and incorporates by reference its answers to the allegations in Paragraphs 1 through 108 as if set forth fully herein.

110. Denied.

111. Denied.

**TWENTY-FIRST CAUSE OF ACTION**

**Declaratory Judgment of Invalidity of the '172 Patent**

112. Nokia restates and incorporates by reference its answers to the allegations in Paragraphs 1 through 111 as if set forth fully herein.

113. Denied.

114. Denied.

**PRAYER FOR RELIEF**

To the extent any response is required to any paragraph of Apple's Prayer for Relief, including without limitation the paragraphs it has labeled (a) through (j): Denied.

To the extent Nokia has not addressed above any allegations of the Complaint: Denied.

**NOKIA'S AFFIRMATIVE DEFENSES TO APPLE'S COUNTERCLAIMS**

Pursuant to Federal Rule of Civil Procedure 8(b) and (c), without assuming any burden that it would not otherwise bear, without reducing or removing Apple's burdens of proof on its Counterclaims against Nokia, reserving its right to assert additional defenses, and affirmatively solely to the extent deemed necessary by the Court to maintain any or all of the following defenses, Nokia asserts the following defenses to Apple's Counterclaims:

**First Defense (Failure To State A Claim)**

Apple's Counterclaims failed to state a claim upon which relief can be granted.

**Second Defense (Noninfringement)**

Apple is not entitled to any relief against Nokia because Nokia has not directly or indirectly infringed any valid claim of the Apple Asserted Patents.

**Third Defense (Invalidity)**

One or more of the claims of the Apple Asserted Patents are invalid for failing to meet one or more of the requisite statutory and decisional requirements and/or conditions for

patentability under Title 35 of the United States Code, including without limitation, §§ 101, 102, 103, and 112.

**Fourth Defense (Unenforceability)**

One or more of the Apple Asserted Patents are unenforceable because of estoppel, laches, waiver, unclean hands, and/or other applicable equitable doctrines.

**Fifth Defense (Limitation of Damages)**

Apple's right to seek damages is barred, including without limitation by 35 U.S.C. §§ 286 and 287.

**Sixth Defense (License and Patent Exhaustion)**

Apple's claims for patent infringement are precluded in whole or in part (i) to the extent that any allegedly infringing products or components thereof are supplied, directly or indirectly, to Nokia by any entity or entities having express or implied licenses to the Apple Asserted Patents, (ii) to the extent that Nokia is licensed to one or more of the patents-in-suit and/or (iii) under the doctrine of patent exhaustion.

**Seventh Defense (US Government Products)**

To the extent that certain products accused of infringing the patents-in-suit are used by and/or manufactured for the United States Government, Apple's claims against Nokia with respect to such products may not be pursued in this Court and are subject to other limitations pursuant to 28 U.S.C. § 1498.

**Eighth Defense (No Enhanced Damages)**

Apple is not entitled to enhanced damages or attorney fees because the alleged infringement was not willful.

**Ninth Defense (Lack of Standing)**

Apple lacks standing to bring suit for alleged infringement of the patents-in-suit.

**Tenth Defense (Lack of Ownership)**

Apple has failed to provide adequate evidence of ownership of the patents-in-suit.

**RESERVATION OF RIGHTS**

Nokia reserves any and all rights to amend its answer, to amend its currently pled defenses, and/or add additional defenses as they become apparent.

**PRAYER FOR RELIEF**

WHEREFORE, Nokia prays for judgment and seeks relief against Apple from the Court:

- (a) entering judgment in favor Nokia and against Apple;
- (b) finding the Apple Asserted Patents to be unenforceable, invalid, and/or not infringed;
- (c) finding that this case is exceptional under 35 U.S.C. § 285, and that Nokia be awarded its reasonable attorneys' fees, costs,
- (d) and such further relief as the Court may deem just and proper.

Respectfully submitted, October 15, 2010.

*s/John C. Scheller*

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CERTIFICATE OF SERVICE

I hereby certify that on October 15, 2010 true and correct copies of Nokia Corporation's And Nokia Inc.'s Answer To Apple Inc.'s Answer, Defenses, And Counterclaims To Nokia's First Amended Complaint were served on all counsel of record by the ECF Notification System.

/s/John C. Scheller  
John C. Scheller