

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

NOKIA CORPORATION,

Plaintiff,

v.

APPLE INC.,

Defendant.

APPLE INC.,

Counterclaim-Plaintiff,

v.

NOKIA CORPORATION and NOKIA INC.,

Counterclaim-Defendants.

Civil Action No. 3:10-CV-249-wmc

JURY TRIAL DEMANDED

**NOKIA CORPORATION'S SUPPLEMENTAL MEMORANDUM IN
OPPOSITION TO APPLE INC.'S MOTION TO TRANSFER VENUE TO THE
DISTRICT OF DELAWARE**

Nokia Corporation submits this brief supplemental memorandum to bring to the Court's attention two recent filings by Apple in this district that bear adversely on arguments advanced by Apple in its Motion to Transfer Venue to the District of Delaware.

On October 29, 2010, Apple Inc. filed two separate actions for patent infringement against Motorola, Inc. and Motorola Mobility, Inc. in this district. In the first of those actions, Case No. 10-CV-661, Apple asserted three patents, one of which has also been asserted by Apple against Nokia in this action (Ex. A, Complaint in 661 action). In the second action against the Motorola defendants, Case No. 10-CV-662,

Apple also asserted three patents, one of which has been asserted by Apple against HTC in the 167 Delaware action (Ex. B, Complaint in 662 action).

Having chosen to avail itself of this district in the Motorola actions, Apple can no longer claim that this district is not a convenient forum for the trial of this action. Indeed, Apple emphatically claimed in its Motion to Transfer that a party's choice to litigate a business dispute in a particular forum precludes a claim by that party that the forum is not a convenient one (*see* Apple's Motion to Transfer at 8 (“Nokia cannot deny that the District of Delaware is a convenient forum. Indeed, Nokia made the choice to litigate this ongoing business dispute between Apple and Nokia . . . [in that forum] by filing its first two lawsuits against Apple [there].”))

Moreover, Apple's recent filings seriously call into question Apple's attempt to distinguish *ICOS Vision Sys. Corp. v. Scanner Techs. Corp.*, No. 05 Civ. 6322 (DC), 2006 WL 838990 (S.D.N.Y. Mar. 29, 2006), cited by Nokia for the proposition that a party who has chosen a particular forum to litigate should not complain that that very forum is inconvenient when the party is sued there. The *ICOS* case involved the same plaintiff in the same forum asserting similar patents. The Motorola cases differ only as to the parties sued; the forum is the same and the 430 patent asserted against Motorola has also been asserted against Nokia in this action. Moreover, the fact that the 430 patent had previously been asserted by Apple against Nokia in this district appears to have guided Apple's selection of this district as the venue for the 661 action (*see*, Ex. C, Verified Complaint of Apple Inc. against Motorola, Inc. and Motorola Mobility, Inc. under Section 337 of the Tariff Act of 1930, As Amended, ¶¶42-43)(noting that a companion civil action would be filed, concurrently with Apple's ITC complaint, in the Western

District of Wisconsin, where Apple had previously asserted the 430 Patent against Nokia).

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/s/John C. Scheller
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