EXHIBIT A

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

NOKIA CORPORATION, Plaintiff, v. APPLE INC., Defendant.	
APPLE INC., Counterclaim-Plaintiff, v. NOKIA CORPORATION and NOKIA INC., Counterclaim-Defendants.	**JURY TRIAL DEMANDED**

CIVIL ACTION NO. 10-CV-249

APPLE INC.'S SUPPLEMENTAL MEMORANDUM IN SUPPORT
OF ITS MOTION TO TRANSFER VENUE TO THE DISTRICT OF DELAWARE

Apple's lawsuits against ***Motorola*** in this district have no bearing on whether this case—between Apple and ***Nokia***—should be transferred to the District of Delaware, where Nokia's other, first-filed cases against Apple are pending. Nokia's supplemental memorandum therefore provides no basis for denying Apple's motion to transfer venue.

The focus of Apple's motion to transfer was not that Apple had never brought suit against any party in this district, as Nokia suggests. Apple expressly acknowledged in its briefing that its predecessor corporation had filed suit here in the past. (*See* Apple Reply Mem. at 10.) Rather, the basis for Apple's motion was and is that transfer will allow consolidation with Nokia's earlier-filed litigation against Apple, which now involves seventeen Nokia patents and eighteen Apple patents covering many of the same technologies, and that transfer will prevent Nokia from forum shopping following its disagreements with Judge Sleet's rulings in the pending Delaware case. (*See id.* at 2 ("[T]he Court should transfer this case to Delaware, consistent with the Seventh Circuit's admonition that related litigation should be transferred to a forum where consolidation is feasible." (internal quotation marks omitted); *id.* at 4 ("The Delaware and Wisconsin cases involve the same parties and the same accused products. Notwithstanding Nokia's contentions to the contrary, the cases also involve multiple overlapping technologies. Transferring this case to Delaware accordingly will promote judicial efficiency, and minimize the risk of inconsistent rulings."); *see also id.* at 4-6, 15-16.) Under controlling Seventh Circuit law, this case should be transferred to allow consolidation with Nokia's earlier-filed litigation: "[R]elated litigation should be transferred to a forum where consolidation is feasible." *Coffey v. Van Dorn Iron Works*, 796 F.2d 217, 221 (7th Cir. 1986). Apple's separate litigation against other parties in this district is not relevant to this analysis.

Nokia's reliance on *ICOS*—an unpublished decision from New York—is misplaced. *See ICOS Vision Sys. Corp. v. Scanner Techs. Corp.*, No. 05 Civ. 6322 (DC), 2006 WL 838990, at *6 (S.D.N.Y. Mar. 29, 2006). *ICOS* involved prior litigation between the ***same*** parties in the forum. *See id.* There is no—and has never been any—previous case between Apple and Nokia in this district. Rather, the pending litigation between Apple and Nokia is in Delaware. Apple's recent cases in this district against an entirely different party—Motorola—provide no basis to deny Apple's motion to transfer, even under the reasoning of *ICOS*. Moreover, even to the extent the New York *ICOS* case might otherwise be considered persuasive authority, this Court—in an opinion by Judge Shabaz in the *Gemini IP Tech* case—expressly rejected the argument that Nokia advances based on *ICOS*, i.e., 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." (Nokia Supp. Mem. at 2.) As Judge Shabaz explained:

> Plaintiff notes that each of the defendants are large corporations capable of litigating in Wisconsin and that they have chosen to litigate matters here in the past. While this is undoubtedly true, it does not negate the fact that in this particular matter it would be more convenient for them to litigate in California. Each case must be judged on its own practicalities. ***A corporation does not forfeit its right to claim greater convenience in another forum because it is large or because it has litigated here in the past***.

Gemini IP Tech., LLC v. Hewlett-Packard Co., No. 07-C-205-S, 2007 WL 2050983, at *1–*2 (W.D. Wis. July 16, 2007) (emphasis added).

Finally, Nokia is wrong that Apple's assertion of the '430 patent in its action against Motorola requires denial of its motion to transfer. As Nokia acknowledges in its supplemental memorandum, Apple has asserted the '430 patent against Motorola in an investigation before the International Trade Commission. (*See* Dkt. No. 50-5, Exhibit C.) The parallel action concerning the '430 patent in this district is therefore subject to automatic stay pursuant to 28 U.S.C.

§ 1659(a). Thus, the only action involving an overlapping patent is likely to remain dormant for at least eighteen months while the International Trade Commission completes its investigation. There is therefore no judicial economy to be gained by denying Apple's motion to transfer.

For these reasons, and for the reasons set forth in Apple's opening and reply memoranda, Apple respectfully requests that the Court grant its motion to transfer.

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