

CONTAINS CONFIDENTIAL INFORMATION PURSUANT TO PROTECTIVE ORDER

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

APPLE INC., and NEXT SOFTWARE,
INC. (f/k/a NeXT COMPUTER, INC.),

Plaintiffs and
Counterclaim-
Defendants,

v.

Case No. 10-CV-662 (BBC)

MOTOROLA, INC. and MOTOROLA
MOBILITY, INC.

Defendants and
Counterclaim-
Plaintiffs

**PLAINTIFFS AND COUNTER-CLAIMANTS APPLE INC. AND NEXT SOFTWARE,
INC.'S MOTION FOR SUMMARY JUDGMENT**

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Plaintiffs and Counterclaim-Defendants Apple Inc. and NeXT Software, Inc. (“Apple”) respectfully move for an order granting summary judgment under Fed. R. Civ. P. 56 :

(1) Granting summary judgment that Apple does not infringe the asserted claims under each of Motorola’s Counterclaims for patent infringement on U.S. Patent Nos. 5,311,516 (the “’516 patent”), 5,319,712 (the “’712 patent”), 5,572,193 (the “’193 patent”), 6,175,559 (the “’559 patent”) and 6,359,898 (the “’898 patent”) (as to claim 5) (Dkt. Nos. 70-1 through 70-2 and 70-4 through 70-6).

(2) Granting summary judgment that each of the asserted claims of each of the ’516, ’193, ’559, and ’898 patents is invalid;

(3) Prohibiting Motorola from using Apple’s sales to establish damages for direct infringement of method claims by Apple;

(4) Granting summary judgment in favor of Apple on each of Motorola’s counterclaims and defenses alleging invalidity for lack of patentable subject matter for U.S. Patent Nos. 7,479,949 (the “’949 patent”), 6,493,002 (the “’002 patent”), RE 39,486 (the “RE ’486 patent”), 6,424,354 (the “’354 patent”), 6,343,263 (the “’263 patent”), 6,275,983 (the “’983 patent”), 5,946,647 (the “’647 patent”), 5,929,852 (the “’852 patent”), 5,915,131 (the “’131 patent”), 5,566,337 (the “’337 patent”), 5,519,867 (the “’867 patent”), 5,481,721 (the “’721 patent”), and 5,455,599 (the “’599 patent”) (Dkt. Nos. 12-1 through 12-2, 12-4 through 12-7, and 12-9 through 12-15);

(5) Granting summary judgment in favor of Apple on indefiniteness grounds for the ’949, ’599, ’721, ’867, ’337, ’852, ’647, ’983, ’263, ’354, RE ’486, and ’002 patents;

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(6) Granting summary judgment in favor of Apple on written description grounds for the '599, '721, '867, '131, '852, '647, '983 (as to claims 1 and 7), '263, '354, RE '486, and '002 patents; and

(7) Granting summary judgment in favor of Apple on enablement grounds for the '949, '599, '721, '867, '337, '131, '852, '647, '263, '354, RE '486, and '002 patents.

Dated: November 4, 2011

Respectfully submitted,

/s/ Robert T. Haslam

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