

**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.

MOTOROLA, INC. and MOTOROLA
MOBILITY, INC.

Defendants and
Counterclaim-
Plaintiffs

Case No. 10-CV-662 (BBC)

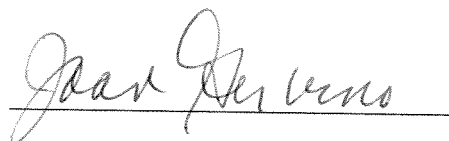
DECLARATION OF JOAN GERVINO

1. My name is Joan Gervino.
2. I currently reside at 8101 Connecticut Avenue, #C505, Chevy, Chase, MD 20815.
3. I am currently retired and no longer actively employed.
4. I am a professional librarian by training, with a Masters of Library Science from Rutgers University.
5. I was an employee at the American Bankers Association (“ABA”) in Washington, DC between March 1973 and August 2001.
6. During my time at the ABA, I was Director of the ABA Center for Banking Information, which included the Library of the American Bankers Association.

7. In my position as Director, I was familiar with the ABA Library's procedures and practices for receiving and cataloging published references and for making references available to the public and to members and staff of the ABA.
8. During my tenure at the ABA, including in the year 1987, the ABA Library date-stamped each document upon receipt. Thus, typically, a "RECEIVED" stamp would be placed on a reference when it was received, with a date indicating the date of receipt of the reference in the ABA Library.
9. In the usual course of business, a reference stamped "RECEIVED" in the ABA Library would be subsequently entered into the public catalog of all publications and books within the collection. This process would typically take between one week and a month at the most. Once the reference had been catalogued, it would then be placed on the shelf at the ABA Library, and therefore be publicly available to the ABA Library's patrons the same day.
10. I note that access to the ABA Library was not necessarily to the public at large, but primarily for ABA staff and members. Non-members and non-staff could visit the ABA Library with prior appointment, however.
11. I further note that the "X9" publications (such as ANSI X9.19) were usually available for sale for members of the public from the ABA Publications Department upon publication and would also be cataloged and available in the ABA Library.
12. The American Bankers Association no longer maintains a library. Its collections were dispersed to several local libraries in the Washington, DC area, including the George Washington University Library.

13. I have examined a reference titled "Financial Institution Retail Message Authentication - X9.19, Approved August 13, 1986," which was published by the X9 Secretariat of the American Bankers Association in 1986 (Attached as Exhibit 1). The reference indicates that it is currently in the collection of the George Washington University Gelman Library, and was received as a gift from the Library of The American Bankers Association.
14. I have examined the "RECEIVED" stamp on this "X9.19" reference, and see that it shows a "RECEIVED" date of February 12, 1987.
15. I was a Director at the ABA in 1987, and my responsibilities included supervision of the ABA Library.
16. Based on this "RECEIVED" stamp, which is consistent with other "RECEIVED" stamps I was familiar with during my tenure at the ABA, the X9.19 reference would have been publically available (as I have described above) shortly after February 12, 1987 (likely no later than March 12, 1987), to the best of my knowledge.
17. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: November 3, 2011

A handwritten signature in cursive script, appearing to read "Joan Gervino", written over a horizontal line.

Joan Gervino