

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

APPLE INC. and NeXT SOFTWARE, )  
INC. (f/k/a NeXT COMPUTER, INC.), )  
 )  
Plaintiffs, )  
 )  
 )  
v. )  
 )  
MOTOROLA, INC. and MOTOROLA )  
MOBILITY, INC. )  
 )  
Defendants. )

Case No. 10-CV-662-BBC  
**JURY TRIAL DEMANDED**

**MOTOROLA, INC.’S AND MOTOROLA MOBILITY, INC.’S  
ANSWER AND REPLY TO APPLE INC.’S COUNTERCLAIMS**

Motorola, Inc. and Motorola Mobility, Inc. (“Mobility”) (collectively, “Motorola”) hereby answer the Counterclaims of Apple Inc. (“Apple”), filed in the above-captioned action on December 3, 2010.

**MOTOROLA’S ANSWER TO APPLE’S COUNTERCLAIMS**  
**GENERAL DENIAL**

Unless expressly admitted below, Motorola denies each and every allegation Apple has set forth in its Counterclaims. Motorola further specifically denies the allegations contained in the affirmative defenses Apple has set forth in its Answer, including Apple’s allegations of inequitable conduct.

**RESPONSE TO APPLE’S SPECIFIC ALLEGATIONS**

Answering the specific allegations of Apple’s Counterclaims, Motorola responds with the following paragraphs, which correspond sequentially to the paragraphs in Apple’s Counterclaims:

## **PARTIES<sup>1</sup>**

142. Admitted.

143. Motorola admits that Motorola, Inc. is a corporation organized under the laws of Delaware with a principal place of business at 1303 East Algonquin Road, Schaumburg, Illinois 60196. Motorola denies the remaining allegations in Paragraph 143.

144. Motorola admits that Mobility is a corporation organized under the laws of the State of Delaware, with a principal place of business at 600 North U.S. Highway 45, Libertyville, Illinois 60048. Motorola admits that Mobility is currently a wholly-owned subsidiary of Motorola, Inc. Motorola denies the remaining allegations in Paragraph 144.

## **JURISDICTION AND VENUE**

145. Motorola, Inc.'s Response:

Motorola, Inc. admits that Apple alleges counterclaims that arise under the patent laws of the United States, Title 35 of the United States Code, but specifically denies Apple's allegations regarding non-infringement, invalidity, or unenforceability of the asserted Mobility patents. Motorola, Inc. denies the remaining allegations of Paragraph 145, including specifically denying that this Court has subject matter jurisdiction over these counterclaims against Motorola, Inc.

Mobility's Response:

Mobility admits that Apple alleges counterclaims that arise under the patent laws of the United States, Title 35 of the United States Code, but specifically denies Apple's

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1 For ease of reference only, Motorola has reproduced the headings Apple used in its Counterclaims. To the extent the headings Apple used contain any allegations or characterizations, Motorola denies the truth of those allegations or characterizations.

allegations regarding non-infringement, invalidity, or unenforceability of the asserted Mobility patents. Mobility admits that this Court has subject matter jurisdiction over these counterclaims against Mobility pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201 and 2202. Mobility denies the remaining allegations of Paragraph 145.

146. Motorola admits that this Court has personal jurisdiction over Motorola, Inc. for purposes of this case. Motorola denies the remaining allegations of Paragraph 146.

147. Motorola admits that this Court has personal jurisdiction over Mobility for purposes of this case. Motorola denies the remaining allegations of Paragraph 147.

148. Motorola admits that venue is proper in this district pursuant to at least 28 U.S.C. § 1391.

### **FIRST COUNTERCLAIM – DECLARATORY JUDGMENT**

#### **U.S. PATENT NO. 5,311,516**

149. Motorola admits that Apple purports to counterclaim against Motorola pursuant to the patent laws of the United States, Titled 35 of the United States Code and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. Motorola specifically denies Apple’s allegations regarding non-infringement, invalidity, or unenforceability of the asserted Mobility patents, including U.S. Patent No. 5,311,516. Motorola denies the remaining allegations of Paragraph 149.

150. Admitted. U.S. Patent No. 5,311,516 has been assigned to Mobility.

#### **A. Declaration of Noninfringement**

151. Motorola repeats and realleges its responses to Paragraphs 142–150 above as if set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1–141 of its Answer, Affirmative Defenses, and Counterclaims, Motorola, to the extent so required, admits that Apple so responds to those

paragraphs in Motorola's and Mobility's Counterclaims and denies any of Apple's allegations therein.

152. Motorola, Inc.'s Response:

To the extent Paragraph 152 contains allegations that are not directed to Motorola, Inc., no response is required. To the extent a response is required, Motorola, Inc. denies each and every allegation in Paragraph 152. Motorola, Inc. specifically denies that it has brought any action against Apple alleging that Apple infringes the '516 patent.

Mobility's Response:

Mobility admits that at this time an actual and justiciable controversy exists between Apple and Mobility with respect to the '516 patent. Mobility admits that it has brought an action against Apple alleging that Apple infringes the '516 patent by making, using, offering for sale, selling, and/or importing the Apple iPhone, the Apple iPhone 3G, the Apple iPhone 3GS, the Apple iPhone 4, the Apple iPad, the Apple iPad with 3G, each generation of the Apple iPod Touch, the Apple MacBook, the Apple MacBook Pro, the Apple MacBook Air, the Apple iMac, the Apple Mac mini, and the Apple Mac Pro. To the extent Paragraph 152 contains allegations that are not directed to Mobility, no response is required. To the extent a response is required, Mobility denies the remaining allegations of Paragraph 152. Mobility specifically denies that Apple does not infringe the '516 patent and that Mobility is wrongfully asserting the '516 patent against Apple, thereby causing Apple any harm.

153. Motorola denies each and every allegation of Paragraph 153.

154. Motorola denies each and every allegation of Paragraph 154.

**B. Declaration of Invalidity**

155. Motorola repeats and realleges its responses to Paragraphs 142–154 above as if set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers

and allegations set forth in Paragraphs 1–141 of its Answer, Affirmative Defenses, and Counterclaims, Motorola, to the extent so required, admits that Apple so responds to those paragraphs in Motorola’s and Mobility’s Counterclaims and denies any of Apple’s allegations therein.

156. Motorola, Inc.’s Response:

To the extent Paragraph 156 contains allegations that are not directed to Motorola, Inc., no response is required. To the extent a response is required, Motorola, Inc. denies each and every allegation in Paragraph 156. Motorola, Inc. specifically denies that it has brought any action against Apple alleging that Apple infringes the ’516 patent.

Mobility’s Response:

Mobility admits that at this time an actual and justiciable controversy exists between Apple and Mobility with respect to the ’516 patent. Mobility admits that it has brought an action against Apple alleging that Apple infringes the ’516 patent by making, using, offering for sale, selling, and/or importing the Apple iPhone, the Apple iPhone 3G, the Apple iPhone 3GS, the Apple iPhone 4, the Apple iPad, the Apple iPad with 3G, each generation of the Apple iPod Touch, the Apple MacBook, the Apple MacBook Pro, the Apple MacBook Air, the Apple iMac, the Apple Mac mini, and the Apple Mac Pro. To the extent Paragraph 156 contains allegations that are not directed to Mobility, no response is required. To the extent a response is required, Mobility denies the remaining allegations of Paragraph 156. Mobility specifically denies that the ’516 patent is invalid and that Mobility is wrongfully asserting the ’516 patent against Apple, thereby causing Apple any harm.

157. Motorola denies each and every allegation of Paragraph 157.

158. Motorola denies each and every allegation of Paragraph 158.

**C. Declaration of Unenforceability**

159. Motorola repeats and realleges its responses to Paragraphs 142–158 above as if set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1–141 of its Answer, Affirmative Defenses, and Counterclaims, Motorola, to the extent so required, admits that Apple so responds to those paragraphs in Motorola’s and Mobility’s Counterclaims and denies any of Apple’s allegations therein.

160. Motorola, Inc.’s Response:

To the extent Paragraph 160 contains allegations that are not directed to Motorola, Inc., no response is required. To the extent a response is required, Motorola, Inc. denies each and every allegation in Paragraph 160. Motorola, Inc. specifically denies that it has brought any action against Apple alleging that Apple infringes the ’516 patent.

Mobility’s Response:

Mobility admits that at this time an actual and justiciable controversy exists between Apple and Mobility with respect to the ’516 patent. Mobility admits that it has brought an action against Apple alleging that Apple infringes the ’516 patent by making, using, offering for sale, selling, and/or importing the Apple iPhone, the Apple iPhone 3G, the Apple iPhone 3GS, the Apple iPhone 4, the Apple iPad, the Apple iPad with 3G, each generation of the Apple iPod Touch, the Apple MacBook, the Apple MacBook Pro, the Apple MacBook Air, the Apple iMac, the Apple Mac mini, and the Apple Mac Pro. To the extent Paragraph 160 contains allegations that are not directed to Mobility, no response is required. To the extent a response is required, Mobility denies the remaining allegations of Paragraph 160. Mobility specifically denies that the ’516 patent is unenforceable and that Mobility is wrongfully asserting the ’516 patent against Apple, thereby causing Apple any harm.

161. Motorola denies each and every allegation of Paragraph 161, including, but not limited to, specifically denying Apple's allegations of inequitable conduct as described in Apple's affirmative defenses. Motorola specifically denies that David F. Willard was aware of specific material information, including any prior art, that he withheld, concealed, or mischaracterized with the intent to deceive the Patent Office. Motorola incorporates by reference its response to Paragraphs 112–118 of Apple's Thirteenth Affirmative Defense set forth below.

162. Motorola denies each and every allegation of Paragraph 162.

## **SECOND COUNTERCLAIM – DECLARATORY JUDGMENT**

### **U.S. PATENT NO. 5,319,712**

163. Motorola admits that Apple purports to counterclaim against Motorola pursuant to the patent laws of the United States, Titled 35 of the United States Code and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. Motorola specifically denies Apple's allegations regarding non-infringement, invalidity, or unenforceability of the asserted Mobility patents, including U.S. Patent No. 5,319,712. Motorola denies the remaining allegations of Paragraph 163.

164. Admitted. U.S. Patent No. 5,319,712 has been assigned to Mobility.

#### **A. Declaration of Noninfringement**

165. Motorola repeats and realleges its responses to Paragraphs 142–164 above as if set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1–141 of its Answer, Affirmative Defenses, and Counterclaims, Motorola, to the extent so required, admits that Apple so responds to those paragraphs in Motorola's and Mobility's Counterclaims and denies any of Apple's allegations therein.

166. Motorola, Inc.'s Response:

To the extent Paragraph 166 contains allegations that are not directed to Motorola, Inc., no response is required. To the extent a response is required, Motorola, Inc. denies each and every allegation in Paragraph 166. Motorola, Inc. specifically denies that it has brought any action against Apple alleging that Apple infringes the '712 patent.

Mobility's Response:

Mobility admits that at this time an actual and justiciable controversy exists between Apple and Mobility with respect to the '712 patent. Mobility admits that it has brought an action against Apple alleging that Apple infringes the '712 patent by making, using, offering for sale, selling, and/or importing the Apple iPhone, the Apple iPhone 3G, the Apple iPhone 3GS, the Apple iPhone 4, the Apple iPad, the Apple iPad with 3G, each generation of the Apple iPod Touch, the Apple MacBook, the Apple MacBook Pro, the Apple MacBook Air, the Apple iMac, the Apple Mac mini, and the Apple Mac Pro. To the extent Paragraph 166 contains allegations that are not directed to Mobility, no response is required. To the extent a response is required, Mobility denies the remaining allegations of Paragraph 166. Mobility specifically denies that Apple does not infringe or has not infringed the '712 patent and that Mobility is wrongfully asserting the '712 patent against Apple, thereby causing Apple any harm.

167. Motorola denies each and every allegation in Paragraph 167.

**B. Declaration of Invalidity**

168. Motorola repeats and realleges its responses to Paragraphs 142–167 above as if set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1–141 of its Answer, Affirmative Defenses, and Counterclaims, Motorola, to the extent so required, admits that Apple so responds to those



paragraphs in Motorola's and Mobility's Counterclaims and denies any of Apple's allegations therein.

169. Motorola, Inc.'s Response:

To the extent Paragraph 169 contains allegations that are not directed to Motorola, Inc., no response is required. To the extent a response is required, Motorola, Inc. denies each and every allegation in Paragraph 169. Motorola, Inc. specifically denies that it has brought any action against Apple alleging that Apple infringes the '712 patent.

Mobility's Response:

Mobility admits that at this time an actual and justiciable controversy exists between Apple and Mobility with respect to the '712 patent. Mobility admits that it has brought an action against Apple alleging that Apple infringes the '712 patent by making, using, offering for sale, selling, and/or importing the Apple iPhone, the Apple iPhone 3G, the Apple iPhone 3GS, the Apple iPhone 4, the Apple iPad, the Apple iPad with 3G, each generation of the Apple iPod Touch, the Apple MacBook, the Apple MacBook Pro, the Apple MacBook Air, the Apple iMac, the Apple Mac mini, and the Apple Mac Pro. To the extent Paragraph 169 contains allegations that are not directed to Mobility, no response is required. To the extent a response is required, Mobility denies the remaining allegations of Paragraph 169. Mobility specifically denies that the '712 patent is invalid and that Mobility is wrongfully asserting the '712 patent against Apple, thereby causing Apple any harm and that Apple has not infringed the '712 patent.

170. Motorola denies each and every allegation in Paragraph 170.

171. Motorola denies each and every allegation in Paragraph 171.

### **THIRD COUNTERCLAIM – DECLARATORY JUDGMENT**

#### **U.S. PATENT NO. 5,490,230**

172. Motorola admits that Apple purports to counterclaim against Motorola pursuant to the patent laws of the United States, Titled 35 of the United States Code and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. Motorola specifically denies Apple’s allegations regarding non-infringement, invalidity, or unenforceability of the asserted Mobility patents, including U.S. Patent No. 5,490,230. Motorola denies the remaining allegations of Paragraph 172.

173. Admitted. U.S. Patent No. 5,490,230 has been assigned to Mobility.

#### **A. Declaration of Noninfringement**

174. Motorola repeats and realleges its responses to Paragraphs 142–173 above as if set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1–141 of its Answer, Affirmative Defenses, and Counterclaims, Motorola, to the extent so required, admits that Apple so responds to those paragraphs in Motorola’s and Mobility’s Counterclaims and denies any of Apple’s allegations therein.

175. Motorola, Inc.’s Response:

To the extent Paragraph 175 contains allegations that are not directed to Motorola, Inc., no response is required. To the extent a response is required, Motorola, Inc. denies each and every allegation in Paragraph 175. Motorola, Inc. specifically denies that it has brought any action against Apple alleging that Apple infringes the ’230 patent.

Mobility’s Response:

Mobility admits that at this time an actual and justiciable controversy exists between Apple and Mobility with respect to the ’230 patent. Mobility admits that it has brought

an action against Apple alleging that Apple infringes the '230 patent by making, using, offering for sale, selling, and/or importing the Apple iPhone, the Apple iPhone 3G, the Apple iPhone 3GS, and the Apple iPhone 4. To the extent Paragraph 175 contains allegations that are not directed to Mobility, no response is required. To the extent a response is required, Mobility denies the remaining allegations of Paragraph 175. Mobility specifically denies that Apple does not infringe the '230 patent and that Mobility is wrongfully asserting the '230 patent against Apple, thereby causing Apple any harm.

176. Motorola denies each and every allegation in Paragraph 176.

177. Motorola denies each and every allegation in Paragraph 177.

**B. Declaration of Invalidity**

178. Motorola repeats and realleges its responses to Paragraphs 142–177 above as if set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1–141 of its Answer, Affirmative Defenses, and Counterclaims, Motorola, to the extent so required, admits that Apple so responds to those paragraphs in Motorola's and Mobility's Counterclaims and denies any of Apple's allegations therein.

179. Motorola, Inc.'s Response:

To the extent Paragraph 179 contains allegations that are not directed to Motorola, Inc., no response is required. To the extent a response is required, Motorola, Inc. denies each and every allegation in Paragraph 179. Motorola, Inc. specifically denies that it has brought any action against Apple alleging that Apple infringes the '230 patent.

Mobility's Response:

Mobility admits that at this time an actual and justiciable controversy exists between Apple and Mobility with respect to the '230 patent. Mobility admits that it has brought

an action against Apple alleging that Apple infringes the '712 patent by making, using, offering for sale, selling, and/or importing the Apple iPhone, the Apple iPhone 3G, the Apple iPhone 3GS, and the Apple iPhone 4. To the extent Paragraph 179 contains allegations that are not directed to Mobility, no response is required. To the extent a response is required, Mobility denies the remaining allegations of Paragraph 179. Mobility specifically denies that the '230 patent is invalid and that Mobility is wrongfully asserting the '230 patent against Apple, thereby causing Apple any harm.

180. Motorola denies each and every allegation in Paragraph 180.

181. Motorola denies each and every allegation in Paragraph 181.

#### **FOURTH COUNTERCLAIM – DECLARATORY JUDGMENT**

##### **U.S. PATENT NO. 5,572,193**

182. Motorola admits that Apple purports to counterclaim against Motorola pursuant to the patent laws of the United States, Titled 35 of the United States Code and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. Motorola specifically denies Apple's allegations regarding non-infringement, invalidity, or unenforceability of the asserted Mobility patents, including U.S. Patent No. 5,572,193. Motorola denies the remaining allegations of Paragraph 182.

183. Admitted. U.S. Patent No. 5,572,193 has been assigned to Mobility.

##### **A. Declaration of Noninfringement**

184. Motorola repeats and realleges its responses to Paragraphs 142–183 above as if set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1–141 of its Answer, Affirmative Defenses, and Counterclaims, Motorola, to the extent so required, admits that Apple so responds to those

paragraphs in Motorola's and Mobility's Counterclaims and denies any of Apple's allegations therein.

185. Motorola, Inc.'s Response:

To the extent Paragraph 185 contains allegations that are not directed to Motorola, Inc., no response is required. To the extent a response is required, Motorola, Inc. denies each and every allegation in Paragraph 185. Motorola, Inc. specifically denies that it has brought any action against Apple alleging that Apple infringes the '193 patent.

Mobility's Response:

Mobility admits that at this time an actual and justiciable controversy exists between Apple and Mobility with respect to the '193 patent. Mobility admits that it has brought an action against Apple alleging that Apple infringes the '193 patent by making, using, offering for sale, selling, and/or importing the Apple iPhone, the Apple iPhone 3G, the Apple iPhone 3GS, the Apple iPhone 4, the Apple iPad, the Apple iPad with 3G, each generation of the Apple iPod Touch, the Apple MacBook, the Apple MacBook Pro, the Apple MacBook Air, the Apple iMac, the Apple Mac mini, and the Apple Mac Pro. To the extent Paragraph 185 contains allegations that are not directed to Mobility, no response is required. To the extent a response is required, Mobility denies the remaining allegations of Paragraph 185. Mobility specifically denies that Apple does not infringe the '193 patent and that Mobility is wrongfully asserting the '193 patent against Apple, thereby causing Apple any harm.

186. Motorola denies each and every allegation in Paragraph 186.

187. Motorola denies each and every allegation in Paragraph 187.

**B. Declaration of Invalidity**

188. Motorola repeats and realleges its responses to Paragraphs 142–187 above as if set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers

and allegations set forth in Paragraphs 1–141 of its Answer, Affirmative Defenses, and Counterclaims, Motorola, to the extent so required, admits that Apple so responds to those paragraphs in Motorola’s and Mobility’s Counterclaims and denies any of Apple’s allegations therein.

189. Motorola, Inc.’s Response:

To the extent Paragraph 189 contains allegations that are not directed to Motorola, Inc., no response is required. To the extent a response is required, Motorola, Inc. denies each and every allegation in Paragraph 189. Motorola, Inc. specifically denies that it has brought any action against Apple alleging that Apple infringes the ’193 patent.

Mobility’s Response:

Mobility admits that at this time an actual and justiciable controversy exists between Apple and Mobility with respect to the ’193 patent. Mobility admits that it has brought an action against Apple alleging that Apple infringes the ’193 patent by making, using, offering for sale, selling, and/or importing the Apple iPhone, the Apple iPhone 3G, the Apple iPhone 3GS, the Apple iPhone 4, the Apple iPad, the Apple iPad with 3G, each generation of the Apple iPod Touch, the Apple MacBook, the Apple MacBook Pro, the Apple MacBook Air, the Apple iMac, the Apple Mac mini, and the Apple Mac Pro. To the extent Paragraph 189 contains allegations that are not directed to Mobility, no response is required. To the extent a response is required, Mobility denies the remaining allegations of Paragraph 189. Mobility specifically denies that the ’193 patent is invalid and that Mobility is wrongfully asserting the ’193 patent against Apple, thereby causing Apple any harm.

190. Motorola denies each and every allegation in Paragraph 190.

191. Motorola denies each and every allegation in Paragraph 191.

**C. Declaration of Unenforceability**

192. Motorola repeats and realleges its responses to Paragraphs 142–191 above as if set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1–141 of its Answer, Affirmative Defenses, and Counterclaims, Motorola, to the extent so required, admits that Apple so responds to those paragraphs in Motorola’s and Mobility’s Counterclaims and denies any of Apple’s allegations therein.

193. Motorola, Inc.’s Response:

To the extent Paragraph 193 contains allegations that are not directed to Motorola, Inc., no response is required. To the extent a response is required, Motorola, Inc. denies each and every allegation in Paragraph 193. Motorola, Inc. specifically denies that it has brought any action against Apple alleging that Apple infringes the ’193 patent.

Mobility’s Response:

Mobility admits that at this time an actual and justiciable controversy exists between Apple and Mobility with respect to the ’193 patent. Mobility admits that it has brought an action against Apple alleging that Apple infringes the ’193 patent by making, using, offering for sale, selling, and/or importing the Apple iPhone, the Apple iPhone 3G, the Apple iPhone 3GS, the Apple iPhone 4, the Apple iPad, the Apple iPad with 3G, each generation of the Apple iPod Touch, the Apple MacBook, the Apple MacBook Pro, the Apple MacBook Air, the Apple iMac, the Apple Mac mini, and the Apple Mac Pro. To the extent Paragraph 193 contains allegations that are not directed to Mobility, no response is required. To the extent a response is required, Mobility denies the remaining allegations of Paragraph 193. Mobility specifically denies that the ’193 patent is unenforceable and that Mobility is wrongfully asserting the ’193 patent against Apple, thereby causing Apple any harm.

194. Motorola denies each and every allegation of Paragraph 194, including, but not limited to, specifically denying Apple's allegations of inequitable conduct as described in Apple's affirmative defenses. Motorola specifically denies that Louis Finkelstein or the prosecuting attorney for the '193 patent were aware of specific material information, including any prior art, that they withheld, concealed, or mischaracterized with the intent to deceive the Patent Office. Motorola incorporates by reference its response to Paragraphs 119–127 of Apple's Thirteenth Affirmative Defense set forth below.

195. Motorola denies each and every allegation in Paragraph 195.

#### **FIFTH COUNTERCLAIM – DECLARATORY JUDGMENT**

##### **U.S. PATENT NO. 6,175,559**

196. Motorola admits that Apple purports to counterclaim against Motorola pursuant to the patent laws of the United States, Titled 35 of the United States Code and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. Motorola specifically denies Apple's allegations regarding non-infringement, invalidity, or unenforceability of the asserted Mobility patents, including U.S. Patent No. 6,175,559. Motorola denies the remaining allegations of Paragraph 196.

197. Admitted. U.S. Patent No. 6,175,559 has been assigned to Mobility.

#### **A. Declaration of Noninfringement**

198. Motorola repeats and realleges its responses to Paragraphs 142–197 above as if set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1–141 of its Answer, Affirmative Defenses, and Counterclaims, Motorola, to the extent so required, admits that Apple so responds to those paragraphs in Motorola's and Mobility's Counterclaims and denies any of Apple's allegations therein.



199. Motorola, Inc.'s Response:

To the extent Paragraph 199 contains allegations that are not directed to Motorola, Inc., no response is required. To the extent a response is required, Motorola, Inc. denies each and every allegation in Paragraph 199. Motorola, Inc. specifically denies that it has brought any action against Apple alleging that Apple infringes the '559 patent.

Mobility's Response:

Mobility admits that at this time an actual and justiciable controversy exists between Apple and Mobility with respect to the '559 patent. Mobility admits that it has brought an action against Apple alleging that Apple infringes the '559 patent by making, using, offering for sale, selling, and/or importing the Apple iPhone 3G, the Apple iPhone 3GS, the Apple iPhone 4, and the Apple iPad with 3G. To the extent Paragraph 199 contains allegations that are not directed to Mobility, no response is required. To the extent a response is required, Mobility denies the remaining allegations of Paragraph 199. Mobility specifically denies that Apple does not infringe the '559 patent and that Mobility is wrongfully asserting the '559 patent against Apple, thereby causing Apple any harm.

200. Motorola denies each and every allegation in Paragraph 200.

201. Motorola denies each and every allegation in Paragraph 201.

**B. Declaration of Invalidity**

202. Motorola repeats and realleges its responses to Paragraphs 142–201 above as if set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1–141 of its Answer, Affirmative Defenses, and Counterclaims, Motorola, to the extent so required, admits that Apple so responds to those paragraphs in Motorola's and Mobility's Counterclaims and denies any of Apple's allegations therein.

203. Motorola, Inc.'s Response:

To the extent Paragraph 203 contains allegations that are not directed to Motorola, Inc., no response is required. To the extent a response is required, Motorola, Inc. denies each and every allegation in Paragraph 203. Motorola, Inc. specifically denies that it has brought any action against Apple alleging that Apple infringes the '559 patent.

Mobility's Response:

Mobility admits that at this time an actual and justiciable controversy exists between Apple and Mobility with respect to the '559 patent. Mobility admits that it has brought an action against Apple alleging that Apple infringes the '559 patent by making, using, offering for sale, selling, and/or importing the Apple iPhone 3G, the Apple iPhone 3GS, the Apple iPhone 4, and the Apple iPad with 3G. To the extent Paragraph 203 contains allegations that are not directed to Mobility, no response is required. To the extent a response is required, Mobility denies the remaining allegations of Paragraph 203. Mobility specifically denies that the '559 patent is invalid and that Mobility is wrongfully asserting the '559 patent against Apple, thereby causing Apple any harm.

204. Motorola denies each and every allegation in Paragraph 204.

205. Motorola denies each and every allegation in Paragraph 205.

**C. Declaration of Unenforceability**

206. Motorola repeats and realleges its responses to Paragraphs 142–205 above as if set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1–141 of its Answer, Affirmative Defenses, and Counterclaims, Motorola, to the extent so required, admits that Apple so responds to those paragraphs in Motorola's and Mobility's Counterclaims and denies any of Apple's allegations therein.

207. Motorola, Inc.'s Response:

To the extent Paragraph 207 contains allegations that are not directed to Motorola, Inc., no response is required. To the extent a response is required, Motorola, Inc. denies each and every allegation in Paragraph 207. Motorola, Inc. specifically denies that it has brought any action against Apple alleging that Apple infringes the '559 patent.

Mobility's Response:

Mobility admits that at this time an actual and justiciable controversy exists between Apple and Mobility with respect to the '559 patent. Mobility admits that it has brought an action against Apple alleging that Apple infringes the '559 patent by making, using, offering for sale, selling, and/or importing the Apple iPhone 3G, the Apple iPhone 3GS, the Apple iPhone 4, and the Apple iPad with 3G. To the extent Paragraph 207 contains allegations that are not directed to Mobility, no response is required. To the extent a response is required, Mobility denies the remaining allegations of Paragraph 207. Mobility specifically denies that the '559 patent is unenforceable and that Mobility is wrongfully asserting the '559 patent against Apple, thereby causing Apple any harm.

208. Motorola denies each and every allegation of Paragraph 208, including, but not limited to, specifically denying Apple's allegations of inequitable conduct as described in Apple's affirmative defenses. Motorola specifically denies that any named inventor or prosecuting attorney was aware of specific material information, including any prior art, that was withheld, concealed, or mischaracterized with the intent to deceive the Patent Office. Motorola incorporates by reference its response to Paragraphs 128–134 of Apple's Thirteenth Affirmative Defense set forth below.

209. Motorola denies each and every allegation in Paragraph 209.

## SIXTH COUNTERCLAIM – DECLARATORY JUDGMENT

### U.S. PATENT NO. 6,359,898

210. Motorola admits that Apple purports to counterclaim against Motorola pursuant to the patent laws of the United States, Titled 35 of the United States Code and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. Motorola specifically denies Apple’s allegations regarding non-infringement, invalidity, or unenforceability of the asserted Mobility patents, including U.S. Patent No. 6,359,898. Motorola denies the remaining allegations of Paragraph 210.

211. Admitted. U.S. Patent No. 6,359,898 has been assigned to Mobility.

#### **A. Declaration of Noninfringement**

212. Motorola repeats and realleges its responses to Paragraphs 142–211 above as if set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1–141 of its Answer, Affirmative Defenses, and Counterclaims, Motorola, to the extent so required, admits that Apple so responds to those paragraphs in Motorola’s and Mobility’s Counterclaims and denies any of Apple’s allegations therein.

213. Motorola, Inc.’s Response:

To the extent Paragraph 213 contains allegations that are not directed to Motorola, Inc., no response is required. To the extent a response is required, Motorola, Inc. denies each and every allegation in Paragraph 213. Motorola, Inc. specifically denies that it has brought any action against Apple alleging that Apple infringes the ’898 patent.

Mobility’s Response:

Mobility admits that at this time an actual and justiciable controversy exists between Apple and Mobility with respect to the ’898 patent. Mobility admits that it has brought

an action against Apple alleging that Apple infringes the '898 patent by making, using, offering for sale, selling, and/or importing the Apple iPhone, the Apple iPhone 3G, the Apple iPhone 3GS, the Apple iPhone 4, and the Apple iPad with 3G. To the extent Paragraph 213 contains allegations that are not directed to Mobility, no response is required. To the extent a response is required, Mobility denies the remaining allegations of Paragraph 213. Mobility specifically denies that Apple does not infringe the '898 patent and that Mobility is wrongfully asserting the '898 patent against Apple, thereby causing Apple any harm.

214. Motorola denies each and every allegation in Paragraph 214.

215. Motorola denies each and every allegation in Paragraph 215.

**B. Declaration of Invalidity**

216. Motorola repeats and realleges its responses to Paragraphs 142–215 above as if set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1–141 of its Answer, Affirmative Defenses, and Counterclaims, Motorola, to the extent so required, admits that Apple so responds to those paragraphs in Motorola's and Mobility's Counterclaims and denies any of Apple's allegations therein.

217. Motorola, Inc.'s Response:

To the extent Paragraph 217 contains allegations that are not directed to Motorola, Inc., no response is required. To the extent a response is required, Motorola, Inc. denies each and every allegation in Paragraph 217. Motorola, Inc. specifically denies that it has brought any action against Apple alleging that Apple infringes the '898 patent.

Mobility's Response:

Mobility admits that at this time an actual and justiciable controversy exists between Apple and Mobility with respect to the '898 patent. Mobility admits that it has brought

an action against Apple alleging that Apple infringes the '898 patent by making, using, offering for sale, selling, and/or importing the Apple iPhone, the Apple iPhone 3G, the Apple iPhone 3GS, the Apple iPhone 4, and the Apple iPad with 3G. To the extent Paragraph 217 contains allegations that are not directed to Mobility, no response is required. To the extent a response is required, Mobility denies the remaining allegations of Paragraph 217. Mobility specifically denies that the '898 patent is invalid and that Mobility is wrongfully asserting the '898 patent against Apple, thereby causing Apple any harm.

218. Motorola denies each and every allegation in Paragraph 218.

219. Motorola denies each and every allegation in Paragraph 219.

**C. Declaration of Unenforceability**

220. Motorola repeats and realleges its responses to Paragraphs 142–219 above as if set forth herein; to the extent Apple purports to reallege and incorporate by reference the answers and allegations set forth in Paragraphs 1–141 of its Answer, Affirmative Defenses, and Counterclaims, Motorola, to the extent so required, admits that Apple so responds to those paragraphs in Motorola's and Mobility's Counterclaims and denies any of Apple's allegations therein.

221. Motorola, Inc.'s Response:

To the extent Paragraph 221 contains allegations that are not directed to Motorola, Inc., no response is required. To the extent a response is required, Motorola, Inc. denies each and every allegation in Paragraph 221. Motorola, Inc. specifically denies that it has brought any action against Apple alleging that Apple infringes the '898 patent.

Mobility's Response:

Mobility admits that at this time an actual and justiciable controversy exists between Apple and Mobility with respect to the '898 patent. Mobility admits that it has brought

an action against Apple alleging that Apple infringes the '898 patent by making, using, offering for sale, selling, and/or importing the Apple iPhone, the Apple iPhone 3G, the Apple iPhone 3GS, the Apple iPhone 4, and the Apple iPad with 3G. To the extent Paragraph 221 contains allegations that are not directed to Mobility, no response is required. To the extent a response is required, Mobility denies the remaining allegations of Paragraph 221. Mobility specifically denies that the '898 patent is unenforceable and that Mobility is wrongfully asserting the '898 patent against Apple, thereby causing Apple any harm.

222. Motorola denies each and every allegation of Paragraph 222, including, but not limited to, specifically denying Apple's allegations of inequitable conduct as described in Apple's affirmative defenses. Motorola specifically denies that Mark Cudak or the prosecuting attorney of the '898 patent were aware of specific material information, including any prior art, that they withheld, concealed, or mischaracterized with the intent to deceive the Patent Office. Motorola incorporates by reference its response to Paragraphs 135–141 of Apple's Thirteenth Affirmative Defense set forth below.

223. Motorola denies each and every allegation in Paragraph 223.

#### **REQUEST FOR RELIEF**

Motorola denies each and every allegation contained in the section of Apple's Counterclaims headed "Request for Relief," including Apple's allegation that it is entitled to or should be granted any relief in this matter, including the relief Apple seeks in lettered paragraphs A through J.

#### **DEMAND FOR JURY TRIAL**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Motorola demands a trial by jury of this action.

**MOTOROLA’S REPLY TO APPLE’S THIRTEENTH DEFENSE  
OF INEQUITABLE CONDUCT**

**GENERAL DENIAL OF ALL AFFIRMATIVE DEFENSES**

Unless expressly admitted below, Motorola denies each and every allegation Apple has set forth in its Affirmative Defenses, including, as set forth below, specifically denying the allegations contained in Apple’s Thirteenth Defense regarding alleged inequitable conduct.

**RESPONSE TO APPLE’S SPECIFIC ALLEGATIONS**

Answering the specific allegations of Apple’s Thirteenth Defense, Motorola responds with the following paragraphs, which correspond sequentially to the paragraphs in Apple’s Thirteenth Defense:

**A. The ’516 Patent**

112. Motorola denies each and every allegation in Paragraph 112, including specifically denying Apple’s allegations of inequitable conduct. Motorola specifically denies that David F. Willard was aware of any material information, including any prior art, that he withheld, concealed, or mischaracterized with the intent to deceive the Patent Office or that any such prior art exists, including any allegation that U.S. Patent No. 5,089,813 to Michael J. DeLuca, Leon Jasinski, and David F. Willard (“DeLuca”) is prior art.

113. Motorola admits that David F. Willard is a named inventor on the DeLuca reference. Motorola denies the remaining allegations in Paragraph 113, including specifically denying that David F. Willard had knowledge regarding material prior art at least by July 19, 1989 that he withheld, concealed, or mischaracterized with the intent to deceive the Patent Office. Motorola further denies that DeLuca is prior art.

114. Motorola denies each and every allegation of Paragraph 114.



115. Motorola denies each and every allegation of Paragraph 115, including specifically denying Apple's allegations of inequitable conduct. Motorola specifically denies that David F. Willard failed to disclose the DeLuca reference during prosecution of the '516 patent with an intent to deceive the Patent Office or was aware of material information, including any prior art, that he withheld, concealed, or mischaracterized with the intent to deceive the Patent Office or that any such prior art exists. Motorola further reincorporates its response to Paragraph 113, including specifically denying that Willard knew of material prior art at least by July 19, 1989 that he withheld, concealed, or mischaracterized with the intent to deceive the Patent Office.

116. Any allegations in Paragraph 116 constitute legal conclusions, and on that basis, to the extent that response is required, Motorola denies each and every allegation in Paragraph 116. Motorola reincorporates its response to Paragraph 114 and specifically denies that DeLuca anticipates or renders obvious any claim of the '516 patent.

117. Motorola lacks information sufficient to form a belief regarding the allegations contained in Paragraph 117, and on that basis denies each and every allegation in Paragraph 117.

118. Motorola denies each and every allegation of Paragraph 118, including, but not limited to, specifically denying Apple's allegations that the '516 patent is unenforceable or that David F. Willard committed fraud on the Patent Office or any inequitable conduct by withholding, concealing, or mischaracterizing any material prior art with the intent to deceive the Patent Office.

#### **B. The '193 Patent**

119. Motorola denies each and every allegation of Paragraph 119, including specifically denying Apple's allegations of inequitable conduct. Motorola specifically denies that Louis Finkelstein or the prosecuting attorney for the '193 patent were aware of any material

information, including any prior art, and that they withheld, concealed, or mischaracterized with the intent to deceive the Patent Office or that any such prior art exists, including any allegation that U.S. Patent No. 5,189,700 to Blandford is prior art.

120. Motorola admits that Finkelstein is a named inventor on U.S. Patent Application No. 08/084,664 (“the ’664 application”). Motorola further admits that Blandford is identified in a Notice of References Cited related to the ’664 application. Motorola denies each and every other allegation of Paragraph 120, including specifically denying that Finkelstein had knowledge regarding material prior art at least by November 25, 1994 or during the pendency of U.S. Patent Application No. 08/295,173 (“ the ’173 application”) that he withheld, concealed, or mischaracterized with the intent to deceive the Patent Office. Motorola further denies that Blandford constitutes prior art.

121. Motorola admits that Buford is listed as a prosecuting attorney on the ’193 patent. Motorola admits that Buford participated in the prosecution of the ’664 application. Motorola also admits that Blandford is identified in a Notice of References Cited related to the ’664 application. Motorola denies each and every other allegation of Paragraph 121, including specifically denying that the attorney responsible for prosecuting the ’193 patent had knowledge of material prior art at least by November 25, 1994 or during the pendency of the ’173 application that he withheld, concealed, or mischaracterized with the intent to deceive the Patent Office. Motorola further denies that Blandford constitutes prior art.

122. Motorola denies each and every allegation in Paragraph 122, including Apple’s allegation that Finkelstein and Buford knew that Blandford was material prior art to the ’173 application and ’193 patent “because Blandford discloses ‘Devices to (1) Supply Authenticated Time and (2) Time Stamp and Authenticate Digital Documents,’ and that they withheld,

concealed, or mischaracterized any material prior art with the intent to deceive the Patent Office. Motorola further denies that Blandford constitutes prior art.

123. Motorola denies each and every allegation of Paragraph 123, including specifically denying Apple's allegation that any inventions claimed in Harkins anticipate and/or render obvious the '193 patent.

124. Motorola denies each and every allegation of Paragraph 124, including specifically denying Apple's allegations of inequitable conduct. Motorola specifically denies that Louis Finkelstein and the prosecuting attorney for the '193 patent failed to disclose Blandford during prosecution of the '193 patent with an intent to deceive the Patent Office or were aware of material information, including any prior art, that they withheld, concealed, or mischaracterized with the intent to deceive the Patent Office or that any such prior art exists. Motorola further reincorporates its responses to Paragraphs 120–121, including specifically denying that Finkelstein and Buford knew that Blandford was material prior art to the '173 application and '193 patent “because Blandford discloses ‘Devices to (1) Supply Authenticated Time and (2) Time Stamp and Authenticate Digital Documents’ or because they became aware of Blandford in conjunction with the prosecution of the '863 patent and that they withheld, concealed, or mischaracterized any material prior art with the intent to deceive the Patent Office.

125. Any allegations contained in Paragraph 125 constitute legal conclusions, and on that basis, to the extent that a response is required, Motorola denies each and every allegation in Paragraph 125.

126. Motorola lacks information sufficient to form a belief regarding the allegations contained in Paragraph 126, and on that basis denies each and every allegation in Paragraph 126.

127. Motorola denies each and every allegation of Paragraph 127, including, but not limited to, specifically denying Apple's allegations that the '193 patent is unenforceable or that the named inventors and prosecuting attorneys committed fraud on the Patent Office or any inequitable conduct by withholding, concealing or mischaracterizing any material prior art with the intent to deceive the Patent Office.

### **C. The '559 Patent**

128. Any allegations contained in Paragraph 128 constitute legal conclusions and therefore no response is required. To the extent a response is required, Motorola lacks sufficient information to respond to the allegations in Paragraph 128 because Apple has not alleged knowledge or conduct by any individual, and on this basis denies each and every allegation in Paragraph 128. Motorola specifically denies that it was aware of material information, including prior art, and withheld, concealed, or mischaracterized that information with intent to deceive the Patent Office, including any allegation that documents from the 3GPP TSG-RAN Working Group 1, including, without limitation, 3GPP TS 25.213 v2.0.0 (1999-4) Technical Specification; 3GPP TS 25.213 v2.1.0 (1999-06); "New RACH preambles with low auto-correlation sidelobes and reduced detector complexity," TSGR1#3(99)205 (Ericsson, March 22-26, 1999); "Comments on the proposed RACH sequence structure," Tdoc R1-99377 (Nokia, April 18-20, 1999); and "Text proposal for RACH preambles," TSGR1-598/99 (Nokia, June 1-4, 1999) (collectively "the 3GPP TSG-RAN Art").

129. Any allegations contained in Paragraph 129 constitute legal conclusions and therefore no response is required. To the extent a response is required, Motorola lacks sufficient information to respond to the allegations in Paragraph 129 because Apple has not alleged knowledge or conduct by any individual, and on this basis denies each and every allegation in

Paragraph 129. Motorola specifically denies that any of the 3GPP TSG-RAN Art constitutes prior art.

130. Motorola denies each and every allegation in Paragraph 130.

131. Any allegations contained in Paragraph 131 constitute legal conclusions and therefore no response is required. To the extent a response is required, Motorola lacks sufficient information to respond to the allegations in Paragraph 131 because Apple has not alleged knowledge or conduct by any individual, and on this basis Motorola denies each and every allegation of Paragraph 131, including specifically denying Apple's allegations of inequitable conduct. Motorola specifically denies that any inventors or prosecuting attorneys for the '559 patent failed to disclose the GPP TSG-RAN Art with an intent to deceive the Patent Office or were aware of material information, including any prior art, that they withheld, concealed, or mischaracterized with the intent to deceive the Patent Office or that any such prior art exists.

132. Any allegations contained in Paragraph 132 constitute legal conclusions, and on that basis, to the extent that a response is required, Motorola denies each and every allegation in Paragraph 132. Motorola specifically denies that the 3GPP TSG-RAN Art anticipates and/or renders obvious the '559 patent and that the 3GPP TSG-RAN Art is prior art.

133. Motorola lacks information sufficient to form a belief regarding the allegations contained in Paragraph 133, and on that basis denies each and every allegation in Paragraph 133.

134. Motorola denies each and every allegation of Paragraph 134, including, but not limited to, specifically denying Apple's allegations that the '559 patent is unenforceable or that the named inventors and prosecuting attorneys committed fraud on the Patent Office or any inequitable conduct by withholding, concealing or mischaracterizing any material prior art with the intent to deceive the Patent Office.

#### **D. The '898 Patent**

135. Motorola denies each and every allegation in Paragraph 135, including specifically denying Apple's allegations of inequitable conduct. Motorola specifically denies that Mark Cudak, and the prosecuting attorney for the '898 patent were aware of any material information, including any prior art, that they withheld, concealed, or mischaracterized with the intent to deceive the Patent Office or that any such prior art exists, including any allegation that an article entitled "SWAN: A Mobile Multimedia Wireless Network," by Prathima Agrawal, Eoin Hyden, Paul Krzyzanowski, Partho Mishra, Mani B. Srivastava, and John A. Trotter (April 1996) ("Agrawal") is prior art.

136. Motorola admits that Mark Conrad Cudak is a named inventor on U.S. Patent No. 6,058,106 ("the '106 patent"). Motorola admits that Agrawal was cited during prosecution of U.S. Patent Application No. 08/953,948. Motorola denies each and every other allegation of Paragraph 136, including specifically denying that Cudak or Meyer had knowledge regarding material prior art at least by October 1998 that they withheld, concealed, or mischaracterized with the intent to deceive the Patent Office. Motorola also denies that Jonathan Meyer is listed as a prosecuting attorney on the '106 patent. Motorola further denies that Agrawal constitutes prior art.

137. Motorola denies each and every allegation in Paragraph 137.

138. Motorola denies each and every allegation in Paragraph 138, including specifically denying Apple's allegations of inequitable conduct. Motorola specifically denies that Cudak and Meyer failed to disclose Agrawal during prosecution of the '898 patent with an intent to deceive the Patent Office or were aware of material information, including any prior art, that they withheld, concealed, or mischaracterized with the intent to deceive the Patent Office or that any such art exists. Motorola further reincorporates its response to Paragraph 136, including

specifically denying that Cudak and Meyer knew that Agrawal was material prior art to the '898 patent by October 1998 or during the pendency of U.S. Patent Application No. 09/141,835 and that they withheld, concealed, or mischaracterized any material prior art with the intent to deceive the Patent Office.

139. Any allegations in Paragraph 139 constitute legal conclusions, and on that basis, to the extent that response is required, Motorola denies each and every allegation in Paragraph 139. Motorola reincorporates its response to Paragraph 137 and specifically denies that Agrawal anticipates or renders obvious any claim of the '898 patent.

140. Motorola lacks information sufficient to form a belief regarding the allegations contained in Paragraph 140, and on that basis denies each and every allegation in Paragraph 140.

141. Motorola denies each and every allegation of Paragraph 141, including, but not limited to, specifically denying Apple's allegations that the '898 patent is unenforceable or that the named inventors and prosecuting attorneys committed fraud on the Patent Office or any inequitable conduct by withholding, concealing, or mischaracterizing any material prior art with the intent to deceive the Patent Office.

#### **MOTOROLA'S AFFIRMATIVE AND OTHER DEFENSES**

Motorola asserts the following affirmative and other defenses set forth below, and in making such defenses does not concede that Motorola bears the burden of proof as to any of them. Discovery has only recently begun in this matter, and, therefore, Motorola has not yet fully collected and reviewed all of the information and materials that may be relevant to the matters and issues raised herein. Accordingly, Motorola reserves the right to amend, modify, or expand these defenses and to take further positions as discovery proceeds in this matter.

**FIRST DEFENSE AND AFFIRMATIVE DEFENSE**  
**(Failure to State a Claim Upon Which Relief Can Be Granted)**

Upon information and belief, Apple has failed to state a claim against either Motorola, Inc. or Motorola Mobility, Inc. upon which relief may be granted.

**SECOND DEFENSE AND AFFIRMATIVE DEFENSE**  
**(Reservation of Remaining Defenses)**

Motorola reserves all affirmative defenses under Rule 8(c) of the Federal Rules of Civil Procedure, the Patent Laws of the United States and any other defenses, at law or in equity, that may now exist or in the future be available based on discovery and further factual investigation in this case.

Dated: December 30, 2010

Respectfully submitted,

MOTOROLA, INC. &  
MOTOROLA MOBILITY, INC.

By:           /s/ Scott W. Hansen            
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