

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,)	
)	
v.)	Case No. 10-CV-662 (BBC)
)	
MOTOROLA, INC. and MOTOROLA)	
MOBILITY, INC.,)	
)	
Defendants.)	
)	

**DECLARATION OF STEVEN S. CHERENSKY IN SUPPORT OF PLAINTIFFS’
BRIEF IN OPPOSITION TO DEFENDANTS’ MOTION TO DISMISS OR TO
SEVER AND TRANSFER CLAIMS IN PLAINTIFFS’ AMENDED COMPLAINT**

I, Steven S. Cherenksy, hereby declare:

1. I am a member of the law firm of Weil, Gotshal & Manges LLP, counsel of record for Apple Inc. (“Apple”) and NeXT Software (“NeXT”) (collectively “Plaintiffs”) in the above-captioned matter. The matters referred to in this declaration are based on personal knowledge and if called as a witness I could, and would, testify competently to these matters.

2. Attached hereto as Exhibit A is a true and correct copy of the complaint filed by Motorola on October 6, 2010 in Case No. 1:10-cv-06381 in the Northern District of Illinois.

3. Attached hereto as Exhibit B is a true and correct copy of the complaint filed by Motorola on October 6, 2010 in Case No. 1:10-cv-06385 in the Northern District of Illinois.

4. Attached hereto as Exhibit C is a true and correct copy of the complaint filed by Motorola on October 6, 2010 in Case No. 1:10-cv-23580-UU in the Southern District of Florida.

5. Attached hereto as Exhibit D is a true and correct copy of the complaint filed by Motorola on October 6, 2010 with the United States International Trade Commission (“USITC”), which is now pending as Investigation No. 337-TA-745.

6. Attached hereto as Exhibit E is a true and correct copy of the complaint filed by Apple with the USITC.

7. Attached hereto as Exhibit F is a true and correct copy of the voluntary dismissal filed by Motorola on November 9, 2010 in Case No. 1:10-cv-06381 in the Northern District of Illinois.

8. Attached hereto as Exhibit G is a true and correct copy of the voluntary dismissal filed by Motorola on November 9, 2010 in Case No. 1:10-cv-06385 in the Northern District of Illinois.

9. Attached hereto as Exhibit H is a true and correct copy of the complaint filed by Motorola against Microsoft on November 10, 2010 in Case No. 3:10-cv-00699 in the Western District of Wisconsin.

10. Attached hereto as Exhibit I is a true and correct copy of the complaint filed by Motorola against Microsoft on November 10, 2010 in Case No. 3:10-cv-00700 in the Western District of Wisconsin.

11. Attached hereto as Exhibit J is a true and correct copy of the complaint filed by Motorola against Microsoft on December 23, 2010 in Case No. 3:10-cv-00826 in the Western District of Wisconsin.

12. Attached hereto as Exhibit K is a true and correct copy of Defendants' Motion to Dismiss or, in the Alternative, to Transfer Venue filed on December 2, 2010 in Case No. 1:10-cv-00867 in the District of Delaware.

13. Attached hereto as Exhibit L is a true and correct copy of the Opening Brief in Support of Defendants' Motion to Dismiss or, in the Alternative, to Transfer Venue filed on December 2, 2010 in Case No. 1:10-cv-00867 in the District of Delaware.

14. Attached hereto as Exhibit M is a true and correct copy of an email I sent to Edward DeFranco on December 28, 2010, proposing that all district court patent infringement actions between the parties (in the District of Delaware, the Southern District of Florida, and the Western District of Wisconsin) be consolidated in the Western District of Wisconsin for efficiency purposes. When the parties met and conferred prior

to Apple's filing of its motion to transfer in the Southern District of Florida on January 12, 2011, however, counsel for Motorola stated that they preferred to keep the actions where they were filed and would not agree to consolidate all of the pending cases in this District or, indeed, in any District.

15. Attached hereto as Exhibit N is a true and correct copy of the Joint Planning and Scheduling Report filed by Apple and Motorola in the Southern District of Florida, Case No. 10cv023580-CV-UU on December 29, 2010, wherein Apple describes its proposal to consolidate all district court cases in a single venue for adjudication and Motorola opposes.

16. Attached hereto as Exhibit O is a true and correct copy of Defendant and Counterclaim Plaintiff Apple Inc.'s Motion to Transfer Venue filed on January 12, 2011 in Case No. 1:10-cv-23580-UU in the Southern District of Florida.

17. Attached hereto as Exhibit P is a true and correct copy of the Motorola's Answering Brief in Opposition to Defendants' Motion to Dismiss or Transfer filed on December 20, 2010 in Case No. 1:10-cv-00867 in the District of Delaware.

18. Attached hereto as Exhibit Q is a true and correct copy of the Reply Brief in Support of Defendants' Motion to Dismiss or, in the Alternative, to Transfer Venue filed on December 30, 2010 in Case No. 1:10-cv-00867 in the District of Delaware.

19. Attached hereto as Exhibit R is a true and correct copy of an article by Mark A. Lemley entitled "Where to File Your Patent Case" published in Volume 38, No. 4 of the American Intellectual Property Law Association Quarterly Journal (Fall 2010).

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on January 13, 2011 at Redwood Shores, California.

/s/ Steven S. Cherenky

Steven S. Cherenky