

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

MOBILEMEDIA IDEAS, LLC,

Plaintiff,

v.

APPLE INC.,

Defendant.

Civil Action No. 10-258-SLR-MPT

**OPENING BRIEF IN SUPPORT OF APPLE INC.'S MOTION FOR
SUMMARY JUDGMENT OF INVALIDITY AND NON-INFRINGEMENT
OF U.S. PATENT NO. RE 39,231**

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INTRODUCTION

Apple Inc. (“Apple”) respectfully moves for summary judgment of invalidity and non-infringement of U.S. Patent No. RE 39,231 (“the ’231 Patent”). Claims 2-4 and 12 of the ’231 Patent are invalid because they include three indefinite claim limitations: (1) “alert sound generator for generating the alert sound when the call is received from the remote caller,” (2) “control means for controlling said alert sound generator,” and (3) “RF signal processing means for transmitting and/or receiving radio waves.” Each of these limitations recites “function without reciting sufficient structure for performing that function” and, therefore, each is subject to 35 U.S.C. § 112 ¶ 6.¹ *Williamson v. Citrix Online, LLC*, 792 F.3d 1339, 1348 (Fed. Cir. 2015) (en banc) (internal citation omitted). And each limitation fails to satisfy the requirements of § 112 ¶ 6 because the ’231 Patent specification includes insufficient disclosures of structure corresponding to the functions claimed by these terms. For the claimed “alert sound generator...,” the specification discloses only a box labeled “Alert Sound Generator 13” and one sentence reiterating its function. Similarly, for “control means...” and “RF signal processing means...,” the specification makes only “black box” disclosures without disclosing the specific structures and algorithms necessary for performing the claimed functions. As a matter of law, these “black box” disclosures are insufficient and render these claim terms indefinite. *Augme Techs., Inc. v. Yahoo! Inc.*, 755 F.3d 1326, 1338 (Fed. Cir. 2014).

Even if the asserted claims were sufficiently definite to be valid—and they are not—the Court should grant summary judgment of non-infringement because no reasonable jury could find that the accused iPhones satisfy the “alert sound generator” and “control means” limitations from the evidence offered by MobileMedia Ideas, LLC (“MMI”). To establish infringement of

¹ Because the ’231 Patent issued before the effective date of the 2011 America Invents Act, 35 U.S.C. § 112 ¶ 6 applies rather than 35 U.S.C. § 112(f).

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