

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

MOBILEMEDIA IDEAS LLC,)	
)	
Plaintiff,)	C.A. No. 10-258 (SLR)(MPT)
)	
v.)	REDACTED -
)	PUBLIC VERSION
APPLE INC.,)	
)	
Defendant.)	

**DECLARATION OF DR. SIGURD MELDAL IN SUPPORT OF PLAINTIFF
MOBILEMEDIA IDEAS LLC'S BRIEF IN OPPOSITION TO
APPLE'S MOTION FOR SUMMARY JUDGMENT OF INVALIDITY AND
NON-INFRINGEMENT OF U.S. PATENT NO. RE 39,231**

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I, Sigurd Meldal, declare as follows:

I. Introduction

1. My name is Dr. Sigurd Meldal, and I have been retained by the plaintiff, MobileMedia Ideas, LLC (“MobileMedia”), as an expert on some of the technology at issue in this lawsuit.

2. I submit this declaration in support of MobileMedia’s Brief in Opposition to Apple’s Motion for Summary Judgment of Invalidity and Non-Infringement of U.S. Patent No. Re 39,231.

3. In my capacity as an expert, I previously prepared reports containing my opinions regarding six MobileMedia patents,¹ including a response to relevant sections of the expert reports submitted by Dr. Jack D. Grimes, Dr. Ravin Balakrishnan and Dr. Robert Akl.

4. I have personal knowledge of, and expert opinions regarding, the facts set forth in this declaration and, if called to testify as a witness, could and would do so competently.

II. Qualifications

5. A true and correct excerpt from my first expert report on infringement, submitted on January 13, 2012, is attached as Exhibit A. I hereby incorporate by reference into this declaration my entire first expert report on infringement submitted on January 13, 2012.

6. My first expert report on non-infringement contains a full description of my educational background and qualifications. Full descriptions of my educational background, professional achievements, qualifications and publications are set forth in my *curriculum vitae*, Exhibit A to my first expert report.

¹ The six MobileMedia patents that I have examined and opined on are: U.S. 6,427,078 (‘078 Patent); U.S. RE39,231 (‘231 Patent); U.S. 6,070,068 (‘068 Patent); U.S. 5,737,394 (‘394 Patent); U.S. 5,915,239 (‘239 Patent); and U.S. 6,253,075 (‘075 Patent).

III. Applicable Law

7. MobileMedia's counsel have informed me about the legal standards for patent validity and infringement. I understand that a patent is presumed valid upon issuance. I also understand that Apple, as the patent challenger, bears the burden of proving the elements of patent invalidity by clear and convincing evidence. I further understand that the claims of the patents-in-suit must be interpreted and given the same meaning for purposes of both validity and infringement analyses. I further understand that to prove infringement, a patentee must demonstrate that the claims, as properly construed, cover the accused device.

8. U.S. Patent No. RE 39,231 (the '231 patent) reissued from U.S. Patent No. 5,995,852 filed on December 13, 1995.

9. I understand that both Apple and MobileMedia have proposed that certain terms in the claims should be construed to have certain meanings. I understand that some of the meanings proposed by Apple in its Motion for Summary Judgment of Invalidity and Non-Infringement of U.S. Patent No. RE 39,231 were not previously proposed, and so I am addressing them here for the first time.

IV. The "Alert Sound Generator for Generating an Alert Sound when the Call is Received"

10. I understand that Apple contends that the claim term "alert sound generator for generating an alert sound when the call is received" in claim 12 ("alert sound generator" claim term) should be construed as a means plus function limitation.

11. I understand that Apple contends that the claimed functions of the "alert sound generator" claim term are: (1) "generating an alert sound when the call is received from the remote caller" and (2) "changing a volume of the generated alert sound only for the received call when controlled by the control means to do so."

12. I understand that Apple contends that the structure of this “alert sound generator” claim term that is disclosed in the ’231 patent is “alert sound generator”.

13. I understand that Apple contends that this claim term is indefinite under this construction because the sole disclosure of the structure for the “alert sound generator” is the box labeled “alert sound generator 13” in figure 2 of the ’231 patent.

14. I understand that MobileMedia contends that the “alert sound generator” claim term should not be construed as a means plus function claim term. Rather, MobileMedia contends that the “alert sound generator” claim term should be construed as “a sound generator capable of generating an alert sound when a call is received from the remote caller.”

15. I understand that Apple contends that the “alert sound generator” is indefinite under this alternative construction because it would cover any mechanism capable of generating an alert sound.

16. At the time of the filing of the ’231 patent, the term “generator,” when preceded by the word “sound,” or words that describe sounds, was understood by persons of ordinary skill in the art to refer to an electronic circuit, including a speaker or vibrator, that was capable of generating sounds, as well as stopping the generation of such sounds. This is evidenced by the prolific use of the term “generator” in contemporaneous documents – including in electronics catalog and hobbyist publications at the time of and even prior to the filing of the ’231 patent – in precisely this context with this meaning.

(a) For example, as far back as the 1970s, Texas Instruments sold an integrated circuit called the “Complex Sound Generator” SN76477N. *See* Radio Shack Catalog 1979, p. 101 (available at www.radioshackcatalogs.com/catalogs/1979/ accessed November 17, 2015) (attached as Exhibit B). This integrated circuit was designed to be connected to a

loudspeaker to produce complex sounds. For example, although this electronic circuit is not a “barking dog,” it was capable of producing a “dog’s bark” sound from a connected loudspeaker. In other words, the circuit was a sound generator designed to generate sounds. *See* L. Garner, “Solid State: Chirp, Jangle Whoosh, Boom!,” *Popular Electronics*, October 1978, p. 1 (available at <http://www.decodesystems.com/SN76477.pdf>, accessed on Nov. 17, 2015) (attached as Exhibit C).

(b) In the early 1980s, General Instrument also produced two integrated circuit models, which were both called the “Programmable Sound Generator” AY-3-8910 and AY-3-8912. Each of these Programmable Sound Generator IC models was capable of receiving instructions from a host processor to generate sounds for output from a loudspeaker. *See* B.A. Paturzo, “IC Applications: 1-IC Programmable,” *Radio-Electronics*, April 1981, p. 56-61, at p. 57 (available at [http://www.classiccmp.org/cini/pdf/re/1-IC%20Sound%20Generator%20\(0481\).pdf](http://www.classiccmp.org/cini/pdf/re/1-IC%20Sound%20Generator%20(0481).pdf), accessed on November 17, 2015) (attached as Exhibit D).

(c) A similar component was also disclosed in U.S. Patent No. 5,657,372 (“Ahlberg”) (attached as Exhibit E). Figure 3 of Ahlberg shows a cellular telephone electronic circuit schematic. The cellular telephone 21 includes a notification means 46 connected to a “ring signal generator 41” for alerting the user of the cellular telephone that a telephone call has been placed thereto. Ahlberg, col. 6, ll. 35-39. The ring signal generator 41 can be incorporated within the speaker 40 or it can be a distinct component. Ahlberg, col. 6, ll. 40-43. Ahlberg was cited in Reexamination Control No. 90/011,482 of U.S. Patent No. Re. 39,231 and was applied in an office action rejecting the claims. *See* Office Action dated April 25, 2011 in Reexamination Control No. 90/011,482, p. 2, 9 and 10 (attached as Exhibit F).

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