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 [redacted] **PUBLIC - REDACTED VERSION**

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF APPLE INC.'S MOTION FOR JUDGMENT AS A MATTER OF LAW AND/OR MOTION FOR NEW TRIAL PURSUANT TO RULES 50(b) AND 59

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I. INTRODUCTION

Defendant Apple Inc. renews its Rule 50 motion for judgment as a matter of law ("JMOL") that claims 12 and 2 of U.S. Patent No. RE 39,231 (the "'231 Patent") asserted by Plaintiff MobileMedia Ideas, LLC ("MMI") are invalid and not infringed.

JMOL of invalidity is appropriate for at least three reasons. First, the asserted claims are ***indefinite*** because they claim functions without disclosing sufficient corresponding structure. For example, regarding the means-plus-function limitation "alert sound generator for generating the alert sound," MMI's expert testified that the only disclosed structure for performing this function was a box, "alert sound generator 13," and admitted that the patent "tells us nothing about what's inside the box." Trial Tr. at 449:11-21, 1066:13-18. Failures to disclose sufficient structure for this and another limitation render the asserted claims indefinite as a matter of law.

Second, Apple presented clear and convincing evidence that the asserted claims are ***obvious***—the claimed invention is the application of a concededly known technique (what MMI called "polite ignore") to an existing technology (cell phones) ready for the alleged improvement. MMI was forced to characterize the invention as applying specifically to the cellular context—notwithstanding that the patent itself broadly characterized the alleged invention as applying to landlines, cordless phones, ***and*** cell phones—in light of the clear and convincing trial evidence that others conceived of the general concept of "polite ignore" first. MMI presented no evidence of secondary indicia of non-obviousness of the cellular application of "polite ignore," but instead relied on conclusory expert testimony in conflict with the evidence and law. Moreover, the lack of any nonobvious advance is further confirmed by the absence of any written description of special techniques for adapting "polite ignore" to the cellular context.

Third, the asserted claims are invalid because they fail to satisfy the ***written description***

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