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## I. INTRODUCTION

Plaintiff MobileMedia Ideas, LLC (“MobileMedia”) filed a patent infringement complaint against Apple Inc. (“Apple”) on March 31, 2010, alleging infringement of fourteen of its patents: U.S. Patent Nos. 6,070,068 (“the ‘068 patent”), 6,253,075 (“the ‘075 patent”), RE39231 (“the ‘231 patent”), 5,737,394 (“the ‘394 patent”), 6,427,078 (“the ‘078 patent”), 6,441,828 (“the ‘828 patent”), 6,549,942 (“the ‘942 patent”), 6,393,430 (“the ‘430 patent”), 6,002,390 (“the ‘390 patent”), 6,446,080 (“the ‘080 patent”), 6,760,477 (“the ‘477 patent”), 7,313,647 (“the ‘647 patent”), 7,349,012 (“the ‘012 patent”), and 5,915,239 (“the ‘239 patent”). (D.I. 1) On July 16, 2010, MobileMedia amended its complaint to assert infringement of two additional patents: U.S. Patent Nos. 6,725,155 (“the ‘155 patent”) and 5,490,170 (“the ‘170 patent”). (D.I. 8) Subsequently, Apple answered and asserted affirmative defenses of, *inter alia*, noninfringement, invalidity, unenforceability, failure to state a claim, “waiver, laches and/or estoppel,” prosecution history estoppel, and lack of standing. (D.I. 10 at ¶¶ 114-23) On March 2, 2012, Apple filed a motion to dismiss on grounds that MobileMedia lacked standing to sue for infringement of the patents-in-suit. The court denied the motion. (D.I. 441) Discovery closed on May 4, 2012. (D.I. 225)

On April 4, 2012, the parties stipulated to dismiss the claims and counterclaims related to the ‘390 patent and the ‘647 patent. (D.I. 263) On April 25, 2012, MobileMedia deferred four patents (the ‘080, ‘477, ‘012, and ‘239 patents) for a later phase, leaving ten patents-in-suit. Currently remaining before the court are several summary judgment motions: Apple’s motions for summary judgment of invalidity and

non-infringement (D.I. 305; D.I. 328); and MobileMedia's motions for summary judgment of no invalidity and for partial summary judgment on Apple's affirmative defenses of estoppel, waiver, and prosecution history estoppel (D.I. 300; D.I. 329). Apple also filed a motion to strike MobileMedia's newly proposed claim constructions and claim terms, and both parties filed motions to strike portions of expert reports and declarations. (D.I. 265, 377, 414) The court has jurisdiction over these matters pursuant to 28 U.S.C. § 1338.

## **II. BACKGROUND**

### **A. The Parties**

MobileMedia is a Delaware LLC with its principal place of business in Chevy Chase, Maryland. (D.I. 8 at ¶ 1) It obtained the patents-in-suit in January 2012 from Nokia Capital, Inc. and Sony Corporation of America pursuant to two Patent Purchase Agreements. (D.I. 228, ex. D; ex. G) Apple Inc. is a California corporation with its principal place of business in Cupertino, California. (D.I. 10 at ¶ 2) It designs, manufactures, markets, and sells the accused products. (*Id.*)

### **B. The Patents-in-Suit**

The ten remaining patents-in-suit relate to a variety of technologies in information processing, computing, mobile phones, and media player devices. The '068, '075, and '231 patents relate to technology for rejecting, silencing, and merging incoming second calls on mobile telephones already connected to a first call. The '078 and '394 patents relate to changeable keys and cameras, respectively, on mobile devices. The '828 patent teaches a device that changes display orientation so that the display image is

always upright. The '155 patent relates to a method and apparatus for obtaining navigation guidance. The '170, '942, and '430 patents pertain to multimedia – the '170 patent is for compressing and expanding audio data, the '942 patent is for portable audio storage and playback, and the '430 patent relates to audio and video playlists. Apple has moved for summary judgment of non-infringement of all of the asserted claims of all ten patents-in-suit. (D.I. 328) The parties have cross-moved for summary judgment regarding the validity of all of the asserted claims of eight (excluding the '231 and '430 patents) of the patents-in-suit. (D.I. 305; D.I. 329) Presented with the variety of technology underlying the ten patents-in-suit, the court will provide a more detailed description of the technologies when discussing each patent in the context of the summary judgment issues.

### **C. The Accused Products**

MobileMedia alleges that various Apple products infringe thirty claims of the ten patents-in-suit. Specifically, it alleges that Apple's iPhone 3G, iPhone 3GS, and iPhone 4 products (collectively, "iPhones" or "accused iPhones") infringe claims 1, 7, 8, 23, and 24 of the '068 patent, claims 5, 6, and 10 of the '075 patent, claims 2, 3, 4, and 12 of the '231 patent, claims 1, 2, 3, 8, and 73 of the '078 patent, and claim 18 of the '394 patent. It also alleges that Apple's iPhone 3G, iPhone 3GS, iPhone 4, iPad WiFi, iPad WiFi + 3G, iPad 2 WiFi, iPad 2 WiFi + 3G, iPod classic, iPod nano, iPod touch, and iPod shuffle infringe claims 17 and 18 of the '828 patent, claims 1 and 5 of the '430 patent, and claim 49 of the '170 patent; that Apple's iPhone 3G, iPhone 3GS, iPhone 4, iPad WiFi, iPad WiFi + 3G, iPad 2 WiFi, and iPad 2 WiFi + 3G infringe claims 1, 2, 4, and 5 of

the '155 patent; that Apple's iPhone 3G, iPhone 3GS, iPhone 4, iPad WiFi, iPad WiFi + 3G, iPad 2 WiFi, iPad 2 WiFi + 3G, iPod nano, and iPod touch infringe claims 1, 6, and 8 of the '942 patent; and that Apple's iPod classic infringes claim 1 of the '942 patent.

In summary:

<b>Accused Products</b>	<b>Patent(s)-in-Suit</b>	<b>Claim(s)-at-Issue</b>
iPhone 3G, iPhone 3GS, iPhone 4	The '075 patent	5, 6, 10
	The '231 patent	2, 3, 4, 12
	The '068 patent	1, 7, 8, 23, 24
	The '394 patent	18
	The '078 patent	1, 2, 3, 8, 73
iPhone 3G, iPhone 3GS, iPhone 4, iPad WiFi, iPad WiFi + 3G, iPad 2 WiFi, iPad 2 WiFi + 3G, iPod classic, iPod nano, iPod touch, iPod shuffle	The '828 patent	17, 18
	The '430 patent	1, 5
	The '170 patent	49
iPhone 3G, iPhone 3GS, iPhone 4, iPad WiFi, iPad WiFi + 3G, iPad 2 WiFi, iPad 2 WiFi + 3G	The '155 patent	1, 2, 4, 5
iPhone 3G, iPhone 3GS, iPhone 4, iPad WiFi, iPad WiFi + 3G, iPad 2 WiFi, iPad 2 WiFi + 3G, iPod classic, iPod nano, iPod touch	The '942 patent	1
iPhone 3G, iPhone 3GS, iPhone 4, iPad WiFi, iPad WiFi + 3G, iPad 2 WiFi, iPad 2 WiFi + 3G, iPod nano, iPod touch	The '942 patent	6, 8

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