IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

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

STIPULATION AND [PROPOSED] ORDER

WHEREAS, on November 21, 2011, December 22, 2011, and March 2, 2012, Magistrate Judge Thynge conducted teleconferences with Plaintiff MobileMedia Ideas LLC ("MobileMedia") and Defendant Apple Inc. ("Apple") (collectively, the "Parties") regarding the production and use of Apple source code in this case;

WHEREAS, on April 11, 2012, Magistrate Judge Thynge issued a Memorandum Order instructing MobileMedia to "provide an Order for review and signature by the Court consistent with the provisions" set forth in the Memorandum Order (D.I. 267);

WHEREAS, on April 12, 2012, MobileMedia filed a Proposed Order (D.I. 272);

WHEREAS, on April 17, 2012, Magistrate Judge Thynge entered the Proposed Order provided by MobileMedia (D.I. 276);

WHEREAS, on April 25, 2012, Apple filed Objections to the Court's April 11, 2012 Memorandum Order and the April 17, 2012 Order (D.I. 288);

WHEREAS, on May 14, 2012, MobileMedia filed its Response to Apple's Objections to the Court's Orders (D.I. 298);

WHEREAS, on July 27, 2012, the Parties appeared before Judge Robinson, and the Court heard arguments regarding, among other issues, Apple's Objections;

WHEREAS, on November 21, 2012, the Parties agreed, and the Court permitted, that the following patents would be tried to a jury beginning on December 3, 2012: U.S. Patent No. 6,253,075 ("the '075 Patent"), U.S. Patent No. 6,427,078 ("the '078 Patent"), and U.S. Patent No. 6,070,068 ("the '068 Patent") (collectively, the "Asserted Patents");

WHEREAS, in the Parties' Joint Proposed Pretrial Order, filed on November 1, 2012 (D.I. 459, ¶ 60(g)), MobileMedia identified the following devices that it accuses of infringing one or more of the asserted claims of the Asserted Patents (these products will be referred to collectively herein as the "Accused Products"): the iPhone 3G, iPhone 3GS, and iPhone 4; and

WHEREAS, the Parties have subsequently met and conferred on related issues for purposes of trial;

It is hereby STIPULATED AND AGREED, by and between the Parties, subject to the approval of the Court, as follows:

1. Only for purposes of this litigation, and for the sole purpose of determining liability with respect to the Asserted Patents, the Parties may rely on the source code produced by Apple for iOS 4.3, iPod 4.3, iTunes 10.4.1 and Wishlist ("Source Code") as representative of the accused functionality for each of the Accused Products.

2. Subject to the provisions of paragraph 1, the Parties agree that the Source Code is applicable for purposes of determining liability of the accused functionality of each of the Accused Products for all time periods since their original release dates, to the extent such functionality exists.

3. The Parties agree that either Party's trial witnesses may testify that the Source Code is representative of the accused functionality for each of the Accused Products.

4. Only for purposes of the December 3, 2012 trial, and for the sole purpose of determining liability with respect to the Asserted Patents, the Parties agree that the Parties may refer to the Accused Products collectively during trial as the "Accused iPhones." Subject to the provisions of paragraph 5, the Parties further agree that evidence relating to the iPhone 3G, iPhone 3GS and/or iPhone 4 may be treated and used interchangeably for purposes of determining infringement, MobileMedia need not offer separate evidence or individually prove infringement for any particular version of the Accused iPhones, and any verdict of infringement would apply to all versions of the Accused Products.

5. MobileMedia agrees that, notwithstanding the provisions of paragraph 4, it does not accuse the iPhone 4 (CDMA model) of infringing any asserted claim of the '075 Patent and, thus, any verdict of infringement of the '075 Patent does not apply to the iPhone 4 (CDMA model).

6. The Parties further agree that at trial, this Stipulation and Proposed Order and any final Order entered by the Court in response to this Stipulation and Proposed Order may not be referenced, used as an exhibit, or otherwise presented to the jury other than for impeachment purposes.

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