

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

MOBILEMEDIA IDEAS, LLC,                    )  
  )  
                  Plaintiff,                    )  
  )  
                  v.                            )           Civ. No. 10-258-SLR  
  )  
APPLE INC.,                                 )  
  )  
                  Defendant.                )  
  )

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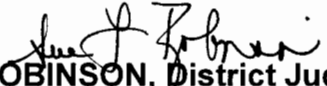
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**MEMORANDUM OPINION**

Dated: April 11, 2016  
Wilmington, Delaware

  
ROBINSON, District Judge

## I. INTRODUCTION

Plaintiff MobileMedia Ideas, LLC (“MobileMedia”) filed a patent infringement complaint against Apple Inc. (“Apple”) on March 31, 2010, alleging in its amended complaint infringement of sixteen patents, including U.S. Patent No. RE 39,231 (“the ‘231 patent”). (D.I. 1; D.I. 8) Apple answered and counterclaimed on August 9, 2010. (D.I. 10) The court resolved the parties’ claim construction issues and summary judgment motions for infringement and invalidity, finding in relevant part that Apple did not infringe the ‘231 patent. (D.I. 461; D.I. 462); *MobileMedia Ideas, LLC v. Apple Inc.*, 907 F. Supp. 2d 570, 596-99 (D. Del. 2012). The case proceeded to a six day jury trial beginning on December 3, 2012 on three of the asserted patents. The court then resolved the parties’ post-trial motions and a motion for reargument regarding the ‘231 patent. (D.I. 539; D.I. 540; D.I. 541; D.I. 542); *MobileMedia Ideas, LLC v. Apple Inc.*, 966 F. Supp. 2d 433 (D. Del. 2012); *MobileMedia Ideas, LLC v. Apple Inc.*, 966 F. Supp. 2d 439 (D. Del. 2012). The Federal Circuit issued its mandate on June 5, 2015, affirming in part, reversing in part, vacating and remanding. *MobileMedia Ideas LLC v. Apple Inc.*, 780 F.3d 1159 (Fed. Cir. 2015). Presently before the court is Apple’s motion for summary judgment of invalidity and non-infringement of the ‘231 patent. (D.I. 577) The court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

## II. BACKGROUND

### A. The Parties

MobileMedia is a limited liability company organized under the laws of the State of Delaware 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 is a corporation organized under the laws of the State of California 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 '231 Patent**

The '231 patent, titled "Communication Terminal Equipment and Call Incoming Control Method," reissued on August 8, 2006. An *ex parte* reexamination resulted in a reexamination certificate that issued April 3, 2012. The reexamination certificate cancelled claims 1, 11, 13-16, and 18-23, determined claims 2-4, 8, 12, and 17 to be patentable as amended, and added new claims 24-29. The patent claims a foreign application priority date of December 19, 1994.

According to the abstract, the patent teaches communication terminal equipment and a method for stopping the alert sound or reducing the volume of the alert sound for an incoming call on a telephone. (Abstract) Conventionally, a "call incoming on a telephone is informed by means of an alert sound," but the alert sound "does not stop ringing before a user effects [a] next operation." (1:17-20) A user who cannot respond to a call incoming has only the option to forcibly disconnect the incoming call, turn off the telephone, or allow the alert sound to continue ringing. (1:20-25) The first two options, forcibly disconnecting the incoming call or turning off the telephone, may give the person on the call origination side an "unpleasant feeling because [he or she] can notice that the circuit was broken off intentionally" or may give the person the impression that the telephone network has failed. (1:26-30, 39-42) Moreover, a user

who turns off the power may forget to turn the power back on and miss the next incoming call. (1:37-39) On the other hand, the third option, allowing the alert sound to continue ringing, may disturb the user or other persons in the surroundings. (1:30-33)

In light of these problems, the invention aims “to provide a communication terminal equipment which is superior in selecting and handling properties for users . . . .” (1:43-46) It teaches a telephone in which an alert sound stopping function or volume reducing function is allotted to a key. (2:2-5, 4:40-42, 5:12-17) When the telephone receives an incoming call, the user can use a predetermined operation, such as depressing a key for a short time, to prompt the “alert on/off controller” to stop generation of the alert sound. (3:36-48) Alternatively, the alert sound may be reduced. (4:40-42)

Claims 2, 3, 4, and 12 are at issue. Claim 12 was amended to be an independent claim during reexamination and reads:

12. A communication terminal for informing a user of a received call from a remote caller by an alert sound, comprising:

an alert sound generator for generating the alert sound when the call is received from the remote caller;

control means for controlling said alert sound generator; and

means for specifying a predetermined operation by the user,

wherein when said alert sound generator is generating the alert sound and said means for specifying said predetermined operation is operated by the user, said control means controls said alert sound generator to change a volume of the generated alert sound only for the received call, without affecting the volume of the alert sound for future received calls, while leaving a call ringing state, as perceived by the remote caller, of the call to the terminal from the remote caller unchanged, further comprising:

RF signal processing means for transmitting and/or receiving radio waves;  
and

an antenna for transmitting and/or receiving said radio waves, wherein  
said communication status between said apparatus and said remote caller  
is established by said transmitted and/or received radio waves.

Reexamined claims 2, 3, and 4 each depend from claim 12. Reexamined claim 2 adds the limitation that the “control means controls the state of said alert sound generator to stop the sound.” Reexamined claim 3 adds the limitation that the “control means controls the state of said alert sound generator to reduce the volume of the sound.” Finally, reexamined claim 4 adds the limitation “wherein said predetermined operation is an operation depressing a predetermined operation key.”

MobileMedia contends that the iPhone 3G, iPhone 3GS, and iPhone 4 (“the accused iPhones”) infringe claims 2-4 and 12 of the ‘231 patent. (D.I. 461 at 4) The court granted Apple’s motion for summary judgment of non-infringement, finding that under its construction of “to change a volume of the generated alert sound,” the accused iPhones did not practice the limitation of “said control means controls said alert sound generator to change a volume of the generated sound.” *MobileMedia*, 907 F. Supp. 2d at 598-99. In relevant part, the Federal Circuit held erroneous the court’s construction of “to change a volume” and vacated the judgment of non-infringement. *MobileMedia*, 780 F.3d at 1181. The Federal Circuit stated that “[c]onsistent with the specification, ‘controlling the alert sound generator to change a volume of the generated alert sound’ by the ‘control means’ encompasses both stopping and reducing the volume of the alert sound as recited in dependent claims 2 and 3, respectively.” *Id.*

### III. STANDARD OF REVIEW

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