

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

INTERDIGITAL COMMUNICATIONS,	)	
INC.; INTERDIGITAL TECHNOLOGY	)	
CORPORATION; IPR LICENSING, INC.;	)	
and INTERDIGITAL HOLDINGS, INC.,	)	
	)	
Plaintiffs/Counterclaim-	)	
Defendants,	)	
	)	C.A. No. 13-010 (RGA)
v.	)	
	)	
NOKIA CORPORATION and NOKIA INC.,	)	
	)	
Defendants/Counterclaim-	)	
Plaintiffs.	)	

**ANSWERING BRIEF OF MICROSOFT MOBILE OY IN RESPONSE TO PLAINTIFFS' MOTION TO ADD IT, AND OPENING BRIEF IN SUPPORT OF CROSS-MOTION TO SUBSTITUTE PARTIES UNDER FED. R. CIV. P. 25 OR ALTERNATIVELY TO DISMISS NOKIA CORP. AS A NAMED PARTY ON COUNTERCLAIMS**

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July 22, 2014

**IPR Licensing, Inc.  
Exhibit 2001  
Microsoft Corp v. IPR Licensing, Inc.  
IPR2015-00074**

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## INTRODUCTION

In this patent infringement action, Plaintiffs InterDigital Communications, Inc., InterDigital Technology Corporation, IPR Licensing, Inc., and InterDigital Holdings, Inc. (collectively, “Plaintiff” or “InterDigital”) allege that certain mobile telephones formerly made by Nokia Corporation (or its affiliates at the time) and imported into the U.S. by Nokia Inc. infringe Plaintiffs’ patents. In response, defendants Nokia Corporation and Nokia Inc. have asserted various counterclaims, including those based on InterDigital’s failure to comply with obligations to license its allegedly standards essential patents on fair, reasonable, and non-discriminatory (“FRAND”) terms (*see, e.g.*, D.I. 49, Counterclaims ¶¶ 1-114; *see also* D.I. 230-231 (dismissing Nokia’s Counterclaims III and VIII, while leaving remaining counterclaims unaffected)).

On April 25, 2014, Nokia Corporation sold its mobile telephone business (sometimes referred to as its “Devices & Services Business” or the “D&S Business”) to Microsoft Mobile Oy (MMO), a wholly owned Finnish subsidiary of Microsoft Corporation. MMO and its subsidiaries (including Nokia Inc., now wholly owned by MMO) are now solely responsible for the operation of this business as it relates to the United States, including producing, selling and any importing of the mobile telephones accused in this case.<sup>1</sup> MMO has assumed all of any Nokia Corporation’s liabilities that might arise out of this action and has sole

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<sup>1</sup> All of Nokia Corporation’s manufacturing facilities for mobile phones, with two exceptions, have been transferred to Microsoft. The Nokia facility in India owned by Nokia Corporation sells the products it manufactures there only to Microsoft, and any importation of such devices into the United States ceased no later than May 2014. The Nokia facility in South Korea made its last deliveries before the Nokia/Microsoft transaction closed in April, and Nokia Corporation is investigating options to liquidate or otherwise dispose of that facility and associated assets. As a result, all of the import and distribution channels for the accused products are now through Microsoft (*see* Nokia Form 6-K, Ex. 1, at 14).

control over the defense of this action with respect to the acquired D&S Business, including sole authority to resolve this action. MMO has also acquired all of Nokia Corporation's presently pled counterclaims, including the surviving claims that were not dismissed related to InterDigital's failure to comply with obligations to license its allegedly standards essential patents on FRAND terms.

In light of the acquisition and consistent with Fed. R. Civ. P. 25 and 17, MMO should be substituted for Nokia Corporation in this case because MMO is the real party in interest. Nokia Inc., now a subsidiary of MMO, will remain as a defendant and counterclaim plaintiff. Fact and expert discovery on patent liability are now closed, so the scope of accused products at issue is fixed. Only MMO products are at issue, MMO is responsible for the defense of the litigation and for any judgment that may be entered with respect to those accused products, and MMO has sole rights to the remaining pled counterclaims. Conversely, given that Nokia Corporation has sold the business and transferred the related liabilities and counterclaims to MMO, there is no reason for Nokia Corporation to remain a party; indeed, it would be improper to keep Nokia Corporation as a named counterclaim plaintiff now.

Accordingly, and for the reasons set forth herein, MMO respectfully submits that the most straightforward and efficient course of action is for MMO to be substituted for Nokia Corporation, thus removing Nokia Corporation from this case. Alternatively, at a minimum, Nokia Corporation should be dismissed as a named counterclaim plaintiff now.

#### **NATURE AND STAGE OF THE PROCEEDINGS**

On January 2, 2013, InterDigital filed a complaint in this Court accusing the Nokia Corporation and Nokia Inc. of infringing U.S. Patent No. 7,941,151. InterDigital later amended its complaint to add infringement allegations relating to U.S. Patent No. 8,380,244.

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