UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

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APPLE INC. and NeXT SOFTWARE INC. (f/k/a NeXT COMPUTER, INC.),	)))	
Plaintiffs,	))	No. 1:11-cv-08540
v.	))	Judge Richard A. Posner.
MOTOROLA, INC. and MOTOROLA MOBILITY, INC.,	)))	
Defendants.	)	

ORDER OF MARCH 10, 2012

The claims construction briefs are well written and helpful. However, I have two concerns, one of substance and one of form.

The substantive concern is that many of the proposed claims constructions are not in language intelligible to jurors. (Some are; and in this respect Apple's proposed constructions are on average superior to Motorola's.) There is no point in giving jurors stuff they won't understand. The jury (actually juries) will not consist of patent lawyers and computer scientists or engineers unless the parties stipulate to a "blue ribbon" jury; I would welcome their doing so but am not optimistic. No doubt the court-appointed experts could explain opaque claims constructions to the jurors, but that would waste a lot of trial time. I want the constructions themselves to be in ordinary English intelligible to persons having no scientific or technical background.

The formal concern has to do with the presentation of the arguments on Monday. The parties are to proceed as follows: The claims constructions shall be argued in the following order: first Apple's patents, in numerical order (based on the patents' last three digits), then Motorola's, in numerical order. For each claim, the party asserting the patent shall prepare a chart (on a separate piece of paper) identifying itself, stating the patent number (last three digits only), quoting the claim to be construed, quoting its proposed construction, and quoting the claim construction proposed by the opposing party. Claims construction proposals that are similar (for example the various "real-

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time" claims) should be grouped. Each side will have 5 minutes to argue each claim construction.

United States Circuit Judge

March 10, 2012