**IN THE UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF DELAWARE**

| | | |
|---|---|---|
| FLASHPOINT TECHNOLOGY, INC., | § | |
| | § | |
| Plaintiff, | § | |
| | § | |
| v. | § | C.A. No. 08-140-GMS |
| | § | |
| AT&T MOBILITY, LLC, D/B/A CINGULAR WIRELESS, HTC AMERICA, INC., HTC CORP., KYOCERA WIRELESS CORP., KYOCERA CORP., LG ELECTRONICS USA, INC., LG ELECTRONICS, INC., MOTOROLA, INC., NOKIA, INC., NOKIA CORP., PALM, INC., RESEARCH IN MOTION CORP., RESEARCH IN MOTION LTD., SPRINT SPECTRUM L.P., D/B/A SPRINT PCS, T-MOBILE USA, INC., and CELLCO PARTNERSHIP, D/B/A VERIZON WIRELESS, | § | **JURY TRIAL DEMANDED** |
| | § | |
| Defendants | § | |

**PLAINTIFF'S REPLY TO MOTOROLA, INC.'S COUNTERCLAIMS**

Plaintiff FlashPoint Technology, Inc. ("FlashPoint") hereby responds to each paragraph of Motorola, Inc.'s ("Motorola") Counterclaims as follows:

**THE PARTIES**

1. Admitted.

2. Upon information and belief, admitted.

**JURISDICTION AND VENUE**

3. Admitted that the Counterclaims purport to arise under United States, 35 U.S.C. §§ 100, *et seq*. and the Declaratory Judgment 28 U.S.C. § 2201 and 2002, and that jurisdiction is conferred upon this Court by 28 U.S.C. §§ 1331, 2201 and 2202, but otherwise denied.

4. Admitted.

**NATURE OF THE ACTION**

5. Admitted that this purports to be an action for declaratory relief under the patent laws of the United States, 35 U.S.C. §§ 100, *et seq*. and the Declaratory Judgment Act, 28 U.S.C. § 2201 and 2002, that Motorola seeks a declaratory judgment of invalidity of the patents-in-suit and non-infringement of the patents-in-suit by Motorola, and that an actual controversy exists between FlashPoint and Motorola regarding the validity of one or more of the patents-in-suit and Motorola's infringement of one or more claims of the patents-in-suit, but otherwise denied.

**COUNT I: DECLARATORY JUDGMENT OF NON-INFRINGEMENT AND INVALIDITY OF U.S. PATENT NO. 6,118,480**

6. FlashPoint incorporates the replies set forth to Paragraphs 1-5 as if fully set forth herein.

7. Although FlashPoint is still investigating this matter, FlashPoint does not presently allege that Motorola infringes, contributes to the infringement of, or actively induces others to infringe, any claim of the '480 patent.

8. Denied.

9. Denied.

**COUNT II: DECLARATORY JUDGMENT OF NON-INFRINGEMENT AND INVALIDITY OF U.S. PATENT NO. 6,177,956**

10. FlashPoint incorporates the replies set forth to Paragraphs 1-5 as if fully set forth herein.

11. Although FlashPoint is still investigating this matter, FlashPoint does not presently allege that Motorola infringes, contributes to the infringement of, or actively induces others to infringe, any claim of the '956 patent.

12. Denied.

13. Denied.

**COUNT III: DECLARATORY JUDGMENT OF NON-INFRINGEMENT AND INVALIDITY OF U.S. PATENT NO. 6,222,538**

14. FlashPoint incorporates the replies set forth to Paragraphs 1-5 as if fully set forth herein.

15. Although FlashPoint is still investigating this matter, FlashPoint does not presently allege that Motorola infringes, contributes to the infringement of, or actively induces others to infringe, any claim of the '538 patent.

16. Denied.

17. Denied.

**COUNT IV: DECLARATORY JUDGMENT OF NON-INFRINGEMENT AND INVALIDITY OF U.S. PATENT NO. 6,223,190**

18. FlashPoint incorporates the replies set forth to Paragraphs 1-5 as if fully set forth herein.

19. Denied.

20. Denied.

21. Denied.

**COUNT V: DECLARATORY JUDGMENT OF NON-INFRINGEMENT AND INVALIDITY OF U.S. PATENT NO. 6,249,316**

22. FlashPoint incorporates the replies set forth to Paragraphs 1-5 as if fully set forth herein.

23. Denied.

24. Denied.

25. Denied.

**COUNT VI: DECLARATORY JUDGMENT OF NON-INFRINGEMENT AND INVALIDITY OF U.S. PATENT NO. 6,486,914**

26. FlashPoint incorporates the replies set forth to Paragraphs 1-5 as if fully set forth herein.

27. Although FlashPoint is still investigating this matter, FlashPoint does not presently allege that Motorola infringes, contributes to the infringement of, or actively induces others to infringe, any claim of the '914 patent.

28. Denied.

29. Denied.

**COUNT VII: DECLARATORY JUDGMENT OF NON-INFRINGEMENT AND INVALIDITY OF U.S. PATENT NO. 6,486,914**

30. FlashPoint incorporates the replies set forth to Paragraphs 1-5 as if fully set forth herein.

31. Denied.

32. Denied.

33. Denied.

**PRAYER FOR RELIEF**

In addition to the relief requested in Plaintiff's Original Complaint, Plaintiff respectfully requests a judgment as follows against Motorola as follows:

A. That Motorola takes nothing by its Counterclaims;

B. That the Court award Plaintiff costs and attorneys' fees incurred in defending against these Counterclaims; and

C. Any and all further relief for Plaintiff as the Court may deem just and proper.

**JURY DEMAND**

Plaintiff demands a trial by jury on all issues.

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Dated: May 20, 2008

/s/ Evan O. Williford

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**CERTIFICATE OF SERVICE**

I, Evan O. Williford, hereby certify that on May 20, 2008, I caused to be electronically filed a true and correct copy of the foregoing document – **Plaintiff's Reply to Motorola, Inc.'s Counterclaims** – with the Clerk of Court using CM/ECF which will send notification of such filing to the following local counsel for defendants:

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