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 PALM, INC.'S COUNTERCLAIMS

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

PARTIES

1. Upon information and belief, admitted.

2. Admitted.

JURISDICTION AND VENUE

3. Admitted that this purports to be an action for declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2002 of non-infringement and invalidity of the patents-in-suit under to the United States patent laws, 35 U.S.C. §§ 101, *et seq*., and that this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a), but otherwise denied.

4. Admitted.

GENERAL ALLEGATIONS

5. Admitted that FlashPoint filed suit against Palm on March 7, 2008, claiming infringement of one or more claims of the patents-in-suit, but otherwise denied.

6. Admitted that a justiciable controversy exists between FlashPoint and Palm concerning the validity of one or more of the patents-in-suit and the infringement of one or more claims of the patents-in-suit, but otherwise denied.

FIRST COUNTERCLAIM

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

8. Denied.

9. Denied.

SECOND COUNTERCLAIM

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

11. Denied.

12. Denied.

THIRD COUNTERCLAIM

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

14. Denied.

15. [SIC: 9] Admitted that the application that led to the ‘956 patent was filed on October 23, 1996, that the ‘956 patent issued on January 23, 2001, and that the named inventors of the ‘956 patent are Eric Anderson and Mike Masukawa, but otherwise denied.

16. [SIC: 10] Admitted.

17. [SIC: 11] Denied.

18. [SIC: 12] Denied.

19. [SIC: 13] Denied.

20. [SIC: 14] Denied.

21. [SIC: 15] Denied.

22. [SIC: 16] FlashPoint is without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations of Paragraph 22 [SIC: 16] and therefore denies same.

23. [SIC: 17] FlashPoint is without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations of Paragraph 23 [SIC: 17] and therefore denies same.

24. [SIC: 18] Denied.

25. [SIC: 19] Denied.

26. [SIC: 20] Denied.

27. [SIC: 21] Denied.

28. [SIC: 22] FlashPoint is without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations of Paragraph 28 [SIC: 22] and therefore denies same.

29. [SIC: 23] FlashPoint is without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations of Paragraph 29 [SIC: 23] and therefore denies same.

30. [SIC: 24] Denied.

31. [SIC: 25] Denied.

32. [SIC: 26] Admitted that the application that led to the ‘480 patent was filed on May 6, 1997, that the ‘480 patent issued on September 12, 200, and that the named inventors of the ‘480 patent are Eric Anderson, Steve Saylor, and Amanda Mander, but otherwise denied.

33. [SIC: 27] Admitted.

34. [SIC: 28] Denied.

35. [SIC: 29] Denied.

36. [SIC: 30] Denied.

37. [SIC: 31] Denied.

38. [SIC: 32] Denied.

39. [SIC: 33] FlashPoint is without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations of Paragraph 39 [SIC: 33] and therefore denies same.

40. [SIC: 34] FlashPoint is without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations of Paragraph 40 [SIC: 34] and therefore denies same.

41. [SIC: 35] Denied.

42. [SIC: 36] Denied.

43. [SIC: 37] Admitted that the application that led to the '914 patent was filed on February 27, 1998, that the '914 patent issued on November 26, 2002, and that the named inventor of the '914 patent is Eric Anderson, but otherwise denied.

44. [SIC: 38] Admitted.

45. [SIC: 39] Denied.

46. [SIC: 40] Denied.

47. [SIC: 41] Denied.

48. [SIC: 42] Denied.

49. [SIC: 43] Flashpoint is without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations of Paragraph 50 [SIC: 43] and therefore denies same.

50. [SIC: 44] Flashpoint is without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations of Paragraph 50 [SIC: 43] and therefore denies same.

51. [SIC: 45] Denied.

52. [SIC: 46] Denied.

53. [SIC: 47] Denied.

54. [SIC: 48] Denied.

55. [SIC: 49] Denied.

56. [SIC: 50] FlashPoint is without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations of Paragraph 56 [SIC: 50] and therefore denies same.

57. [SIC: 51] FlashPoint is without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations of Paragraph 57 [SIC: 51] and therefore denies same.

58. [SIC: 52] Denied.

59. [SIC: 53] Denied.

60. [SIC: 54] Denied.

61. [SIC: 55] Denied.

62. [SIC: 56] Denied.

63. [SIC: 57] FlashPoint is without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations of Paragraph 63 [SIC: 57] and therefore denies same.

64. [SIC: 58] FlashPoint is without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations of Paragraph 64 [SIC: 58] and therefore denies same.

65. [SIC: 59] Denied.

66. [SIC: 60] Denied.

67. [SIC: 61] Denied.

68. [SIC: 62] Denied.

69. [SIC: 63] Denied.

70. [SIC: 64] FlashPoint is without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations of Paragraph 70 [SIC: 64] and therefore denies same.

71. [SIC: 65] FlashPoint is without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations of Paragraph 71 [SIC: 65] and therefore denies same.

72. [SIC: 66] Denied.

73. [SIC: 67] Denied.

74. [SIC: 68] Admitted that the application that led to the '575 patent was filed on February 27, 1998, that the '575 patent issued on January 7, 2003, and that the named inventors of the '575 patent are Eric Anderson and Michael Ramirez, but otherwise denied.

75. [SIC: 69] Admitted.

76. [SIC: 70] Denied.

77. [SIC: 71] Denied.

78. [SIC: 72] Denied.

79. [SIC: 73] Denied.

80. [SIC: 74] Denied.

81. [SIC: 75] FlashPoint is without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations of Paragraph 81 [SIC: 75] and therefore denies same.

82. [SIC: 76] FlashPoint is without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations of Paragraph 82 [SIC: 76] and therefore denies same.

83. [SIC: 77] Denied.

84. [SIC: 78] Denied.

85. [SIC: 79] Denied.

86. [SIC: 80] Denied.

87. [SIC: 81] Denied.

88. [SIC: 82] FlashPoint is without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations of Paragraph 88 [SIC: 82] and therefore denies same.

89. [SIC: 83] FlashPoint is without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations of Paragraph 89 [SIC: 83] and therefore denies same.

90. [SIC: 84] Denied.

91. [SIC: 85] Denied.

92. [SIC: 86] Admitted that the application that led to the '538 patent was filed on February 27, 1998, that the '538 patent issued on April 24, 2001, and that the named inventor of the '538 patent is Eric Anderson, but otherwise denied.

93. [SIC: 87] Admitted.

94. [SIC: 88] Denied.

95. [SIC: 89] Denied.

96. [SIC: 90] Denied.

97. [SIC: 91] Denied.

98. [SIC: 92] Denied.

99. [SIC: 93] FlashPoint is without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations of Paragraph 99 [SIC: 93] and therefore denies same.

100. [SIC: 94] FlashPoint is without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations of Paragraph 100 [SIC: 94] and therefore denies same.

101. [SIC: 95] Denied.

102. [SIC: 96] Denied.

103. [SIC: 97] Admitted that the application that led to the '190 patent was filed on April 13, 1998, that the '190 patent issued on April 24, 2001, and that the named inventors of the '190 patent are Tim Takao Aihara and Rodney Somerstein, but otherwise denied.

104. [SIC: 98] Admitted.

105. [SIC: 99] Denied.

106. [SIC: 100] Denied.

107. [SIC: 101] Denied.

108. [SIC: 102] Denied.

109. [SIC: 103] Denied.

110. [SIC: 104] FlashPoint is without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations of Paragraph 110 [SIC: 104] and therefore denies same.

111. [SIC: 105] FlashPoint is without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations of Paragraph 111 [SIC: 105] and therefore denies same.

112. [SIC: 106] Denied.

113. [SIC: 107] Denied.

PRAYER FOR RELIEF

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

A. That Palm 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.

Patrick J. Coughlin
Michael J. Dowd
Ray Arun Mandlekar
COUGHLIN STOIA GELLER
RUDMAN & ROBBINS LLP
655 West Broadway, Suite 1900
San Diego, CA 92101
(619) 231-1058

John F. Ward
John W. Olivo, Jr.
David M. Hill
Michael J. Zinna
WARD & OLIVO
380 Madison Avenue
New York, NY 10017
(212) 697-6262

Dated: May 20, 2008

/s/ Evan O. Williford

David J. Margules (I.D. No. 2254)
Evan O. Williford (I.D. No. 4162)
BOUCHARD MARGULES & FRIEDLANDER, P.A.
222 Delaware Avenue, Suite 1400
Wilmington, DE 19801
Telephone: (302) 573-3500
dmargules@bmf-law.com
ewilliford@bmf-law.com
Attorneys for Plaintiff Flashpoint Technology, Inc.

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 Palm, 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:

Jeffrey L. Moyer, Esquire
Steven J. Fineman, Esquire
Richards Layton & Finger
One Rodney Square
Wilmington, DE 19801
Attorneys for Defendants Nokia, Inc. and Nokia Corp.

Josy W. Ingersoll, Esquire
John W. Shaw, Esquire
Karen E. Keller, Esquire
Young Conaway Stargatt & Taylor
The Brandywine Building
1000 West Street, 17th Floor
Wilmington, DE 19801
Attorneys for Defendant Kyocera Wireless Corp., AT&T Mobility LLC and Motorola, Inc.

Arthur G. Connolly, III, Esquire
Connolly Bove Lodge & Hutz
1007 North Orange Street
Wilmington, DE 19899
Attorneys for Defendant T-Mobile USA Inc.

Richard L. Horwitz, Esquire
David E. Moore, Esquire
Potter Anderson & Corroon LLP
Hercules Plaza
1313 North Market Street
Wilmington, DE 19801
Attorneys for Defendants HTC America, Inc., HTC Corp., Research in Motion Corp. and Research in Motion Ltd.

Frederick L. Cottrell, III, Esquire
Anne Shea Gaza, Esquire
Richards Layton & Finger
One Rodney Square
Wilmington, DE 19801
Attorneys for Defendant Sprint Spectrum d/b/a Sprint PCS

Steven J. Balick, Esquire
John G. Day, Esquire
Lauren E. Maguire, Esquire
Ashby & Geddes
500 Delaware Avenue, 8th Floor
Wilmington, DE 19801
Attorneys for Defendant Cellco Partnership d/b/a Verizon Wireless

Richard K. Herrmann, Esquire
Morris James LLP
500 Delaware Avenue, Suite 1500
Wilmington, DE 19801
Attorneys for Defendant LG Electronics USA, Inc.

Rex A. Donnelly, IV, Esquire
Joanne Ceballos, Esquire
Ratner Prestia
1007 Orange Street, Suite 1100
Wilmington, DE 19801
Attorneys for Defendant Palm, Inc.

/s/ Evan O. Williford
David J. Margules (I.D. No. 2254)
Evan O. Williford (I.D. No. 4162)
BOUCHARD MARGULES & FRIEDLANDER, P.A.
222 Delaware Avenue, Suite 1400
Wilmington, DE 19801
(302) 573-3500
dmargules@bmf-law.com
ewilliford@bmf-law.com
Attorneys for plaintiff Flashpoint Technology, Inc.