IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

KONINKLIJKE PHILIPS N.V., U.S. PHILIPS CORPORATION, **Plaintiffs,** **v.** **ACER INC., ACER AMERICA CORPORATION,** **Defendants.**	Case No.: 15-1170-GMS JURY TRIAL DEMANDED
MICROSOFT CORPORATION, **Intervenor-Plaintiff,** **v.** **KONINKLIJKE PHILIPS N.V., U.S. PHILIPS CORPORATION,** **Intervenor-Defendants.**	
KONINKLIJKE PHILIPS N.V., U.S. PHILIPS CORPORATION, **Intervenor-Defendants/Counterclaim Plaintiffs in Intervention,** **v.** **MICROSOFT CORPORATION** **Intervenor-Plaintiff/Counterclaim Defendant in Intervention,** **AND**	

MICROSOFT MOBILE OY

Counterclaim Defendant in Intervention.

STIPULATION AND [PROPOSED] ORDER TO SUBSTITUTE MICROSOFT MOBILE INC. FOR MICROSOFT MOBILE OY AS COUNTERCLAIM DEFENDANT IN INTERVENTION

WHEREAS, on November 10, 2016, Intervenor-Plaintiff Microsoft Corporation ("Microsoft") filed a Complaint in Intervention in the above-captioned action (D.I. 74);

WHEREAS, on December 9, 2016, Intervenor-Defendants Koninklijke Philips N.V. and U.S. Philips Corporation (together, Philips") answered Microsoft's Complaint In Intervention and asserted counterclaims in intervention against Microsoft and an affiliated entity, Microsoft Mobile Oy (D.I. 86, the "Counterclaims");

WHEREAS, Microsoft, Microsoft Mobile Oy and Microsoft Mobile Inc. have represented to Philips that Microsoft Mobile Oy is not the correct counterclaim defendant with regard to the allegations set forth in the Counterclaims, and that Microsoft Mobile Inc. should have been named as the counterclaim defendant with regard to those particular allegations; and

WHEREAS, in order to streamline this action and avoid burdening the Court and the parties with motion practice, the parties have agreed to substitute Microsoft Mobile Inc. as a party for Microsoft Mobile Oy, as if Microsoft Mobile Inc. had been named as a counterclaim defendant in the Counterclaims and for all intents and purposes;

IT IS THEREFORE STIPULATED AND AGREED, subject to the approval of the Court, that:

1. Microsoft, Microsoft Mobile Oy and Microsoft Mobile Inc. represent and warrant that:

a. Effective April 25, 2014, Microsoft Mobile Oy, Ltd., a wholly owned subsidiary of Microsoft Corp., acquired Nokia Corp.'s Devices and Services division (Nokia Inc.);

b. Effective August 31, 2014, Microsoft Corp. acquired Nokia Inc. from Microsoft Mobile Oy, Ltd., and Nokia Inc. became a wholly owned subsidiary of Microsoft Corp.;

c. Effective May 4, 2015, Nokia Inc. changed its name to Microsoft Mobile Inc.;

d. For purposes of the above-captioned actions only, Microsoft Mobile Inc. is the correct counterclaim defendant for the purpose of the alleged liability and damages arising out of the allegations in the Counterclaims and is a proper party to defend allegations made against Microsoft Mobile Oy in the Counterclaims;

e. For purposes of the above-captioned actions only, Microsoft Mobile Inc., or its assignees, is able to satisfy any judgment against it in this case and agrees that it will not take any action that will cause it to be unable to fully satisfy any judgment entered in this case, provided, however, that nothing in this Stipulation shall be construed as an admission of liability in this case by Microsoft, Microsoft Mobile Oy, and/or Microsoft Mobile Inc., which expressly deny any infringement of a valid patent claim;

2. In reliance upon the representations and warranties made in paragraphs 1(a) - 1(e) above, Philips agrees that Microsoft Mobile Inc. is a proper counterclaim defendant with regard to the allegations in the Counterclaims and should be substituted for Microsoft Mobile Oy, so that all Counterclaims made against Microsoft Mobile Oy are now made against Microsoft Mobile Inc. and the case caption is amended accordingly;

3. Philips has not released, and nothing in this Stipulation shall be construed as a release or discharge of, any claim Philips has or may have in the future against any of Microsoft, Microsoft Mobile Oy, and/or Microsoft Mobile Inc., or any other asserted infringer of the patents-in-suit;

4. Nothing in this Stipulation shall be construed as an admission or assumption of liability by Microsoft Mobile Inc. with regard to products other than those at issue in the Counterclaims and in Plaintiffs' First Amended Identification of The Microsoft Counterclaim Defendants' Accused Products, served January 9, 2017;

5. Microsoft Mobile Inc. agrees that this stipulation does not prevent it from providing any relevant, non-privileged discovery (relating to the accused products in the case or other relevant issues) within Microsoft Mobile Inc.'s possession, custody, or control subject to the terms of the protective order that has been or will be entered in this action.

6. Nothing in this Stipulation shall preclude Philips from seeking to add Microsoft Mobile Oy as a party to the Counterclaims should discovery reveal that Microsoft Mobile Oy's involvement with regard to the products accused of infringement in the Counterclaims and/or in Plaintiffs' First Amended Identification of The Microsoft Counterclaim Defendants' Accused Products differs from the representations set forth in Paragraphs 1(a)-(e) above.

Dated: January 26, 2017

MCCARTER & ENGLISH, LLP

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Attorneys for Microsoft Corporation, Microsoft Mobile Oy, and Microsoft Mobile Inc.

SO ORDERED this _____ day of _____, 2017.

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THE HONORABLE GREGORY M. SLEET