

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 9:19-cv-81160-RS

APPLE INC.,

Plaintiff,

v.

CORELLIUM, LLC,

Defendant.

**CONDITIONAL JOINT STIPULATION TO DISMISS
WITH PREJUDICE DMCA CLAIM AND COUNTERCLAIMS, AND
STRIKE WITH PREJUDICE REQUEST FOR MONETARY RELIEF**

Plaintiff Apple Inc. and Defendant Corellium, LLC (collectively, the “Parties”), pursuant to the Confidential Binding Term Sheet entered into by the Parties on August 10, 2021, hereby jointly stipulate that:

(1) Apple dismisses with prejudice its claim under the Digital Millennium Copyright Act, 17 U.S.C. §§ 1201(a)(2), (b), and 1203 (Second Amended Complaint, Count 4), pursuant to Federal Rule of Civil Procedure 15(a)(2); *see Perry v. Schumacher Group of Louisiana*, 891 F.3d 954, 958 (11th Cir. 2018) (“It has been held that when multiple claims are filed against a single defendant, Rule 41(a) is applicable only to the voluntary dismissal of all claims in an action. A plaintiff who wishes to drop some claims but not others should do so by amending his complaint pursuant to Rule 15.”);

(2) Corellium dismisses with prejudice its counterclaims against Apple pursuant to Federal Rule of Civil Procedure 41(a);

(3) Both sides release all claims for monetary damages, attorneys’ fees, and costs, past, present, and future relating to this case or any appeal in this case; and

(4) Apple preserves and retains its right to appeal the Court’s order granting summary judgment to Corellium on Apple’s copyright claims as to the injunctive relief only, subject to the jurisdictional condition outlined below.

Because the Parties consent in writing to the dismissal with prejudice and striking of certain claims, counterclaims, and requests for relief as set forth below, court approval is not required, *see* Fed. R. Civ. P. 15(a)(2) (“a party may amend its pleading only with the opposing part’s written consent or the court’s leave”); *see also* 6. Fed. Prac. & Proc. Civ. ¶ 1490 (3d ed.) (“If consent is secured, the usual motion procedure need not be followed. The pleader’s right to amend is not subject to the court’s discretion and the court must permit the amendment to be filed.”); *see also* Rule 41(a) (outlining requirements for dismissing an action “without court order”); *see also* Rule 41(c) (stating that Rule 41(a) applies to dismissal of counterclaims by a defendant).

The Parties shall bear their own costs and fees, related to and through the end of this Action, including Apple’s forthcoming appeal and any further proceedings on Apple’s copyright claims.

This stipulation will be effective upon on entry of an order retaining jurisdiction and, once this stipulation is effective, the only claims that will remain in this Action are Apple’s copyright claims as to injunctive relief only, as to which the Parties agreed Apple shall have the right to appeal the Court’s order granting summary judgment to Corellium as to injunctive relief only.

Accordingly, the Parties are simultaneously filing a joint motion for the entry of an order retaining jurisdiction to enforce the Parties' settlement agreement, and, once that order has been entered, for entry of final judgment on the copyright claims so that Apple can then file a notice of appeal.

Dated: August 16, 2021

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Respectfully Submitted,

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Respectfully submitted,

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