

1 QUINN EMANUEL URQUHART & SULLIVAN, LLP
 2 FREDERICK A. LORIG (Bar No. 057645)
 3 fredlorig@quinnemanuel.com
 4 CHRISTOPHER A. MATHEWS (Bar No. 144021)
 5 chrismathews@quinnemanuel.com
 6 BRUCE R. ZISSER (Bar No. 180607)
 7 brucezisser@quinnemanuel.com
 8 SIDFORD L. BROWN (Bar No. 107196)
 9 sidfordbrown@quinnemanuel.com
 10 865 South Figueroa Street, 10th Floor
 11 Los Angeles, California 90017-2543
 12 Telephone: (213) 443-3000
 13 Facsimile: (213) 443-3100

14 Attorneys for Plaintiff
 15 MULTIMEDIA PATENT TRUST

16 UNITED STATES DISTRICT COURT
 17 SOUTHERN DISTRICT OF CALIFORNIA

18 Multimedia Patent Trust,

19 Plaintiff,

20 vs.

21 Apple Inc., Canon, Inc., Canon U.S.A., Inc.,
 22 LG Electronics, Inc., LG Electronics U.S.A.,
 23 Inc., LG Electronics MobileComm U.S.A.,
 24 Inc.,

25 Defendants.

CASE NO. 10-cv-2618-H-CAB

**PLAINTIFF AND COUNTER
 DEFENDANT MULTIMEDIA PATENT
 TRUST’S REPLY TO DEFENDANT AND
 COUNTERCLAIMANT APPLE INC.’S
 COUNTERCLAIM**

26 Plaintiff and Counter-Defendant, Multimedia Patent Trust (“MPT”), herein replies to the
 27 numbered paragraphs set forth in the Counterclaim of Defendant and Counterclaimant Apple
 28 Inc.’s (“Apple”) as follows:

In response to the unnumbered paragraph on page 40, lines 2-5, of the Apple
 Counterclaims, MPT admits that, by virtue of its Counterclaims, Apple purports to bring an action
 for declaratory judgment of non-infringement, invalidity, and/or unenforceability of each of the
 patents asserted against it (U.S. Patent No. 4,958,226 (the “Haskell’226 Patent”), U.S. Patent No.

1 5,227,878 (the “Puri ‘878 Patent”), and U.S. Patent No. 5,136,377 (the “Johnston ‘377 Patent”)),
2 but MPT denies that those Counterclaims have any merit.

3 **JURISDICTION AND VENUE**

4 1. Answering paragraph 1 of Apple’s Counterclaims, in which Apple purports to
5 reallege and incorporate by reference each and every allegation contained in its Answer, MPT
6 responds that no response is required to paragraphs 1-62 of Apple’s Answer, which merely
7 respond to the averments in the Complaint. MPT further responds that no response is required to
8 paragraphs 63-200 of Apple’s Answer, which purport to allege Apple’s Affirmative Defenses, but
9 MPT denies that Affirmative Defenses One through Eighteen asserted in those paragraphs have
10 any merit.

11 2. MPT admits that Apple purports to bring claims for declaratory judgment and
12 injunctive relief under the Declaratory Judgment Act, that Apple’s counterclaims arise under the
13 Patent Laws of the United States, and that this Court has subject matter jurisdiction over those
14 counterclaims.

15 3. MPT admits that this Court has personal jurisdiction over Plaintiff and Counter-
16 Defendant Multimedia Patent Trust.

17 4. MPT admits that venue in this district is proper.

18 **NATURE OF THE ACTION**

19 5. MPT denies the allegations set forth in paragraph 5 of the Apple Counterclaims.

20 **PARTIES**

21 6. MPT admits that Apple is defined in the unnumbered paragraph located on page 1,
22 lines 2-3 and in paragraph 5 of the Apple Answer.

23 7. Plaintiff Multimedia Patent Trust admits that it is a Delaware statutory trust under
24 the laws of the Delaware Statutory Trust Act, 12 Del. C. §§ 3801 et seq., but denies that its trustee,
25 Mr. Gerard A. deBlasi, continues to have a business address of 991 Route 22 West, Bridgewater,
26 NJ 08807.

1 **FIRST COUNTERCLAIM**

2 **(Declaratory Judgment of Non-Infringement and/or Invalidity of the Haskell ‘226 Patent)**

3 8. MPT incorporates by reference the foregoing paragraphs, inclusive, as though set
4 forth in full herein.

5 9. MPT admits the allegations of paragraph 9 of the Apple Counterclaims.

6 10. MPT denies the allegations of paragraph 10 of the Apple Counterclaims.

7 11. The allegations set forth in paragraph 11 of the Apple Counterclaims are vague and
8 uncertain, and are therefore denied. To the extent that the term “foregoing contentions” refers to
9 the allegations contained in paragraph 10, MPT incorporates its response to paragraph 10 as if
10 fully set forth herein.

11 12. MPT admits that there is an actual and justiciable controversy between MPT and
12 Apple regarding the infringement of the Haskell ‘226 Patent. Except as so admitted, the
13 allegations of Paragraph 12 are denied.

14 13. MPT admits that Apple purports to request a declaratory judgment under the
15 Declaratory Judgment Act for noninfringement and invalidity of the Haskell ‘226 Patent, but
16 denies the viability of that request.

17 14. MPT denies that Apple is entitled to any remedy on its First Counterclaim.

18 **SECOND COUNTERCLAIM**

19 **(Declaratory Judgment of Unenforceability of the Haskell ‘226 Patent**

20 **Due to Inequitable Conduct)**

21 15. MPT incorporates by reference the foregoing paragraphs, inclusive, as though set
22 forth in full herein.

23 16. MPT denies the allegations of paragraph 16 of the Apple Counterclaims.

24 17. Answering paragraph 17 of Apple’s Counterclaims, in which Apple purports to
25 incorporate by reference paragraphs 76-113 of Apple’s Answer, which set forth a portion of
26 Apple’s Thirteenth Affirmative Defense, MPT responds to the individual referenced paragraphs as
27 follows:
28

1 Referenced Paragraph 76. MPT denies the allegations of referenced paragraph 76
2 of the Apple Counterclaims.

3 Referenced Paragraph 77. MPT denies the allegations of referenced paragraph 77
4 of the Apple Counterclaims.

5 Referenced Paragraph 78. MPT denies the allegations of referenced paragraph 78
6 of the Apple Counterclaims.

7 Referenced Paragraph 79. MPT admits the allegations of referenced paragraph 79
8 of the Apple Counterclaims.

9 Referenced Paragraph 80. The first sentence of referenced paragraph 80 of the
10 Apple Counterclaims consists entirely of legal conclusions as to which no response is
11 required. MPT admits that the named inventors on the Haskell '226 Patent signed a sworn
12 statement in September 1989. No response is required to the additional allegations
13 concerning the contents of that sworn statement because that document speaks for itself.
14 MPT denies the remaining allegations of referenced paragraph 80 of the Apple
15 Counterclaims.

16 Referenced Paragraph 81. MPT admits that Apple recites the term “frame
17 repeating” that appears in the Haskell '226 Patent. No response is required to Apple’s
18 further allegations concerning the contents of the Haskell '226 Patent because the Haskell
19 '226 Patent speaks for itself. MPT denies any remaining allegations of referenced
20 paragraph 81 of the Apple Counterclaims.

21 Referenced Paragraph 82. MPT admits that Apple recites a portion of the Haskell
22 '226 Patent. No response is required to Apple’s further allegations concerning the contents
23 of the Haskell '226 Patent because the Haskell '226 Patent speaks for itself. MPT denies
24 any remaining allegations of referenced paragraph 82 of the Apple Counterclaims.

25 Referenced Paragraph 83. MPT admits that Apple recites portions of the Haskell
26 '226 Patent. No response is required to Apple’s further allegations concerning the contents
27 of the Haskell '226 Patent because the Haskell '226 Patent speaks for itself. MPT denies
28 any remaining allegations of referenced paragraph 83 of the Apple Counterclaims.

1 Referenced Paragraph 84. MPT admits that Apple recites portions of the Haskell
2 ‘226 Patent. No response is required to Apple’s further allegations concerning the contents
3 of the Haskell ‘226 Patent because the Haskell ‘226 Patent speaks for itself. MPT denies
4 the remaining allegations of referenced paragraph 84 of the Apple Counterclaims.

5 Referenced Paragraph 85. MPT admits that there exists a book entitled “Digital
6 Pictures Representation and Compression” that was published before September 1988 and
7 was coauthored by Barry G. Haskell (“Digital Pictures”). No response as to the contents of
8 Digital Pictures is required, as that document speaks for itself.

9 Referenced Paragraph 86. MPT admits that Apple recites portions of Digital
10 Pictures. No response as to the contents of Digital Pictures is required, as that document
11 speaks for itself. MPT lacks knowledge or information sufficient to form a belief as to the
12 truth of the remaining allegations in the second-to-last sentence of referenced paragraph 86
13 of the Apple Counterclaims and, on that basis, denies them. MPT denies the remaining
14 allegations of referenced paragraph 86 of the Apple Counterclaims.

15 Referenced Paragraph 87. MPT lacks knowledge or information sufficient to form
16 a belief as to the truth of the allegations in referenced paragraph 87 of the Apple
17 Counterclaims and, on that basis, denies them.

18 Referenced Paragraph 88. MPT admits that a PTO Office Action was mailed on
19 or about December 22, 2008 (the “December 22, 2008 Office Action”). No response is
20 required to Apple’s allegations concerning the contents of the December 22, 2008 Office
21 Action, because the December 22, 2008 Office Action speaks for itself. MPT lacks
22 knowledge or information sufficient to form a belief as to the truth of the remaining
23 allegations of referenced paragraph 88 of the Apple Counterclaims and, on that basis,
24 denies them.

25 Referenced Paragraph 89. MPT admits that portions of Digital Pictures cited by
26 Apple in referenced paragraph 89 of the Apple Counterclaims were not disclosed to the
27 PTO during prosecution of the Haskell ‘226 Patent. MPT denies the remaining allegations
28 of referenced paragraph 89 of the Apple Counterclaims.

1 Referenced Paragraph 90. MPT admits that Dr. Haskell coauthored Digital
2 Pictures. The phrase “material contents” is so vague and uncertain that MPT lacks
3 sufficient information and knowledge to allow it to answer the corresponding allegations,
4 and therefore denies them. MPT lacks knowledge or information sufficient to form a
5 belief as to the truth of the remaining allegations in referenced paragraph 90 of the Apple
6 Counterclaims and, on that basis, denies them.

7 Referenced Paragraph 91. MPT admits that Drs. Puri and Haskell were colleagues
8 at AT&T Bell Laboratories and that pages 301-504 of Digital Pictures were disclosed in an
9 Information Disclosure Statement to the PTO during prosecution of the ‘878 Patent. MPT
10 lacks sufficient information and knowledge to allow it to answer the remaining allegations
11 in Referenced paragraph 91, and therefore denies them.

12 Referenced Paragraph 92. MPT denies the allegations of referenced paragraph 92
13 of the Apple Counterclaims.

14 Referenced Paragraph 93. MPT admits that there exists a document entitled
15 “Comments on Conditional Motion Compensated Frame Interpolation” and labeled
16 “Document #81” (“Document No. 81”). MPT admits that Document No. 81 is available at
17 http://wftp3.itu.int/av-arch/video-site/261/H261_Specialists_Group/Contributions/081.pdf.
18 MPT admits that Document No. 81 bears the date “March 1986.” MPT further admits that
19 according to a document entitled “Report of the Fifth Meeting in Tokyo (March 25-28,
20 1986)” and labeled “Specialists Group on Coding for Visual Telephony” (hereinafter
21 “Specialists Group’s Report”), a document bearing the title “Comments on Conditional
22 Motion Compensated Frame Interpolation” and the label “Document #81” was presented at
23 the meeting described in the Specialists Group’s Report. MPT lacks knowledge or
24 information sufficient to form a belief as to the truth of the allegations in the second to the
25 last sentence of referenced paragraph 93 of the Apple Counterclaims and, on that basis,
26 denies them. MPT denies the remaining allegations of referenced paragraph 93 of the
27 Apple Counterclaims.
28

1 Referenced Paragraph 94. MPT lacks knowledge or information sufficient to form
2 a belief as to the truth of the allegations in referenced paragraph 94 of the Apple
3 Counterclaims and, on that basis, denies them.

4 Referenced Paragraph 95. MPT admits that the image appearing in referenced
5 paragraph 95 of the Apple Counterclaims also appears as Figure 1 of Document No. 81.
6 MPT denies any remaining allegations of referenced paragraph 26 of the Apple
7 Counterclaims.

8 Referenced Paragraph 96. MPT admits that Figure 1 of Document No. 81
9 includes boxes containing the words “Motion Prediction,” “Motion Detection,” and
10 “Motion Interpolative Prediction.” No additional response as to the contents of Document
11 No. 81 is required, as that document speaks for itself. MPT denies any remaining
12 allegations of referenced paragraph 96 of the Apple Counterclaims.

13 Referenced Paragraph 97. MPT lacks knowledge or information sufficient to form
14 a belief as to the truth of the allegations in referenced paragraph 97 of the Apple
15 Counterclaims and, on that basis, denies them.

16 Referenced Paragraph 98. MPT lacks knowledge or information sufficient to form
17 a belief as to the truth of the allegations in referenced paragraph 98 of the Apple
18 Counterclaims and, on that basis, denies them.

19 Referenced Paragraph 99. MPT admits that Apple recites a portion of Document
20 No. 81. No additional response as to the contents of Document No. 81 is required, as that
21 document speaks for itself. MPT denies the remaining allegations of referenced paragraph
22 99 of the Apple Counterclaims.

23 Referenced Paragraph 100. MPT lacks knowledge or information sufficient to form
24 a belief as to the truth of the allegations in referenced paragraph 100 of the Apple
25 Counterclaims and, on that basis, denies them.

26 Referenced Paragraph 101. MPT lacks knowledge or information sufficient to form
27 a belief as to the truth of the allegations in referenced paragraph 101 of the Apple
28 Counterclaims and, on that basis, denies them.

1 Referenced Paragraph 102. MPT admits that the Specialist Group’s Report is
2 available at [http://wftp3.itu.int/av-arch/videosite/h261/H261_Specialists_Group/](http://wftp3.itu.int/av-arch/videosite/h261/H261_Specialists_Group/Report_of_Specialists_Group/8603tok)
3 [Report_of_Specialists_Group/8603tok](http://wftp3.itu.int/av-arch/videosite/h261/H261_Specialists_Group/Report_of_Specialists_Group/8603tok). No response as to the contents of the Specialists
4 Group’s Report is required, as that document speaks for itself. MPT lacks knowledge or
5 information sufficient to form a belief as to the truth of the remaining allegations in
6 referenced paragraph 102 of the Apple Counterclaims and, on that basis, denies them.

7 Referenced Paragraph 103. MPT admits that Apple recites a portion of the
8 Specialists Group’s Report. No response as to the contents of the Specialists Group’s
9 Report is required, as that document speaks for itself. MPT denies the allegations in the
10 final two sentences of referenced paragraph 103 of the Apple Counterclaims. MPT lacks
11 knowledge or information sufficient to form a belief as to the truth of the remaining
12 allegations in referenced paragraph 103 of the Apple Counterclaims and, on that basis,
13 denies them.

14 Referenced Paragraph 104. MPT lacks knowledge or information sufficient to form
15 a belief as to the truth of the allegations in referenced paragraph 104 of the Apple
16 Counterclaims and, on that basis, denies them.

17 Referenced Paragraph 105. MPT lacks knowledge or information sufficient to form
18 a belief as to the truth of the allegations in referenced paragraph 105 of the Apple
19 Counterclaims and, on that basis, denies them.

20 Referenced Paragraph 106. MPT lacks knowledge or information sufficient to form
21 a belief as to the truth of the allegations in referenced paragraph 106 of the Apple
22 Counterclaims and, on that basis, denies them.

23 Referenced Paragraph 107. MPT admits that Document No. 81 was not disclosed
24 to the PTO during prosecution of the Haskell ‘226 Patent. MPT denies the remaining
25 allegations of referenced paragraph 107 of the Apple Counterclaims.

26 Referenced Paragraph 108. The phrase “material contents” is so vague and
27 uncertain that MPT lacks sufficient information and knowledge to allow it to answer the
28

1 corresponding allegations, and therefore denies them. MPT denies the remaining
2 allegations of referenced paragraph 108 of the Apple Counterclaims.

3 Referenced Paragraph 109. MPT denies the allegations of referenced paragraph
4 109 of the Apple Counterclaims.

5 Referenced Paragraph 110. The phrase “material contents” is so vague and
6 uncertain that MPT lacks sufficient information and knowledge to allow it to answer the
7 corresponding allegations, and therefore denies them. MPT lacks knowledge or
8 information sufficient to form a belief as to the truth of the remaining allegations in
9 referenced paragraph 110 of the Apple Counterclaims and, on that basis, denies them.

10 Referenced Paragraph 111. MPT denies the allegations of referenced paragraph
11 111 of the Apple Counterclaims.

12 Referenced Paragraph 112. The phrase “material contents” is so vague and
13 uncertain that MPT lacks sufficient information and knowledge to allow it to answer the
14 corresponding allegations, and therefore denies them. MPT lacks knowledge or
15 information sufficient to form a belief as to the truth of the remaining allegations in
16 referenced paragraph 112 of the Apple Counterclaims and, on that basis, denies them.

17 Referenced Paragraph 113. MPT denies the allegations of referenced paragraph
18 113 of the Apple Counterclaims.

19 18. MPT admits that there is an actual controversy between MPT and Apple regarding
20 the enforceability of the Haskell ‘226 Patent, but denies that Apple’s Second Counterclaim has
21 any merit. MPT admits that Apple purports to request a declaration that the Haskell ‘226 Patent is
22 unenforceable, but denies the viability of that request. MPT denies the remaining allegations of
23 paragraph 18 of the Apple Counterclaims.

24 19. MPT denies that Apple is entitled to any remedy on its Second Counterclaim.

25 20. The statement in paragraph 20 of the Apple Counterclaims consists entirely of
26 reservation of rights by Apple as to which no response is required. MPT denies any allegations
27 contained in paragraph 20 of the Apple Counterclaims.

28

1 **THIRD COUNTERCLAIM**

2 **(Declaratory Judgment of Non-Infringement and/or Invalidity of the Puri ‘878 Patent)**

3 21. MPT incorporates by reference the foregoing paragraphs, inclusive, as though set
4 forth in full herein.

5 22. MPT admits the allegations of paragraph 22 of the Apple Counterclaims.

6 23. MPT denies the allegations of paragraph 23 of the Apple Counterclaims.

7 24. The allegations set forth in paragraph 24 of the Apple Counterclaims are vague and
8 uncertain, and are therefore denied. To the extent that the term “foregoing contentions” refers to
9 the allegations contained in paragraph 23, MPT incorporates its response to paragraph 23 as if
10 fully set forth herein.

11 25. MPT admits that there is an actual and justiciable controversy between MPT and
12 Apple regarding the infringement of the Puri ‘878 Patent. Except as so admitted, the allegations
13 of Paragraph 25 are denied.

14 26. MPT admits that Apple purports to request a declaratory judgment under the
15 Declaratory Judgment Act for noninfringement and invalidity of the Puri ‘878 Patent, but denies
16 the viability of that request.

17 27. MPT denies that Apple is entitled to any remedy on its Third Counterclaim.

18 **FOURTH COUNTERCLAIM**

19 **(Declaratory Judgment of Unenforceability of the Puri ‘878 Patent**

20 **Due to Inequitable Conduct)**

21 28. MPT incorporates by reference the foregoing paragraphs, inclusive, as though set
22 forth in full herein.

23 29. MPT denies the allegations of paragraph 29 of the Apple Counterclaims.

24 30. Answering paragraph 30 of Apple’s Counterclaims, in which Apple purports to
25 incorporate by reference paragraphs 76, 114-160 of Apple’s Answer, which set forth a portion of
26 Apple’s Thirteenth Affirmative Defense, MPT responded to referenced paragraph 76 above and
27 incorporates that response herein by this reference. MPT responds to the remaining individual
28 referenced paragraphs as follows:

1 Referenced Paragraph 114. MPT denies the allegations of referenced paragraph
2 114 of the Apple Counterclaims.

3 Referenced Paragraph 115. MPT denies the allegations of referenced paragraph
4 115 of the Apple Counterclaims.

5 Referenced Paragraph 116. MPT admits the allegations of referenced paragraph
6 116 of the Apple Counterclaims.

7 Referenced Paragraph 117. The first sentence of referenced paragraph 117 of the
8 Apple Counterclaims consists entirely of legal conclusions as to which no response is
9 required. MPT admits that the named inventors on the Puri '878 Patent signed a sworn
10 statement on or about February 28, 1992. No response is required to the additional
11 allegations concerning the contents of that sworn statement because that document speaks
12 for itself. MPT denies the remaining allegations of referenced paragraph 117 of the Apple
13 Counterclaims.

14 Referenced Paragraph 118. MPT admits that Apple recites a portion of the Puri
15 '878 Patent and its title. No response is required to Apple's further allegations concerning
16 the contents of the Puri '878 Patent because the Puri '878 Patent speaks for itself. MPT
17 denies any remaining allegations of referenced paragraph 118 of the Apple Counterclaims.

18 Referenced Paragraph 119. MPT admits that a PTO Office Action concerning the
19 Puri '878 Patent was mailed on or about September 22, 1992 (the "September 22, 1992
20 Office Action"). No response is required to Apple's allegations concerning the contents of
21 the September 22, 1992 Office Action, because the September 22, 1992 Office Action
22 speaks for itself. MPT denies any remaining allegations of referenced paragraph 119 of
23 the Apple Counterclaims.

24 Referenced Paragraph 120. MPT admits that Apple recites a portion of a response
25 to the September 22, 1992 Office Action that was submitted by the applicants on or about
26 December 22, 1992 (the "December 22, 1992 Response"). No response is required to
27 Apple's further allegations concerning the contents of the December 22, 1992 Response,
28

1 because that document speaks for itself. MPT denies any remaining allegations of
2 referenced paragraph 120 of the Apple Counterclaims.

3 Referenced Paragraph 121. MPT admits that the PTO issued a Notice of
4 Allowability concerning the Puri '878 Patent on or about January 26, 1993 (the "Puri '878
5 Patent Notice of Allowability"). No response is required to Apple's allegations concerning
6 the contents of the Puri '878 Patent Notice of Allowability, because that document speaks
7 for itself. MPT denies any remaining allegations of referenced paragraph 121 of the Apple
8 Counterclaims.

9 Referenced Paragraph 122. MPT admits that Apple recites a portion of the Puri
10 '878 Patent. No response is required to Apple's further allegations concerning the contents
11 of the Puri '878 Patent because the Puri '878 Patent speaks for itself. MPT denies the
12 remaining allegations of referenced paragraph 122 of the Apple Counterclaims.

13 Referenced Paragraph 123. MPT admits that there exists an article entitled "Fixed
14 and Adaptive Predictors for Hybrid Predictive/Transform Coding," authored by Staffan
15 Ericsson and appearing in IEEE Transactions on Communications, Vol. COM-33, No. 12,
16 December 1985 (the "Ericsson Article"). MPT admits that Apple recites portions of the
17 Ericsson Article. No further response as to the contents of Ericsson Article is required, as
18 that document speaks for itself. MPT lacks knowledge or information sufficient to form a
19 belief as to the truth of the remaining allegations in referenced paragraph 123 of the Apple
20 Counterclaims and, on that basis, denies them.

21 Referenced Paragraph 124. No response is required to Apple's allegations
22 concerning the contents of the December 22, 1992 Response and the Puri '878 Patent
23 Notice of Allowability, because those documents speak for themselves. MPT lacks
24 knowledge or information sufficient to form a belief as to the truth of the remaining
25 allegations in referenced paragraph 124 of the Apple Counterclaims and, on that basis,
26 denies them.

27 Referenced Paragraph 125. MPT admits that the Ericsson Article was cited in a
28 1988 dissertation submitted by Atul Puri. No response as to the contents of Ericsson

1 Article is required, as that document speaks for itself. MPT lacks knowledge or
2 information sufficient to form a belief as to the truth of the remaining allegations in
3 referenced paragraph 125 of the Apple Counterclaims and, on that basis, denies them.

4 Referenced Paragraph 126. MPT admits that the Ericsson Article was not
5 disclosed to the PTO during prosecution of the Puri '878 Patent. MPT denies the
6 remaining allegations of referenced paragraph 126 of the Apple Counterclaims.

7 Referenced Paragraph 127. MPT denies the allegations of referenced paragraph
8 127 of the Apple Counterclaims.

9 Referenced Paragraph 128. MPT denies the allegations of referenced paragraph
10 128 of the Apple Counterclaims.

11 Referenced Paragraph 129. MPT admits that there exists an article entitled
12 "Movement-Compensated Frame-Frequency Conversion of Television Signals," authored
13 by Hirohisa Yamaguchi, Takehiko Sugi, and Kouji Kinuhata, and appearing in IEEE
14 Transactions on Communications, Vol. COM-35, No. 10, October 1987 (the "Yamaguchi
15 Article"). MPT lacks knowledge or information sufficient to form a belief as to the truth
16 of the remaining allegations in referenced paragraph 129 of the Apple Counterclaims and,
17 on that basis, denies them.

18 Referenced Paragraph 130. MPT admits that Apple recites a portion of the
19 Yamaguchi Article. No response as to the contents of the Yamaguchi Article is required,
20 as that document speaks for itself. MPT lacks knowledge or information sufficient to form
21 a belief as to the truth of the remaining allegations in referenced paragraph 130 of the
22 Apple Counterclaims and, on that basis, denies them.

23 Referenced Paragraph 131. No response is required to Apple's allegations
24 concerning the contents of the December 22, 1992 Response, the Puri '878 Patent Notice
25 of Allowability, or the Yamaguchi Article, because those documents speak for themselves.
26 MPT lacks knowledge or information sufficient to form a belief as to the truth of the
27 remaining allegations in referenced paragraph 131 of the Apple Counterclaims and, on that
28 basis, denies them.

1 Referenced Paragraph 132. MPT admits that the Yamaguchi Article was disclosed
2 to the PTO during prosecution of the Haskell ‘226 Patent. MPT lacks knowledge or
3 information sufficient to form a belief as to the truth of the remaining allegations in
4 referenced paragraph 132 of the Apple Counterclaims and, on that basis, denies them.

5 Referenced Paragraph 133. MPT admits that the Yamaguchi Article was not
6 disclosed to the PTO during prosecution of the Puri ‘878 Patent. MPT denies the
7 remaining allegations of referenced paragraph 133 of the Apple Counterclaims.

8 Referenced Paragraph 134. MPT denies the allegations of referenced paragraph
9 134 of the Apple Counterclaims.

10 Referenced Paragraph 135. MPT denies the allegations of referenced paragraph
11 135 of the Apple Counterclaims.

12 Referenced Paragraph 136. MPT admits that a meeting of the International
13 Organization for Standardization (“ISO”) was held in Santa Clara, California, in August
14 1991. MPT admits that there exists a document of the ISO labeled MPEG91/180 (the
15 “MPEG91/180 Document”) and that the MPEG91/180 Document is entitled “Fifteenth
16 meeting attendance list.” No response is required to Apple’s further allegations concerning
17 the contents of the MPEG91/180 Document because that document speaks for itself. MPT
18 lacks knowledge or information sufficient to form a belief as to the truth of the remaining
19 allegations in referenced paragraph 136 of the Apple Counterclaims and, on that basis,
20 denies them.

21 Referenced Paragraph 137. MPT admits that there exists an article entitled
22 “Additional research results on MPEG-2” with an express purpose of “Technical input to
23 MPEG- 2 video coding” that is designated as MPEG 91/131 and was authored by
24 individuals associated with Columbia University (the “Columbia University Paper”). MPT
25 denies the remaining allegations of the first sentence of referenced paragraph 137 of the
26 Apple Counterclaims. MPT lacks knowledge or information sufficient to form a belief as
27 to the truth of the remaining allegations in referenced paragraph 137 of the Apple
28 Counterclaims and, on that basis, denies them.

1 Referenced Paragraph 138. MPT denies that Apple correctly recites the
2 Introduction to the Columbia University Paper. No response is required to Apple’s further
3 allegations concerning the contents of the Columbia University Paper because that
4 document speaks for itself. MPT lacks knowledge or information sufficient to form a
5 belief as to the truth of the remaining allegations in referenced paragraph 138 of the Apple
6 Counterclaims and, on that basis, denies them.

7 Referenced Paragraph 139. MPT lacks knowledge or information sufficient to
8 form a belief as to the truth of the allegations in referenced paragraph 139 of the Apple
9 Counterclaims and, on that basis, denies them.

10 Referenced Paragraph 140. MPT admits that it has contended in prior litigation
11 that Drs. Aravind and Puri conceived the inventions claimed in the Puri ‘878 Patent earlier
12 than August 1991. MPT admits that a declaration of Dr. Puri was filed in Case No. 06-
13 CV-0684-H (CAB), and that this declaration attached five exhibits (the “Puri Declaration
14 and Exhibits”). No response is required to Apple’s further allegations concerning the
15 contents of the Puri Declaration and Exhibits because those documents speak for
16 themselves. MPT admits that Apple recites a portion of the December 22, 1992 Response.
17 No response is required to Apple’s allegations concerning the contents of the December
18 22, 1992 Response, because that document speaks for itself. MPT denies any remaining
19 allegations of referenced paragraph 140 of the Apple Counterclaims.

20 Referenced Paragraph 141. MPT denies the allegations of referenced paragraph
21 141 of the Apple Counterclaims.

22 Referenced Paragraph 142. MPT lacks knowledge or information sufficient to
23 form a belief as to the truth of the allegations in referenced paragraph 142 of the Apple
24 Counterclaims and, on that basis, denies them.

25 Referenced Paragraph 143. MPT lacks knowledge or information sufficient to
26 form a belief as to the truth of the allegations in referenced paragraph 143 of the Apple
27 Counterclaims and, on that basis, denies them.

28

1 Referenced Paragraph 144. MPT admits that neither the Columbia University
2 Paper nor any alleged presentation of that paper were disclosed to the PTO during
3 prosecution of the Puri ‘878 Patent. MPT denies the remaining allegations of referenced
4 paragraph 144 of the Apple Counterclaims.

5 Referenced Paragraph 145. MPT denies the allegations of referenced paragraph
6 145 of the Apple Counterclaims.

7 Referenced Paragraph 146. MPT denies the allegations of referenced paragraph
8 146 of the Apple Counterclaims.

9 Referenced Paragraph 147. MPT admits that Apple recites claim 32 of the Puri
10 ‘878 Patent. No response as to the contents of the Puri ‘878 Patent is required, as the Puri
11 ‘878 Patent speaks for itself. MPT denies any remaining allegations of referenced
12 paragraph 147 of the Apple Counterclaims.

13 Referenced Paragraph 148. MPT lacks knowledge or information sufficient to
14 form a belief as to the truth of the allegations in the first two sentences of referenced
15 paragraph 148 of the Apple Counterclaims and, on that basis, denies them. MPT denies
16 the remaining allegations of referenced paragraph 148.

17 Referenced Paragraph 149. MPT admits that there exists an article entitled “A
18 Perceptually Tuned Sub-band Image Coder With Image Dependent Quantization and
19 Postquantization Data Compression” that was authored by Robert J. Safranek and James
20 D. Johnston (“the Safranek/Johnston Article”). No response as to the contents of the
21 Safranek/Johnston Article is required, as that document speaks for itself. MPT lacks
22 knowledge or information sufficient to form a belief as to the truth of the allegations in the
23 second sentence of referenced paragraph 149 of the Apple Counterclaims and, on that
24 basis, denies them. MPT admits that Messrs. Puri, Aravind, Safranek, and Johnston were
25 all employees of AT&T Bell Laboratories. MPT denies the remaining allegations of
26 referenced paragraph 149 of the Apple Counterclaims.

27 Referenced Paragraph 150. MPT admits that Apple recites a portion of the
28 Safranek/Johnston Article. No response as to the contents of the Safranek/Johnston Article

1 is required, as that document speaks for itself. MPT lacks knowledge or information
2 sufficient to form a belief as to the truth of the allegations in the final two sentences of
3 referenced paragraph 150 of the Apple Counterclaims and, on that basis, denies them.
4 MPT denies any remaining allegations of referenced paragraph 150 of the Apple
5 Counterclaims.

6 Referenced Paragraph 151. MPT admits that Apple recites a portion of the
7 Safranek/Johnston Article. No response as to the contents of the Safranek/Johnston Article
8 is required, as that document speaks for itself. MPT lacks knowledge or information
9 sufficient to form a belief as to the truth of the allegations in the last two sentences of
10 referenced paragraph 151 of the Apple Counterclaims and, on that basis, denies them.
11 MPT denies any remaining allegations of referenced paragraph 151 of the Apple
12 Counterclaims.

13 Referenced Paragraph 152. MPT lacks knowledge or information sufficient to
14 form a belief as to the truth of the allegations in the first sentence of referenced paragraph
15 152 of the Apple Counterclaims and, on that basis, denies them. MPT lacks knowledge or
16 information sufficient to form a belief as to the truth of the allegations in referenced
17 paragraph 152 of the Apple Counterclaims concerning a purported article entitled “A
18 Perceptually Tuned Sub-Band Image Coder” and, on that basis, denies them. MPT admits
19 that there exists an article entitled “Interframe Coding with Variable Block-size Motion
20 Compensation,” which Dr. Atul Puri co-authored, but no other response is required
21 concerning the contents of this document because the document speaks for itself. MPT
22 admits that there exists an article entitled “Motion-Compensated Video Coding with
23 Adaptive Perceptual Quantization” that was authored by Drs. Puri and Rangarajan
24 Aravind, but no other response is required concerning the contents of this document
25 because the document speaks for itself. MPT denies the remaining allegations of
26 referenced paragraph 152 of the Apple Counterclaims.

1 Referenced Paragraph 153. MPT lacks knowledge or information sufficient to
2 form a belief as to the truth of the allegations in referenced paragraph 153 of the Apple
3 Counterclaims and, on that basis, denies them.

4 Referenced Paragraph 154. MPT denies the allegations in referenced paragraph
5 154 of the Apple Counterclaims.

6 Referenced Paragraph 155. MPT denies the allegations in referenced paragraph
7 155 of the Apple Counterclaims.

8 Referenced Paragraph 156. MPT lacks knowledge or information sufficient to
9 form a belief as to the truth of the allegations in referenced paragraph 156 of the Apple
10 Counterclaims and, on that basis, denies them.

11 Referenced Paragraph 157. MPT admits that the article cited by Apple in
12 referenced paragraph 157 of the Apple Counterclaims was not disclosed to the PTO during
13 prosecution of the Puri '878 Patent. MPT denies the remaining allegations of referenced
14 paragraph 157 of the Apple Counterclaims.

15 Referenced Paragraph 158. MPT admits that the Safranek/Johnston Article was
16 cited in an article authored by Drs. Aravind and Puri. No response as to the contents of the
17 Safranek/Johnston Article is required, as that document speaks for itself. MPT lacks
18 knowledge or information sufficient to form a belief as to the truth of the remaining
19 allegations in referenced paragraph 158 of the Apple Counterclaims and, on that basis,
20 denies them.

21 Referenced Paragraph 159. MPT denies the allegations of referenced paragraph
22 159 of the Apple Counterclaims.

23 Referenced Paragraph 160. MPT denies the allegations of referenced paragraph
24 160 of the Apple Counterclaims.

25 31. MPT admits that there is an actual controversy between MPT and Apple regarding
26 the enforceability of the Puri '878 Patent, but denies that Apple's Fourth Counterclaim has any
27 merit. MPT admits that Apple purports to request a declaration that the Puri '878 Patent is
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1 unenforceable, but denies the viability of that request. MPT denies the remaining allegations of
2 paragraph 31 of the Apple Counterclaims.

3 32. MPT denies that Apple is entitled to any remedy on its Fourth Counterclaim.

4 33. The statement in paragraph 33 of the Apple Counterclaims consists entirely of
5 reservation of rights by Apple as to which no response is required. MPT denies any allegations
6 contained in paragraph 33 of the Apple Counterclaims.

7 **FIFTH COUNTERCLAIM**

8 **(Declaratory Judgment of Non-Infringement and/or Invalidity of the Johnston '377 Patent)**

9 34. MPT incorporates by reference the foregoing paragraphs, inclusive, as though set
10 forth in full herein.

11 35. MPT admits the allegations of paragraph 35 of the Apple Counterclaims.

12 36. MPT denies the allegations of paragraph 36 of the Apple Counterclaims.

13 37. The allegations set forth in paragraph 37 of the Apple Counterclaims are vague and
14 uncertain, and are therefore denied. To the extent that the term “foregoing contentions” refers to
15 the allegations contained in paragraph 36, MPT incorporates its response to paragraph 36 as if
16 fully set forth herein.

17 38. MPT admits that there is an actual and justiciable controversy between MPT and
18 Apple regarding the infringement of the Johnston '377 Patent. Except as so admitted, the
19 allegations of Paragraph 38 are denied.

20 39. MPT admits that Apple purports to request a declaratory judgment under the
21 Declaratory Judgment Act for noninfringement and invalidity of the Johnston '377 Patent, but
22 denies the viability of that request.

23 40. MPT denies that Apple is entitled to any remedy on its Fifth Counterclaim.

24 **SIXTH COUNTERCLAIM**

25 **(Declaratory Judgment of Unenforceability of the Johnston '377 Patent**

26 **Due to Inequitable Conduct)**

27 41. MPT incorporates by reference the foregoing paragraphs, inclusive, as though set
28 forth in full herein.

1 42. MPT denies the allegations of paragraph 42 of the Apple Counterclaims.

2 43. Answering paragraph 43 of Apple's Counterclaims, in which Apple purports to
3 incorporate by reference paragraphs 76, 161-191 of Apple's Answer, which set forth a portion of
4 Apple's Thirteenth Affirmative Defense, MPT responded to referenced paragraph 76 above and
5 incorporates that response herein by this reference. MPT responds to the remaining individual
6 referenced paragraphs as follows:

7 Referenced Paragraph 161. MPT denies the allegations of referenced paragraph
8 161 of the Apple Counterclaims.

9 Referenced Paragraph 162. MPT denies the allegations of referenced paragraph
10 162 of the Apple Counterclaims.

11 Referenced Paragraph 163. MPT admits the allegations of referenced paragraph
12 163 of the Apple Counterclaims.

13 Referenced Paragraph 164. The first sentence of referenced paragraph 164 of the
14 Apple Counterclaims consists entirely of legal conclusions as to which no response is
15 required. MPT admits that the named inventors on the Johnston '377 Patent signed a
16 sworn statement in February 1991. No response is required to the additional allegations
17 concerning the contents of that sworn statement because that document speaks for itself.
18 MPT denies the remaining allegations of referenced paragraph 164 of the Apple
19 Counterclaims.

20 Referenced Paragraph 165. MPT admits that Apple recites claim 1 of the Johnston
21 '377 Patent. No response as to the contents of the Johnston '377 Patent is required, as the
22 Johnston '377 Patent speaks for itself. MPT denies any remaining allegations of
23 referenced paragraph 165 of the Apple Counterclaims.

24 Referenced Paragraph 166. MPT admits that a PTO Office Action was mailed on
25 or about September 13, 1991 (the "September 13, 1991 Office Action"). No response is
26 required to the additional allegations concerning the contents of the September 13, 1991
27 Office Action because the September 13, 1991 Office Action speaks for itself. MPT
28 denies any remaining allegations of referenced paragraph 166 of the Apple Counterclaims.

1 Referenced Paragraph 167. MPT admits that a response to the September 13, 1991
2 Office Action was submitted by the applicants on or about January 17, 1992 (the “January
3 17, 1992 Response”). No response is required to Apple’s further allegations concerning
4 the contents of the January 17, 1992 Response, because that document speaks for itself.
5 MPT denies any remaining allegations of referenced paragraph 167 of the Apple
6 Counterclaims.

7 Referenced Paragraph 168. MPT lacks knowledge or information sufficient to
8 form a belief as to the truth of the allegations in the first and third sentences of referenced
9 paragraph 168 of the Apple Counterclaims and, on that basis, denies them. In addition, no
10 response is required because the January 17, 1992 Response and the Johnston ‘377 Patent
11 speak for themselves. MPT denies the remaining allegations of referenced paragraph 168
12 of the Apple Counterclaims.

13 Referenced Paragraph 169. No response as to the contents of Digital Pictures is
14 required, as that document speaks for itself. MPT lacks knowledge or information
15 sufficient to form a belief as to the truth of the remaining allegations in referenced
16 paragraph 169 of the Apple Counterclaims and, on that basis, denies them.

17 Referenced Paragraph 170. No response as to the contents of Digital Pictures is
18 required, as that document speaks for itself. MPT denies any remaining allegations of
19 referenced paragraph 170 of the Apple Counterclaims.

20 Referenced Paragraph 171. No response as to the contents of Digital Pictures is
21 required, as that document speaks for itself. MPT lacks knowledge or information
22 sufficient to form a belief as to the truth of the remaining allegations in referenced
23 paragraph 171 of the Apple Counterclaims and, on that basis, denies them.

24 Referenced Paragraph 172. MPT lacks knowledge or information sufficient to
25 form a belief as to the truth of the allegations in referenced paragraph 172 of the Apple
26 Counterclaims and, on that basis, denies them.

27 Referenced Paragraph 173. MPT denies the allegations of referenced paragraph
28 173 of the Apple Counterclaims.

1 Referenced Paragraph 174. MPT admits that Apple recites a portion of the
2 Johnston ‘377 Patent. No response as to the contents of the Johnston ‘377 Patent or Digital
3 Pictures is required, as those documents speak for themselves. MPT denies any remaining
4 allegations of referenced paragraph 174 of the Apple Counterclaims.

5 Referenced Paragraph 175. MPT admits that Mr. Netravali is a co-author of
6 Digital Pictures. MPT lacks knowledge or information sufficient to form a belief as to the
7 truth of the remaining allegations in referenced paragraph 175 of the Apple Counterclaims
8 and, on that basis, denies them.

9 Referenced Paragraph 176. MPT denies the allegations of referenced paragraph
10 176 of the Apple Counterclaims.

11 Referenced Paragraph 177. Regarding the first sentence of referenced paragraph
12 177 of the Apple Counterclaims, MPT admits that there exists an article entitled
13 “Advances in Picture Coding” authored by Hans Musmann, Peter Pirsch, and Hans-
14 Joachim Grallert (the “Musmann Article”). MPT lacks knowledge or information
15 sufficient to form a belief as to the truth of the allegations in the second sentence of
16 referenced paragraph 177 of the Apple Counterclaims and, on that basis, denies them. No
17 response is required regarding the remaining allegations concerning the Musmann Article
18 because the document speaks for itself. MPT denies the remaining allegations of
19 referenced paragraph 177 of the Apple Counterclaims.

20 Referenced Paragraph 178. MPT lacks knowledge or information sufficient to
21 form a belief as to the truth of the allegations in referenced paragraph 178 of the Apple
22 Counterclaims and, on that basis, denies them.

23 Referenced Paragraph 179. MPT lacks knowledge or information sufficient to
24 form a belief as to the truth of the allegations in the first sentence of referenced paragraph
25 179 of the Apple Counterclaims and, on that basis, denies them. MPT denies the
26 remaining allegations of referenced paragraph 179 of the Apple Counterclaims.

27 Referenced Paragraph 180. The phrase “material contents” is so vague and
28 uncertain that MPT lacks sufficient information and knowledge to allow it to answer the

1 corresponding allegations, and therefore denies them. No response is required regarding
2 Digital Pictures and the Musmann Article because the documents speak for themselves.
3 MPT lacks knowledge or information sufficient to form a belief as to the truth of the
4 allegations in referenced paragraph 180 of the Apple Counterclaims concerning a
5 purported article entitled “Subband Coding of Images Sequences at Low Bit Rates” and,
6 on that basis, denies them. MPT denies the remaining allegations of referenced paragraph
7 180 of the Apple Counterclaims.

8 Referenced Paragraph 181. MPT admits that the Musmann Article was not
9 disclosed to the PTO during prosecution of the Johnston ‘377 Patent. MPT denies the
10 remaining allegations of referenced paragraph 181 of the Apple Counterclaims.

11 Referenced Paragraph 182. MPT lacks sufficient information and knowledge to
12 allow it to answer the allegations in Referenced paragraph 182, and therefore denies them.

13 Referenced Paragraph 183. MPT denies the allegations of referenced paragraph
14 183 of the Apple Counterclaims.

15 Referenced Paragraph 184. MPT lacks knowledge or information sufficient to
16 form a belief as to the truth of the allegations in the last sentence of referenced paragraph
17 184 of the Apple Counterclaims and, on that basis, denies them. MPT denies the
18 remaining allegations of referenced paragraph 184 of the Apple Counterclaims.

19 Referenced Paragraph 185. No response is required to the first sentence of
20 referenced paragraph 185 because the document cited by Apple speaks for itself. MPT
21 lacks knowledge or information sufficient to form a belief as to the truth of the allegations
22 in the second sentence of referenced paragraph 185 of the Apple Counterclaims and, on
23 that basis, denies them. MPT denies any remaining allegations of referenced paragraph
24 185 of the Apple Counterclaims.

25 Referenced Paragraph 186. MPT lacks knowledge or information sufficient to
26 form a belief as to the truth of the allegations in the first sentence of referenced paragraph
27 186 of the Apple Counterclaims and, on that basis, denies them. MPT lacks knowledge or
28 information sufficient to form a belief as to the truth of the allegations in referenced

1 paragraph 186 of the Apple Counterclaims concerning a purported article entitled “A
2 Perceptually Tuned Sub-Band Image Coder” and, on that basis, denies them. MPT denies
3 any remaining allegations of referenced paragraph 186 of the Apple Counterclaims.

4 Referenced Paragraph 187. MPT lacks knowledge or information sufficient to
5 form a belief as to the truth of the allegations in the first sentence of referenced paragraph
6 187 of the Apple Counterclaims and, on that basis, denies them. MPT denies the
7 remaining allegations of referenced paragraph 187 of the Apple Counterclaims.

8 Referenced Paragraph 188. MPT admits that the article cited by Apple in
9 referenced paragraph 188 of the Apple Counterclaims was not disclosed to the PTO during
10 prosecution of the Johnston ‘377 Patent. MPT denies the remaining allegations of
11 referenced paragraph 188 of the Apple Counterclaims.

12 Referenced Paragraph 189. The phrase “material contents” is so vague and
13 uncertain that MPT lacks sufficient information and knowledge to allow it to answer the
14 corresponding allegations, and therefore denies them. MPT lacks knowledge or
15 information sufficient to form a belief as to the truth of the remaining allegations in
16 referenced paragraph 189 of the Apple Counterclaims and, on that basis, denies them.

17 Referenced Paragraph 190. MPT denies the allegations of referenced paragraph
18 190 of the Apple Counterclaims.

19 Referenced Paragraph 191. MPT denies the allegations of referenced paragraph
20 191 of the Apple Counterclaims.

21 44. MPT admits that there is an actual controversy between MPT and Apple regarding
22 the enforceability of the Johnston ‘377 Patent, but denies that Apple’ Sixth Counterclaim has any
23 merit. MPT admits that Apple purports to request a declaration that the Johnston ‘377 Patent is
24 unenforceable, but denies the viability of that request. Except as so admitted, the allegations of
25 paragraph 44 are denied.

26 45. MPT denies that Apple is entitled to any remedy on its Sixth Counterclaim.
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46. The statement in paragraph 46 of the Apple Counterclaims consists entirely of reservation of rights by Apple as to which no response is required. MPT denies any allegations contained in paragraph 46 of the Apple Counterclaims.

DATED: April 11, 2011

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

By /s/ Bruce R. Zisser

Bruce R. Zisser
Attorneys for Plaintiff
MULTIMEDIA PATENT TRUST

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on April 11, 2011 to all counsel of record who are deemed to have consented to electronic service via the Court’s CM/ECF system per Civil Local Rule 5.4. Any other counsel of record will be served by electronic mail, facsimile and/or overnight delivery.

Dated: April 11, 2011

/s/ Bruce R. Zisser
Bruce R. Zisser