

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, D.C.

In the Matter of

CERTAIN PERSONAL DATA AND  
MOBILE COMMUNICATIONS DEVICES  
AND RELATED SOFTWARE

Inv. No. 337-TA-710

Order 115

Complainants Apple Inc. and NeXT Software, Inc. (collectively, "Apple") Move *In Limine* to Preclude Respondents From (1) Calling Certain "Witnesses" at the Hearing That Respondents did not Identify on Their September 30, 2010, Witness List; and (2) Introducing, Using, or Relying on Their Untimely-Produced, Hearsay Declarations. (Motion No. 710-129). Respondents HTC Corp., HTC America, Inc., and Exedeia, Inc. (collectively, "HTC") do not dispute that the individuals that are the subject of Apple's motion *in limine* have not been identified on respondents' witness list. Apple's motion is granted, in part.

**Group 1**

The following individuals may testify at the hearing, but only to the extent that their testimony concerns the authentication of documents: Lynn Berard; Mel Desart; Robert Ellett; Minh Nguyen; Marcia Trauernicht; Vaughn Vernon and Eric L. Clayberg (¶ 5 only).<sup>1</sup> Given the limited nature of the witnesses' testimony, and the fact that Apple has previously been aware of the declarations, complainants' ability to cross-examine these individuals at hearing satisfies the court that it will not suffer undue prejudice.

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<sup>1</sup> In lieu of witness testimony, the parties may stipulate to the admission of the corresponding witness declaration.


**Group 2**

The following individuals may not testify at the hearing (nor may their declarations be admitted into evidence) given the substantive nature of their expected testimony and HTC's failure to include them on its witness list: Diana Cohen; Brian Holtz (*see* Order 111); Jane-Ellen Long; Bruce Newberger; Mark (Zack) Urlocker; and John Zussman.

**Group 3**

The court has been unable to locate the subject declarations of the following individuals: Dave Otway; Alastair Tocher; David Tulo; and Andrew Watson. Respondents may provide these declarations at the April 15, 2011, prehearing conference in the event that they wish a ruling.

So Ordered.

  
\_\_\_\_\_  
Carl C. Charneski  
Administrative Law Judge

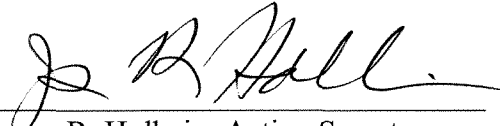
Issued: April 14, 2011

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**PUBLIC CERTIFICATE OF SERVICE**

I, James R. Holbein, hereby certify that the attached **ORDER 115** has been served by hand upon the Commission Investigative Attorney Erin D. E. Joffre, Esq, and the following parties as indicated, on April 15, 2011.



James R. Holbein, Acting Secretary.  
U.S. International Trade Commission  
500 E Street, SW, Room 112A  
Washington, D.C. 20436

**FOR COMPLAINANTS APPLE INC.,  
f/k/a APPLE COMPUTER INC., AND  
NEXT SOFTWARE, INC. f/k/a NeXT  
COMPUTER:**

F. Christopher Mizzo, Esq.  
**KIRKLAND & ELLIS LLP**  
655 Fifteenth Street, N.W.  
Washington, D.C. 20005-5793

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: \_\_\_\_\_

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**FOR RESPONDENT HIGH TECH  
COMPUTER CORP. a/k/a/ HTC CORP.,  
HTC AMERICA INC. AND EXEDEA,  
INC.:**

James B. Coughlan, Esq.  
**PERKINS COIE LLP**  
700 13<sup>th</sup> St., N.W.  
Suite 600  
Washington, D.C. 20005

Via Hand Delivery  
 Via Overnight Mail  
 Via First Class Mail  
 Other: \_\_\_\_\_

**FOR RESPONDENTS NOKIA CORP.  
AND NOKIA INC.:**

Paul F. Brinkman, Esq.  
**ALSTON & BIRD LLP**  
950 F Street, N.W.  
Washington, D.C. 20004

Via Hand Delivery  
 Via Overnight Mail  
 Via First Class Mail  
 Other: \_\_\_\_\_

**PUBLIC MAILING LIST**

**Heather Hall**  
LEXIS-NEXIS  
9443 Springboro Pike  
Miamisburg, OH 45342

**Kenneth Clair**  
Thomson West  
1100 Thirteen Street, NW, Suite 200  
Washington, D.C. 20005