OIPE IAP90
AUG 25 2006
PATENT & TRADEMARK OFFICE

TTAB

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

NEXTEL COMMUNICATIONS, INC., Opposer,	)	
v.	)	Opp. No.: 91/161,817 App. No.: 78/235,618 Pot. Mark: SENSORY MARK (911 Hz tone)
MOTOROLA, INC., Applicant.	)	

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

OPPOSER'S FIRST NOTICE OF RELIANCE

Pursuant to 37 C.F.R. § 2.120 and TMBP § 704.02, Opposer, Nextel Communications, Inc., hereby gives notice that it may rely on any or all of the materials attached hereto in the trial of this matter as described below:

A. File History for Application Serial No. 78/575,442, which is relevant to show, among other things, an application for a sound mark owned by Opposer and used in the telecommunications services industry. Pursuant to 37 C.F.R. § 2.122(e), the document need not be certified.

B. Applicant's Responses to Opposer's First Set of Interrogatories, Nos. 5, 6, 7, 8, 10, 16, 17, 20, and 22.

08-25-2006
U.S. Patent & TMOfc/TM Mail Rcpt Dt. #72

C. The following pages and exhibits from the Rule 30(b)(6) deposition of DAVID ERIC KLEIN, all of which are marked CONFIDENTIAL – ATTORNEYS EYES ONLY:

Pages: 13-14; 17-18; 25; 27-28; 32-33; 42-50; 55-70; 89-95; 101-111; 117-120; 123.

Exhibits: Ex. 2; Ex. 3; Ex. 4; Ex. 5; Ex. 10; Ex. 11.

D. Applicants Responses to Opposer's First Set of Requests for Admissions, Nos. 5, 6.

E. Applicant's Responses to Opposer's Second Set of Requests for Admissions, Nos. 38-39, and 117. The Motorola production documents related to those responses, MOT_000086-000092 and MOT_004672-004673 are marked CONFIDENTIAL – ATTORNEYS EYES ONLY.

F. Applicant's Responses to Opposer's Second Set of Interrogatories, No. 3.

G. Applicant's produced documents Bates Nos. MOT_004796-005451 and MOT_004773-004774, as admissions against interest, all of which are marked CONFIDENTIAL – ATTORNEYS EYES ONLY.

H. Pursuant to 37 C.F.R. § 2.122(e), the following attached printed publication/periodical available to the general public in libraries and/or of general circulation among members of the public or that segment of the public which is relevant to the issues in this proceeding:

American City & County, April 2003, Pages 23 and back cover, showing advertisements placed by Motorola and Nextel, showing that Applicant and Opposer advertise in the same magazines.

Respectfully submitted,

August 25, 2006

John I. Stewart, Jr.
Attorney for Opposer

CROWELL & MORING LLP
1001 Pennsylvania Avenue, NW
Washington, DC 20004
Telephone No.: (202) 624-2500
Facsimile No.: (202) 628-5116

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the OPPOSER'S FIRST NOTICE OF RELIANCE was served on counsel for the Applicant, this 25th day of August, 2006, by sending same via e-mail and First Class Mail, postage prepaid, to:

John T. Gabrielides
Thomas Williams
BRINKS HOFER GILSON & LIONE
P.O. Box 10395
Chicago, IL 60610

William J. Sauers

EXHIBIT A

NOTE TO THE FILE

SERIAL NUMBER: 78575442

DATE: 02/09/2006

NAME: dcarroll

NOTE:

__ Checked LEXIS/NEXIS

__ Searched internet using [insert search engine or web site]

__ Checked with Law Library re surname.

__ Checked geographic significance.

__ Checked with translations branch.

__ Checked ID with ID/Class

__ Checked ID with Senior Attorney/Managing Attorney

__ Telephoned attorney/applicant leaving message re: _____

__ Telephoned attorney/applicant, application was signed on __

__ Personal interview conducted with attorney/applicant re ____

__ Attorney/applicant called to discuss ____

__ Bulky specimens with examiner.

__ Acronym website searched.

__ Changed Tradeups to add.____

__ Changed Tradeups to delete.____

X OTHER (insert reason for Note) **can't do that. There was a sound recording but by the time it wound up in TICRS is was just a scan of the disc itsrelf. All that can be provided is the app and the reg - the description of the mark is on both.**

Jessie

-----Original Message-----

From: Baird, Michael

Sent: Wednesday, January 25, 2006 2:15 PM

To: Roberts, Jessie

Cc: Carroll, Doritt

Subject: FW: Granted Letter of Protest for 78575442 - (A SOUND MARK)...

Hi, Jessie,

Could you please have Program Control "un-hide" the relevant portions of the Letter of Protest so that the examiner (and her manager!) can review the evidence/issues involved?

Thank you.

Mike

To:	S-N MERGER CORP. (jstewart@crowell.com)
Subject:	TRADEMARK APPLICATION NO. 78575442 - 100773.13155
Sent:	2/9/2006 4:02:58 PM
Sent As:	ECOM116@USPTO.GOV
Attachments:	Attachment - 1

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 78/575442

APPLICANT: S-N MERGER CORP.

78575442

CORRESPONDENT ADDRESS:
JOHN I. STEWART, JR.
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
1001 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20004

RETURN ADDRESS:
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

MARK:

CORRESPONDENT'S REFERENCE/DOCKET NO: 100773.13155

CORRESPONDENT EMAIL ADDRESS:
jstewart@crowell.com

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

OFFICE ACTION

RESPONSE TIME LIMIT: TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE MAILING OR E-MAILING DATE.

MAILING/E-MAILING DATE INFORMATION: If the mailing or e-mailing date of this Office action does not appear above, this information can be obtained by visiting the USPTO website at http://tarr.uspto.gov/, inserting the application serial number, and viewing the prosecution history for the mailing date of the most recently issued Office communication.

Serial Number 78/575442

The trademark examining attorney has reassessed the application in light of the evidence supplied with the granted Letter of Protest. A copy of the evidence presented in the Letter of Protest and the memorandum that accompanied the evidence can be viewed at http://www.uspto.gov/teas/index.html. *See* TMEP §§1715 *et seq.* regarding Letters of Protest.

Upon careful consideration of the application in light of this new evidence, the trademark examining attorney has determined that a prior pending application must be referenced.

Search Results

Information regarding pending Application Serial No. 78/575442 is enclosed. The filing date of the referenced application precedes applicant's filing date. There may be a likelihood of confusion between the two marks under Trademark Act Section 2(d), 15 U.S.C. §1052(d). If the referenced application registers, registration may be refused in this case under Section 2(d). 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, upon entry of a response to this Office action, action on this case may be suspended pending final disposition of the earlier-filed application.

If applicant believes there is no potential conflict between this application and the earlier-filed application, then applicant may present arguments relevant to the issue in a response to this Office action. The election not to submit arguments at this time in no way limits applicant's right to address this issue at a later point.

Informalities

In addition to this refusal, the trademark examining attorney maintains the requirements of the Office action dated September 27, 2005, and incorporates them by reference in this action. Therefore, a proper response to this Office action must address each issue raised in the preceding Office action as well as the above refusal.

/Doritt Carroll/

Trademark Examining Attorney

Law Office 116

Phone: (571) 272-9138

Fax: (571) 273-9138

www.uspto.gov/teas/index.html

HOW TO RESPOND TO THIS OFFICE ACTION:

- ONLINE RESPONSE: You may respond formally using the Office's Trademark Electronic Application System (TEAS) Response to Office Action form (visit http://www.uspto.gov/teas/index.html and follow the instructions, but if the Office Action has been issued via email, you must wait 72 hours after receipt of the Office Action to respond via TEAS).
- REGULAR MAIL RESPONSE: To respond by regular mail, your response should be sent to the mailing return address above and include the serial number, law office number and examining attorney's name in your response.

STATUS OF APPLICATION: To check the status of your application, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at http://tarr.uspto.gov.

VIEW APPLICATION DOCUMENTS ONLINE: Documents in the electronic file for pending applications can be viewed and downloaded online at http://portal.uspto.gov/external/portal/tow.

GENERAL TRADEMARK INFORMATION: For general information about trademarks, please visit the Office's website at http://www.uspto.gov/main/trademarks.htm

FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY SPECIFIED ABOVE.

SENSORY MARK

Serial Number
78235365

Status
OPPOSITION PENDING

Type of Mark
TRADEMARK

Register
PRINCIPAL

Mark Drawing Code
(6) SENSORY MARK

Owner
Motorola, Inc. CORPORATION DELAWARE 1303 East Algonquin Road
Schaumburg ILLINOIS 60196

Goods/Services
Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S: Cellular telephones and two-way radios. First Use: 1996/04/30. First Use In Commerce: 1996/04/30.

Description of Mark
The mark consists of an electronic chirp consisting of a tone at 1800 Hz played at a cadence of 24 milliseconds ON, 24 ms OFF, 24 ms ON, 24 ms OFF, 48 ms ON.

Filing Date
2003/04/08

Examining Attorney
TAYLOR, DAVID

Attorney of Record
Carolyn E. Knecht

*** User:dcarroll ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	1	0	1	0	0:01	78235365[sn]

Session started 2/9/2006 3:58:40 PM
Session finished 2/9/2006 3:59:08 PM
Total search duration 0 minutes 1 seconds
Session duration 0 minutes 28 seconds
Defaut NEAR limit=1ADJ limit=1
Sent to TICRS as Serial Number: 78575442

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451
www.uspto.gov

MEMORANDUM

DATE:

TO: Doritt Carrol
Examining Attorney
Law Office 116

FROM: Jessie N. Roberts
Administrator for Trademark
Classification & Practice

SUBJECT: Letter of Protest concerning Application Serial No. 78575442

The above-referenced Letter of Protest contains the following objection:

The existence of prior-filed application SN 78235365 for the identical sound mark as applicant used in connection with goods that are highly related to applicant's services.

The following evidence was referred to in the Letter of Protest:

Information concerning SN 78235365 may be found in the Office records of TRAM, TICRS and X-Search.

A Letter of Protest is granted if the evidence presented by the protester established a clear case which supports a refusal, requirement or suspension in an application. Publication of the mark for opposition without consideration of the issue and evidence presented in the Letter of Protest may result in a clear error by the Office. This standard has been met by this Letter of Protest. Therefore, a refusal, requirement or suspension based on the objection presented in the Letter of Protest should be issued. Applicant, of course, may present argument concerning this action.

MEMORANDUM

DATE:

TO: Meryl Hershkowitz
Managing Attorney
Law Office 116

FROM: Jessie N. Roberts
Administrator for Trademark
Classification and Practice

RE: Letter of Protest concerning Application Serial No. 78575442

A Letter of Protest was granted in the above-identified application. You should determine whether the subject matter of the Letter should be counted as an error of the Examining Attorney. Then, the file should be given to the Examining Attorney for preparation of a letter in accordance with the information provided by the Letter of Protest. Since this Letter was granted before publication of the mark, jurisdiction is still with the Examining Attorney. Therefore, the Office action does not have to be approved by you or the Administrator for Policy and Procedure as it would be if jurisdiction had been restored to the Examining Attorney.

To:	Nextel Communications, Inc. (jstewart@crowell.com)
Subject:	TRADEMARK APPLICATION NO. 78575442 - 100773.13155
Sent:	9/27/2005 1:43:35 PM
Sent As:	ECOM116@USPTO.GOV
Attachments:	

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 78/575442

APPLICANT: Nextel Communications, Inc.

78575442

CORRESPONDENT ADDRESS:
JOHN I. STEWART, JR.
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
1001 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20004

RETURN ADDRESS:
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

MARK:

CORRESPONDENT'S REFERENCE/DOCKET NO: 100773.13155

CORRESPONDENT EMAIL ADDRESS:
jstewart@crowell.com

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

OFFICE ACTION

RESPONSE TIME LIMIT: TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE MAILING OR E-MAILING DATE.

Serial Number 78/575442

Search Results

The Office records have been searched and no similar registered or pending mark has been found that would bar registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d). TMEP §704.02.

Recitation of Services

The wording used to describe the services needs clarification as set forth in detail below. TMEP §1402.01.

"And other information" is vague. The applicant must either substitute clear language or delete this phrase (really, if it isn't "voice, data, pictures, music, video" what else could it be"?)

"Two way radio services" is vague. If accurate, the applicant may adopt "two-way radio *broadcasting* services."

"Transmission of positioning, tracking, etc." is confusing. Does the applicant mean "satellite transmission services, namely, ____"?

"Wireless data services" is vague. If accurate, the applicant may adopt, "wireless communications services, namely, transmission of electronic mail, facsimiles, data, images, music, information, text, numeric messaging and text messaging, and providing access to a global communications network, all by means of mobile devices."

"Wireless communications services" is vague. The applicant must add "namely" followed by a specific list of services.

Please note that, while the identification of services may be amended to clarify or limit the services, adding to the services or broadening the scope of the services is not permitted. 37 C.F.R. §2.71(a); TMEP §1402.06. Therefore, applicant may not amend the identification to include services that are not within the scope of the services set forth in the present identification.

The applicant must rewrite the identification of goods in its entirety because of the nature and extent of the amendment. 37 C.F.R. §2.74(b).

Specimen

This application does not include a specimen for any of the identified class(es) of services. A specimen showing use of the mark in commerce for each class of services is required for an application based on use of the mark in commerce under Trademark Act Section 1(a), 15 U.S.C. §1051(a). TMEP §904.

Applicant must submit (1) a specimen (i.e., an example of how applicant actually uses its mark in the sale or advertising of its services) for each class of services showing the mark as it is used in commerce, and, (2) a statement that "**the specimen was in use in commerce at least as early as the filing date of the application,**" verified with an affidavit or **signed declaration** under 37 C.F.R. §2.20. 37 C.F.R. §2.56(a); TMEP §§904.01 *et seq* 904.09. A sample declaration is set forth below:

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application or any resulting

registration, declares that the facts set forth in this application are true; all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

_____

(Signature)

_____

(Print or Type Name and Position)

_____

(Date)

For sound marks, a specimen typically consists of a recording of the sound. A DVD of a television commercial that makes use of the sound may be used, for example. The applicant simply must keep in mind that the specimen must show the mark actually in use in the applicant's business to identify the services. If the applicant wishes to submit its sound using the electronic filing system, the instructions below will apply:

Sound Marks and Electronic Filing

Although the filing of sounds marks electronically does require some "exception processing," these can be done through TEAS. The sound mark specimen, consisting of a WAV file or MP3 file, can be sent as an e-mail attachment directly to the TEAS Support Team, at **teas@uspto.gov**. However, because the TEAS form will require a JPG attachment for the specimen, the applicant must still create a JPG file for this purpose; however, it need only consist of a statement that "A WAV file (or MP3 file) has been sent directly to the TEAS Support Team for processing." For easier association of the WAV (or MP3) file with the proper application, the applicant should submit the actual application first, and then reference in the e-mail to the TEAS Support Team the assigned serial number and an indication that this is a "new application." All other filings (*e.g.*, an Allegation of Use, a Section 8, *etc.*) should be done in the same manner, with the serial number or registration number referenced in the e-mail, and a clear indication of the type of filing.

/Doritt Carroll/

Trademark Examining Attorney

Law Office 116

Phone: (571) 272-9138

Fax: (571) 273-9138

www.uspto.gov/teas/index.html

HOW TO RESPOND TO THIS OFFICE ACTION:

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- REGULAR MAIL RESPONSE: To respond by regular mail, your response should be sent to the mailing return address above and include the serial number, law office number and examining attorney's name in you response.

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FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY SPECIFIED ABOVE.

*** User:dcarroll ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	277	129	148	0	0:02	"6"[md]

Session started 9/27/2005 7:31:05 AM
Session finished 9/27/2005 7:41:06 AM
Total search duration 0 minutes 2 seconds
Session duration 10 minutes 1 seconds
Defaut NEAR limit=1ADJ limit=1
Sent to TICRS as Serial Number: 78575442

NO DRAWING (SOUND MARK)

Trademark/Service Mark Application, Principal Register

Serial Number: 78575442
Filing Date: 02/25/2005

The table below presents the data as entered.

Input Field	Entered
MARK SECTION	
MARK	NO DRAWING (SOUND MARK)
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	NO DRAWING (SOUND MARK)
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
OWNER SECTION	
NAME	Nextel Communications, Inc.
STREET	2001 Edmund Halley Drive
CITY	Reston
STATE	Virginia
ZIP/POSTAL CODE	20191
COUNTRY	United States
AUTHORIZED EMAIL COMMUNICATION	No
LEGAL ENTITY SECTION	
TYPE	CORPORATION
STATE/COUNTRY OF INCORPORATION	Delaware
GOODS AND/OR SERVICES SECTION	
INTERNATIONAL CLASS	038
DESCRIPTION	Telecommunication services, namely, electronic, electric and digital transmission of voice, data, pictures, music, video, and other information via wireless networks; Two-way radio services; Electronic transmission of voice, text, images, data, music and information by means of two-way radios, mobile radios, cellular telephones, digital cellular telephones, mobile telephones, handheld units, namely, personal computers and digital assistants (PDAs), dispatch radios, and pagers; Paging services; Transmission of positioning, tracking, monitoring and security data via wireless communications devices; Mobile telephone communication services; Wireless Internet access services; Wireless data services for mobile devices via a wireless network for the purpose of sending and receiving electronic mail, facsimiles, data, images, music, information, text, numeric messaging and text messaging and for accessing a global communications network; Telecommunication services, namely, providing user access to telephone and Internet wired or wireless networks for the transmission of voice, data, images,

	music or video via a combination of persistent interconnection and instant interconnection/instant interrupt technologies; Wireless communications services.
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 05/16/1997
FIRST USE IN COMMERCE DATE	At least as early as 05/16/1997
ADDITIONAL STATEMENTS SECTION	
MISCELLANEOUS STATEMENT	Description of the Sound Mark: The sound mark consists of a tone at 1800 Hz played at a cadence of 24 milliseconds (ms) ON, 24 ms OFF, 24 ms ON, 24 ms OFF, 48 ms ON.
SIGNATURE SECTION	
SIGNATURE	/John I. Stewart, Jr./
SIGNATORY NAME	John I. Stewart, Jr.
SIGNATORY DATE	02/25/2005
SIGNATORY POSITION	Attorney for Applicant
PAYMENT SECTION	
NUMBER OF CLASSES	1
NUMBER OF CLASSES PAID	1
SUBTOTAL AMOUNT	325
TOTAL AMOUNT	325
ATTORNEY	
NAME	John I. Stewart, Jr.
FIRM NAME	Crowell & Moring LLP
INTERNAL ADDRESS	Intellectual Property Group
STREET	1001 Pennsylvania Avenue, N.W.
CITY	Washington
STATE	District of Columbia
ZIP/POSTAL CODE	20004
COUNTRY	United States
PHONE	(202) 624-2500
FAX	(202) 628-5116
EMAIL	jstewart@crowell.com
AUTHORIZED EMAIL COMMUNICATION	Yes
ATTORNEY DOCKET NUMBER	100773.13155US
OTHER APPOINTED ATTORNEY(S)	Michael H. Jacobs, Karen C. Hermann, William J. Sauers
CORRESPONDENCE SECTION	
NAME	John I. Stewart, Jr.
FIRM NAME	Crowell & Moring LLP

INTERNAL ADDRESS	Intellectual Property Group
STREET	1001 Pennsylvania Avenue, N.W.
CITY	Washington
STATE	District of Columbia
ZIP/POSTAL CODE	20004
COUNTRY	United States
PHONE	(202) 624-2500
FAX	(202) 628-5116
EMAIL	jstewart@crowell.com
AUTHORIZED EMAIL COMMUNICATION	Yes
FILING INFORMATION	
SUBMIT DATE	Fri Feb 25 16:29:47 EST 2005
TEAS STAMP	USPTO/BAS-204194118132-20 050225162947012611-785754 42-2002814bed4a6f28b23f9e 4697fd1f8c22-DA-349-20050 225162322370808

Trademark/Service Mark Application, Principal Register

Serial Number: 78575442
Filing Date: 02/25/2005

To the Commissioner for Trademarks:

MARK: (Standard Characters, see mark)
The mark consists of standard characters, without claim to any particular font, style, size, or color.
The literal element of the mark consists of NO DRAWING (SOUND MARK).
The applicant, Nextel Communications, Inc., a corporation of Delaware, residing at 2001 Edmund Halley Drive, Reston, Virginia, United States, 20191, requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.
The applicant, or the applicant's related company or licensee, is using the mark in commerce, and lists below the dates of use by the applicant, or the applicant's related company, licensee, or predecessor in interest, of the mark on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended.

International Class 038: Telecommunication services, namely, electronic, electric and digital transmission of voice, data, pictures, music, video, and other information via wireless networks; Two-way radio services; Electronic transmission of voice, text, images, data, music and information by means of two-way radios, mobile radios, cellular telephones, digital cellular telephones, mobile telephones, handheld units, namely, personal computers and digital assistants (PDAs), dispatch radios, and pagers; Paging services; Transmission of positioning, tracking, monitoring and security data via wireless communications devices; Mobile telephone communication services; Wireless Internet access services; Wireless data services for mobile devices via a wireless network for the purpose of sending and receiving electronic mail, facsimiles, data, images, music, information, text, numeric messaging and text messaging and for accessing a global communications network; Telecommunication services, namely, providing user access to telephone and Internet wired or wireless networks for the transmission of voice, data, images, music or video via a combination of persistent interconnection and instant interconnection/instant interrupt technologies; Wireless communications services.
In International Class 038, the mark was first used at least as early as 05/16/1997, and first used in commerce at least as early as 05/16/1997, and is

now in use in such commerce. The applicant is submitting or will submit one specimen for *each class* showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services.

Description of the Sound Mark: The sound mark consists of a tone at 1800 Hz played at a cadence of 24 milliseconds (ms) ON, 24 ms OFF, 24 ms ON, 24 ms OFF, 48 ms ON.

The applicant hereby appoints John I. Stewart, Jr. and Michael H. Jacobs, Karen C. Hermann, William J. Sauers of Crowell & Moring LLP, Intellectual Property Group, 1001 Pennsylvania Avenue, N.W., Washington, District of Columbia, United States, 20004 to submit this application on behalf of the applicant. The attorney docket/reference number is 100773.13155US.

The USPTO is authorized to communicate with the applicant or its representative at the following email address: jstewart@crowell.com.

A fee payment in the amount of $325 will be submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /John I. Stewart, Jr./ Date: 02/25/2005

Signatory's Name: John I. Stewart, Jr.

Signatory's Position: Attorney for Applicant

Mailing Address:

John I. Stewart, Jr.
Intellectual Property Group
1001 Pennsylvania Avenue, N.W.
Washington, District of Columbia 20004

RAM Sale Number: 349

RAM Accounting Date: 02/28/2005

Serial Number: 78575442

Internet Transmission Date: Fri Feb 25 16:29:47 EST 2005

TEAS Stamp: USPTO/BAS-204194118132-20050225162947012
611-78575442-2002814bed4a6f28b23f9e4697f
d1f8c22-DA-349-20050225162322370808

NO DRAWING (SOUND MARK)

EXHIBIT B

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

NEXTEL COMMUNICATIONS, INC.,	)	
	)	
Opposer,	)	
	)	Opp. No.: 91161817
v.	)	App. No.: 78/235,618
	)	Mark: Sensory Mark
MOTOROLA, INC.,	)	(911 Hz tone)
	)	
Applicant.	)	
	)	

APPLICANT'S RESPONSE TO OPPOSER'S
FIRST SET OF INTERROGATORIES TO APPLICANT

Applicant responds to Opposer's First Set of Interrogatories to Applicant as follows.

The "General Objections" set forth in Applicant's Response to Opposer's First Request of Applicant for Production of Documents and Things are incorporated herein by reference.

INTERROGATORIES

INTERROGATORY NO. 1:

Identify each related entity (including subsidiaries, parent companies, and other related companies) of Opposer that sells products or offers services that feature or are associated with the 911 Hz Tone.

RESPONSE TO NO. 1:

Subject to the General Objections set forth above, Applicant is unaware of any related entity of Opposer that sells products or offers services that feature or are associated with the 911 Hz Tone.

INTERROGATORY NO. 4:

Describe in detail the meaning and significance of the 911 Hz Tone (including the selection of the frequency and the timing of the components of the same) with respect to Applicant's products, and identify all documents relating to same said meaning and significance.

RESPONSE TO NO. 4:

Subject to the General Objections set forth above, the 911 Hz Tone has no meaning or significance apart from signifying the source of Applicant's goods/services. Also subject to the General Objections set forth above, Applicant will produce business records responsive to this Interrogatory, in accordance with Rule 33(d), Fed. R. Civ. P.

INTERROGATORY NO. 5:

Describe in detail the manner in which the 911 Hz Tone is or has been affixed to any goods (including the 911 Hz Tone Products), and identify all documents that evidence said affixation.

RESPONSE TO NO. 5:

The 911 Hz Tone is affixed to Motorola's two-way radios and cellular telephones through an electronic chip resident in the device and from which the sound originates and emanates. Also subject to the General Objections set forth above, Applicant will produce business records responsive to this Interrogatory, in accordance with Rule 33(d), Fed. R. Civ. P.

INTERROGATORY NO. 6:

Describe in detail the manner in which Applicant purports to use or have used the 911 Hz Tone in commerce, and identify all documents that evidence said use.

RESPONSE TO NO. 6:

Subject to the General Objections set forth above, Applicant has used the 911 Hz Tone in commerce by, among other things, offering to sell and selling two-way radios and cellular telephones that contain the chip referred to above (*see* Response to No. 5) and from which the Tone can be heard. Also subject to the General Objections set forth above, Applicant will produce business records responsive to this Interrogatory, in accordance with Rule 33(d), Fed. R. Civ. P.

INTERROGATORY NO. 7:

Describe in detail how the 911 Hz Tone purportedly is used or has been used to promote the 911 Hz Tone Products to customers (including the dates of said promotions), and identify all documents that evidence said promotions.

RESPONSE TO NO. 7:

Subject to the General Objections set forth above, Applicant will produce business records responsive to this Interrogatory, in accordance with Rule 33(d), Fed. R. Civ. P.

INTERROGATORY NO. 8:

Identify all instances (by media form, title, date(s), page(s), issue(s), and such other identifying information as used by Applicant) in which Applicant advertised, advertises, or plans to advertise, promoted, promotes, or plans to promote the 911 Hz Tone Products in commerce.

RESPONSE TO NO. 8:

Subject to the General Objections set forth above, Applicant will produce business records responsive to this Interrogatory, in accordance with Rule 33(d), Fed. R. Civ. P.

INTERROGATORY NO. 9:

State the respective dollar amounts Applicant has expended, by year, in connection with the promotion and advertising of the 911 Hz Tone Products in each medium identified in response to the preceding Interrogatory and by all other means not so identified, and identify all documents that evidence said expenditures.

RESPONSE TO NO. 9:

Subject to the General Objections set forth above, Applicant will produce business records responsive to this Interrogatory, in accordance with Rule 33(d), Fed. R. Civ. P.

INTERROGATORY NO. 10:

Identify all instances (by media form, title, date(s), page(s), issue(s), and such other identifying information as used by Applicant) in which Applicant advertised, advertises, or plans to advertise, promoted, promotes, or plans to promote, used, uses, or plans to use the 911 Hz Tone in commerce.

RESPONSE TO NO. 10:

In addition to the General Objections set forth above, Applicant objects to this Interrogatory as being duplicative of Interrogatory No. 8, and Applicant incorporates herein its Response to No. 8.

INTERROGATORY NO. 16:

Identify Applicant's five (5) major competitors for the 911 Hz Tone Products in the United States, and identify all correspondence or communications with same that relate to trademarks.

RESPONSE TO NO. 16:

Subject to the General Objections set forth above, Applicant identifies: MA/Com, Kenwood, EF Johnson, Icom, and Vertex. Also, subject to the General Objections set forth above, Applicant will produce business records responsive to this Interrogatory, in accordance with Rule 33(d), Fed. R. Civ. P.

INTERROGATORY NO. 17:

Identify all prior and current third-party uses of the 911 Hz Tone of which Opposer has knowledge, and identify all documents relating to said uses.

RESPONSE TO NO. 17:

Subject to the General Objections set forth above, none.

INTERROGATORY NO. 18:

Provide all internet domain name addresses for web sites of Applicant that feature the 911 Hz Tone (including those directed to the 911 Hz Tone Products).

RESPONSE TO NO. 18:

Subject to the General Objections set forth above, all products and services offered by Applicant are accessible through www.motorola.com.

INTERROGATORY NO. 19:

Identify and describe the channels of trade through which the 911 Hz Tone Products were, are, or will be promoted, offered for sale and sold to customers, and identify all documents that reflect use in said channels of trade.

RESPONSE TO NO. 19:

In addition to the General Objections set forth above, Applicant objects to this Interrogatory as being duplicative of Interrogatory No. 15, and Applicant incorporates herein its Response to No. 15.

INTERROGATORY NO. 20:

Identify all licensing activity related to the 911 Hz Tone, and identify all documents that reflect such licensing activity.

RESPONSE TO NO. 20:

Subject to the General Objections set forth above, none.

INTERROGATORY NO. 21:

Identify all reviews (by media form, title, date(s), page(s), issue(s), and such other identifying information as used by Applicant) by third parties of the 911 Hz Tone or the 911 Hz Tone Products.

RESPONSE TO NO. 21:

Subject to the General Objections set forth above, Applicant will produce business records responsive to this Interrogatory, in accordance with Rule 33(d), Fed. R. Civ. P.

INTERROGATORY NO. 22:

Identify all instances of actual confusion relating to the 911 Hz tone.

RESPONSE TO NO. 22:

Subject to the General Objections set forth above, none.

INTERROGATORY NO. 23:

Identify all persons who participated in any way in the preparation of the answers or responses to these interrogatories separately by interrogatory, and state specifically with reference to interrogatory number the area of participation of each such person.

RESPONSE TO NO. 23:

In addition to the General Objections set forth above, Applicant objects to this Interrogatory as it invades the attorney-client privilege and the work product immunity doctrine.

INTERROGATORY NO. 24:

Identify each person whom Applicant expects or intends to call as a witness to present evidence in the above-captioned opposition proceeding (including expert witnesses).

RESPONSE TO NO. 24:

In addition to the General Objections set forth above, Applicant objects to this Interrogatory as being premature.

INTERROGATORY NO. 28:

What are the facts and the law as applied to the facts that you contend support each affirmative defense you allege in your answer to the Notice of Opposition?

RESPONSE TO NO. 28:

In addition to the General Objections set forth above, Applicant objects to this Interrogatory as it invades the work product immunity doctrine.

As to objections:

Dated: April 12, 2005

John T. Gabrielides
Elisa M. Valenzona
BRINKS HOFER GILSON & LIONE
455 N. Cityfront Plaza Drive, Suite 3600
Chicago, Illinois 60611-5599
Telephone: (312) 321-4200
Facsimile: (312) 321-4299

Attorneys for Applicant

CERTIFICATE OF SERVICE

I hereby certify that a true copy of APPLICANT'S RESPONSE TO OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT was served on counsel for Opposer on April 12, 2005, by sending same via First Class Mail, postage prepaid, and via email to:

Michael H. Jacobs
Crowell & Moring LLP
1001 Pennsylvania, Avenue, N.W.
Washington D.C. 20004

mjacobs@crowell.com

EXHIBIT C

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

NEXTEL COMMUNICATIONS, INC.,	)	
	)	
Opposer,	)	
	)	Opp. No.: 91/161,817
v.	)	App. No.: 78/235,618
	)	Pot. Mark: SENSORY MARK
MOTOROLA, INC.,	)	(911 Hz tone)
	)	
Applicant.	)	
	)	

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CONFIDENTIAL DOCUMENTS

Pursuant to 37 C.F.R. § 2.126(d) and TBMP § 412.04, Opposer provides the following list of confidential materials submitted in connection with Opposer's First Notice of Reliance, filed concurrently herewith on August 25, 2006.

1. The following pages and exhibits from the Rule 30(b)(6) deposition of DAVID ERIC KLEIN: Pages: 13-14; 17-18; 25; 27-28; 32-33; 42-50; 55-70; 89-95; 101-111; 117-120; and 123. Exhibits: Ex. 2, Ex. 3, Ex. 4, Ex. 5, Ex. 10, and Ex. 11;

2. Motorola production documents bates nos. MOT_000086-000092 and MOT_004672-004673, associated with Applicant's Response to Opposer's Second Set of Requests for Admissions, Nos. 39-39 and 117; and

3. Applicant's produced documents Bates Nos. MOT_004796-005451 and MOT_004773-004774.

EXHIBIT D

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

NEXTEL COMMUNICATIONS, INC.,	)	
	)	
Opposer,	)	
	)	Opp. No.: 91/161,817
v.	)	App. No.: 78/235,618
	)	Mark: Sensory Mark
MOTOROLA, INC.,	)	(911 Hz tone)
	)	
Applicant.	)	
	)	

APPLICANT'S REPONSES TO OPPOSER'S FIRST
SET OF REQUESTS FOR ADMISSIONS

In accordance with Rule 36 of the Federal Rules of Civil Procedure, Applicant, by and through its undersigned attorneys, hereby responds to Opposer's First Set of Requests for Admissions as follows.

These responses are based upon the best information presently available to Applicant, but are made without prejudice to any right of Applicant to make additional or modified responses should better or further information subsequently become available to Applicant. These responses are also made without prejudice to any right of Applicant to offer evidence on its behalf or to object to the relevance, competence, or admissibility on any ground of any evidence or witness offered by Opposer for any purpose.

REQUEST NO. 1:

Admit that Motorola has not conducted any surveys relating to the 911 Hz Tone.

RESPONSE TO REQUEST NO. 1:

Denied.

REQUEST NO. 2:

Admit that Motorola has not conducted any surveys relating to the 911 Hz Tone Products.

RESPONSE TO REQUEST NO. 2:

Denied.

REQUEST NO. 3:

Admit that Motorola has no license agreements relating to the 911 Hz Tone.

RESPONSE TO REQUEST NO. 3:

Denied.

REQUEST NO. 4:

Admit that Motorola has no franchise agreements relating to the 911 Hz Tone.

RESPONSE TO REQUEST NO. 4:

Applicant objects to this Request as being vague and ambiguous with respect to the term "franchise agreements." Subject to the foregoing objections, admitted.

REQUEST NO. 5:

Admit that Motorola has no settlement agreements related to the 911 Hz Tone.

RESPONSE TO REQUEST NO. 5:

Admitted.

REQUEST NO. 6:

Admit that Motorola has no correspondence relating to enforcement of the 911 Hz Tone.

RESPONSE TO REQUEST NO. 6:

Subject to the foregoing objections, admitted.

REQUEST NO. 7:

Admit that Motorola has no license agreements relating to the 911 Hz Tone Products.

RESPONSE TO REQUEST NO. 7:

Denied.

REQUEST NO. 8:

Admit that Motorola has no franchise agreements relating to the 911 Hz Tone Products.

RESPONSE TO REQUEST NO. 8:

Applicant objects to this Request as being vague and ambiguous with respect to the term "franchise agreements." Subject to the foregoing objections, admitted.

RESPONSE NO. 9:

Admit that Motorola has no settlement agreements related to the 911 Hz Tone Products.

RESPONSE TO NO. 9:

Admitted.

Dated: October 18, 2005

John T. Gabrielides
Thomas M. Williams
Elisa M. Valenzona
BRINKS HOFER GILSON & LIONE
455 N. Cityfront Plaza Drive, Suite 3600
Chicago, Illinois 60611-5599
Telephone: (312) 321-4200
Facsimile: (312) 321-4299
Attorneys for Applicant

CERTIFICATE OF SERVICE

I hereby certify that a true copy of APPLICANT'S RESPONSE TO OPPOSER'S FIRST SET OF REQUESTS FOR ADMISSIONS was served on counsel for Opposer on October 18, 2005, via First Class Mail, postage prepaid:

Michael H. Jacobs
Crowell & Moring LLP
1001 Pennsylvania, Avenue, N.W.
Washington D.C. 20004

EXHIBIT E

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

NEXTEL COMMUNICATIONS, INC.,	)	
	)	
Opposer,	)	
	)	Opp. No.: 91/161,817
v.	)	App. No.: 78/235,618
	)	Mark: Sensory Mark
MOTOROLA, INC.,	)	(911 Hz tone)
	)	
Applicant.	)	
	)	

APPLICANT'S REPONSES TO OPPOSER'S SECOND
SET OF REQUESTS FOR ADMISSIONS

In accordance with Rule 36 of the Federal Rules of Civil Procedure, Applicant, by and through its undersigned attorneys, hereby responds to Opposer's Second Set of Requests for Admissions as follows.

These responses are based upon the best information presently available to Applicant, but are made without prejudice to any right of Applicant to make additional or modified responses should better or further information subsequently become available to Applicant. These responses are also made without prejudice to any right of Applicant to offer evidence on its behalf or to object, on any ground, to the admission of or Opposer's use or reliance on any evidence or witness for any purpose.

REQUEST NO. 10:

Admit that the document produced by Motorola and bearing BATES No. **MOT_000001 – MOT_000002** constitutes a record of a regularly conducted activity of Motorola within the meaning of Rules 901(a), 902(11) or 803(6) of the Federal Rules of Evidence.

RESPONSE TO REQUEST NO. 37:

Denied with respect to Rule 901(a). Admitted with respect to Rule 902(11) and Rule 803(6).

REQUEST NO. 38:

Admit that the document produced by Motorola and bearing BATES No. **MOT_000086 – MOT_000088** constitutes a record of a regularly conducted activity of Motorola within the meaning of Rules 901(a), 902(11) or 803(6) of the Federal Rules of Evidence.

RESPONSE TO REQUEST NO. 38:

Denied with respect to Rule 901(a). Admitted with respect to Rule 902(11) and Rule 803(6).

REQUEST NO. 39:

Admit that the document produced by Motorola and bearing BATES No. **MOT_000089 – MOT_000092** constitutes a record of a regularly conducted activity of Motorola within the meaning of Rules 901(a), 902(11) or 803(6) of the Federal Rules of Evidence.

RESPONSE TO REQUEST NO. 39:

Denied with respect to Rule 901(a). Admitted with respect to Rule 902(11) and Rule 803(6).

REQUEST NO. 40:

Admit that the document produced by Motorola and bearing BATES No. **MOT_000093 – MOT_000098** constitutes a record of a regularly conducted activity of Motorola within the meaning of Rules 901(a), 902(11) or 803(6) of the Federal Rules of Evidence.

RESPONSE TO REQUEST NO. 116:

Denied with respect to Rule 901(a). Admitted with respect to Rule 902(11) and Rule 803(6).

REQUEST NO. 117:

Admit that the documents produced by Motorola and bearing BATES No. **MOT_004112 – MOT_004674** constitutes a record of a regularly conducted activity of Motorola within the meaning of Rules 901(a), 902(11) or 803(6) of the Federal Rules of Evidence.

RESPONSE TO REQUEST NO. 117:

Denied with respect to Rule 901(a). Admitted with respect to Rule 902(11) and Rule 803(6).

Dated: October 18, 2005

John T. Gabrielides
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455 N. Cityfront Plaza Drive, Suite 3600
Chicago, Illinois 60611-5599
Telephone: (312) 321-4200
Facsimile: (312) 321-4299
Attorneys for Applicant

CERTIFICATE OF SERVICE

I hereby certify that a true copy of APPLICANT'S RESPONSES TO OPPOSER'S SECOND SET OF REQUESTS FOR ADMISSIONS was served on counsel for Opposer on October 18, 2005, via First Class Mail, postage prepaid to:

Michael H. Jacobs
Crowell & Moring LLP
1001 Pennsylvania, Avenue, N.W.
Washington D.C. 20004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

NEXTEL COMMUNICATIONS, INC.,	)	
	)	
Opposer,	)	
	)	Opp. No.: 91/161,817
v.	)	App. No.: 78/235,618
	)	Pot. Mark: SENSORY MARK
MOTOROLA, INC.,	)	(911 Hz tone)
	)	
Applicant.	)	
	)	

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CONFIDENTIAL DOCUMENTS

Pursuant to 37 C.F.R. § 2.126(d) and TBMP § 412.04, Opposer provides the following list of confidential materials submitted in connection with Opposer's First Notice of Reliance, filed concurrently herewith on August 25, 2006.

1. The following pages and exhibits from the Rule 30(b)(6) deposition of DAVID ERIC KLEIN: Pages: 13-14; 17-18; 25; 27-28; 32-33; 42-50; 55-70; 89-95; 101-111; 117-120; and 123. Exhibits: Ex. 2, Ex. 3, Ex. 4, Ex. 5, Ex. 10, and Ex. 11;

2. Motorola production documents bates nos. MOT_000086-000092 and MOT_004672-004673, associated with Applicant's Response to Opposer's Second Set of Requests for Admissions, Nos. 39-39 and 117; and

3. Applicant's produced documents Bates Nos. MOT_004796-005451 and MOT_004773-004774.

EXHIBIT F

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

NEXTEL COMMUNICATIONS, INC.,	)	
	)	
Opposer,	)	
	)	Opp. No.: 91/161,817
v.	)	App. No.: 78/235,618
	)	Mark: Sensory Mark
MOTOROLA, INC.,	)	(911 Hz tone)
	)	
Applicant.	)	
	)	

APPLICANT'S RESPONSE TO OPPOSER'S
SECOND SET OF INTERROGATORIES TO APPLICANT

Applicant responds to Opposer's Second Set of Interrogatories to Applicant as follows.

General Objections

Applicant incorporates by reference its Objections set forth in Applicant's Response to Opposer's First Request of Applicant for Production of Documents and Things.

INTERROGATORIES

INTERROGATORY NO. 1:

Identify and describe each related entity (including subsidiaries, parent companies, and other related companies) of Applicant that sells products or offers services that feature or are associated with the 911 Hz Tone.

RESPONSE TO NO. 1:

Applicant objects to this Interrogatory as being vague and ambiguous with respect to the term "related entity." Subject to the foregoing objections, there are no subsidiaries or

parent companies of Applicant that sell products or offer services that feature or are associated with the 911 Hz Tone.

INTERROGATORY NO. 2:

Identify and describe all documents relating to stipulated requirements for Motorola products as described by deponent David Eric Klein during the July 19, 2005 Rule 30(b)(6) deposition of Motorola, including any correspondence or notes relating to the same.

RESPONSE TO NO. 2:

Subject to the foregoing objections, Applicant has produced documents, at MOT004179-MOT004575, that are responsive to this Interrogatory, in accordance with Fed. R. Civ. P. Rule 33(d).

INTERROGATORY NO. 3:

Identify and describe all documents relating to any conversations between Mitch Leshim and deponent David Eric Klein as described during the July 19, 2005 Rule 30(b)(6) deposition of Motorola, including any correspondence or notes relating to the same and any documents provided by Mr. Leshim.

RESPONSE TO NO. 3:

Subject to the foregoing objections, Applicant has produced documents, at MOT004672-MOT004673, that are responsive to this Interrogatory, in accordance with Fed. R. Civ. P. Rule 33(d).

INTERROGATORY NO. 4:

Identify and describe all documents relating to any conversations between Janice Morey and deponent David Eric Klein as described during the July 19, 2005 Rule 30(b)(6) deposition of Motorola, including any correspondence or notes relating to the same and any documents provided by Ms. Morey.

RESPONSE TO NO. 4:

Subject to the foregoing objections, none.

RESPONSE TO NO. 10:

Subject to the foregoing objections, Applicant has produced documents, at MOT002268; MOT002269; MOT004674, that are responsive to this Interrogatory, in accordance with Fed. R. Civ. P. Rule 33(d).

Dated: October 18, 2005

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Facsimile: (312) 321-4299

Attorneys for Applicant

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Michael H. Jacobs
Crowell & Moring LLP
1001 Pennsylvania. Avenue. N.W.
Washington D.C. 20004

EXHIBIT G

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

NEXTEL COMMUNICATIONS, INC.,	)	
	)	
Opposer,	)	
	)	Opp. No.: 91/161,817
v.	)	App. No.: 78/235,618
	)	Pot. Mark: SENSORY MARK
MOTOROLA, INC.,	)	(911 Hz tone)
	)	
Applicant.	)	
	)	

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1. The following pages and exhibits from the Rule 30(b)(6) deposition of DAVID ERIC KLEIN: Pages: 13-14; 17-18; 25; 27-28; 32-33; 42-50; 55-70; 89-95; 101-111; 117-120; and 123. Exhibits: Ex. 2, Ex. 3, Ex. 4, Ex. 5, Ex. 10, and Ex. 11;

2. Motorola production documents bates nos. MOT_000086-000092 and MOT_004672-004673, associated with Applicant's Response to Opposer's Second Set of Requests for Admissions, Nos. 39-39 and 117; and

3. Applicant's produced documents Bates Nos. MOT_004796-005451 and MOT_004773-004774.

EXHIBIT H

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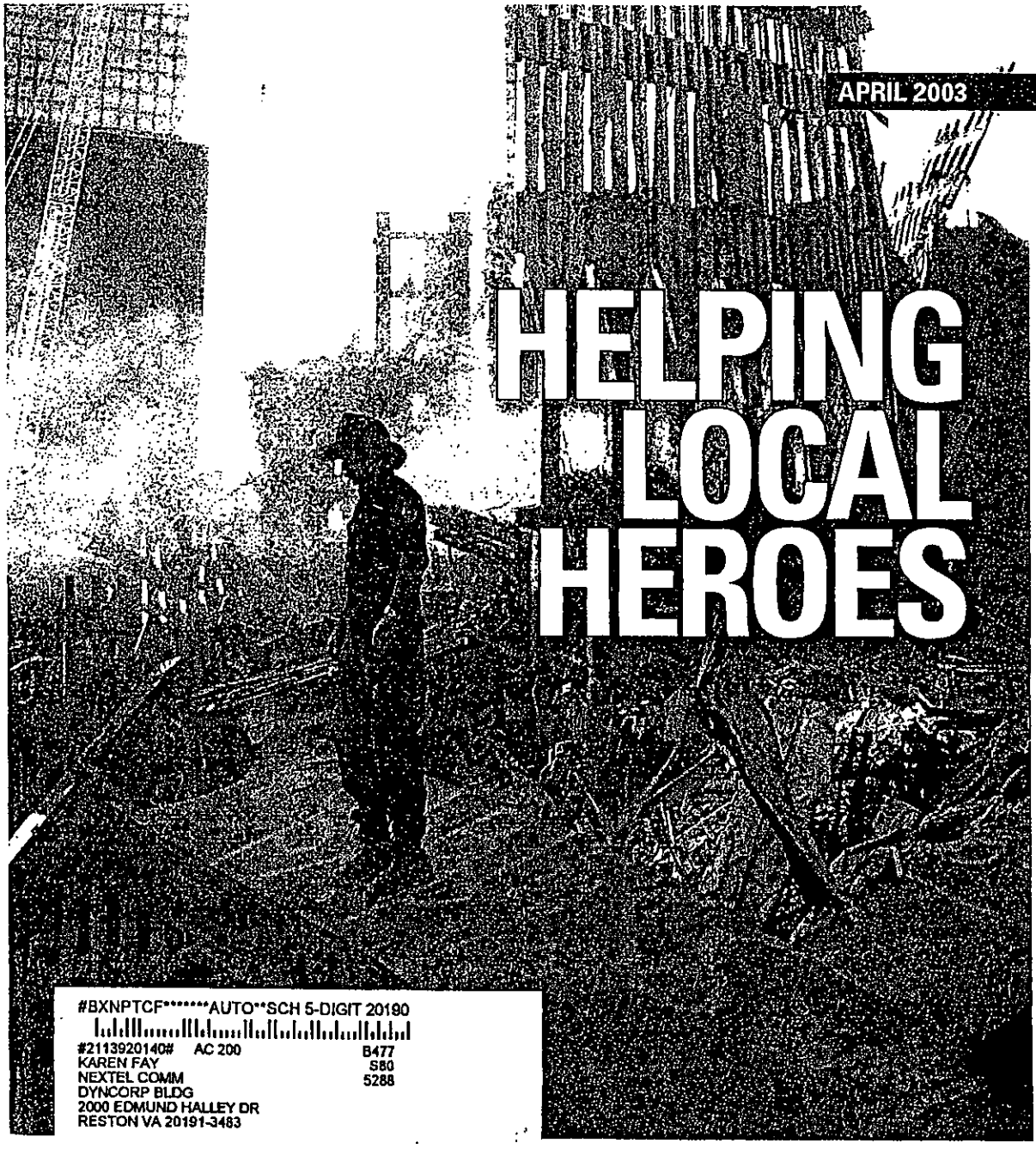

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ANSWERS: 1. A 2. A 3. D

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