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Filing date: **09/16/2013**

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

Proceeding	91200324
Party	Plaintiff Southern Communications Services, Inc.
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Signature	/Austin Padgett/
Date	09/16/2013
Attachments	Declaration.pdf(250589 bytes )

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

SOUTHERN COMMUNICATIONS	)	
SEVICES, INC.	)	
	)	
Opposer,	)	Application Serial No. 78/575442
	)	
v.	)	Mark: (Sensory Mark Only)
	)	
NEXTEL COMMUNICATIONS, INC.	)	Opposition No. 91200324
	)	
Applicant.	)	
_____	)	

**DECLARATION OF MARK S. VANDERBROEK**

I, Mark S. VanderBroek, declare as follows:

1. I am a partner at the law firm of Troutman Sanders LLP, and am one of the attorneys representing Opposer Southern Communications Services, Inc. (“Southern”) in the above-referenced action. I am over the age of 18, and have personal knowledge of the facts stated in this Declaration. I give this Declaration in support of Southern’s Motion to Suspend Proceedings.
2. Southern and Applicant Nextel Communications, Inc. (“Nextel”) have postponed discovery in this case, because the parties were involved in active settlement discussions until very recently.
3. On May 1, 2013, Nextel served its first set of interrogatories and document requests and a deposition notice upon Southern; and on April 30, 2013, Nextel served its expert disclosures. However, because of the ongoing settlement negotiations, Southern has not yet responded to the interrogatories or document requests or served rebuttal expert disclosures. *See* Opposer’s Motion to Extend Time to Respond to Discovery Requests and Rebuttal Expert Disclosure (Doc. 28, June 18, 2013).

4. Neither party has responded to written discovery, exchanged documents, or taken any depositions in the present case.

5. On or about August 14, 2013 and September 4, 2013, I had phone conversations with Tom Williams, the lawyer representing Motorola Mobility, LLC (“Motorola”) in a related opposition action filed by Motorola against Nextel which opposes registration of the same proposed Nextel sound mark that is at issue in the present case. The style of that case is: *Motorola Mobility, LLC v. Nextel Communications, Inc.*, Opposition No. 91200355 (the “Motorola Action”).

6. During those phone conversations, Mr. Williams explained that the parties had completed significant discovery in the Motorola Action, including the exchange of voluminous documents and electronically stored information, the depositions of a representative or representatives of Motorola and of Nextel, exchange of expert disclosures and rebuttal expert disclosures, and the deposition of Nextel’s survey expert.

7. On August 27, 2013, Nextel served upon Southern a subpoena seeking documents and a deposition in the Motorola Action. Southern has objected to this subpoena, but has advised Nextel that it will produce documents and make a witness available for deposition in the Motorola Action if the scope of the subpoena is appropriately limited and other objections resolved.

I declare under penalty of perjury that the foregoing is true and correct.

  
Mark S. VanderBroek

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Applicant.	)	
_____	)	

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Declaration of Mark S.

VanderBroek was sent by e-mail and U.S. mail, postage prepaid to:

John I. Stewart, Jr., Esq.  
William J. Sauers, Esq.  
Ann M. Mace, Esq.  
Crowell & Moring LLP  
1001 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004

This 16th day of September 2013.

  
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Austin Padgett