

Exhibit E

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Microsoft/Nokia/MOSAID

Dear Gene:

Following up on our telephone call on Thursday, this letter provides some background concerning the recently announced horizontal agreement among Microsoft, Nokia, and MOSAID Technologies to license Nokia's wireless patents and split the proceeds. This is the latest in a series of tactics designed by Microsoft to raise its rivals' costs and prevent Android-based devices from taking away sales of Microsoft's Windows operating system. This description is based solely on publicly available information, and we suspect that nonpublic information relating to this agreement would be even more revealing.

On September 1, 2011, MOSAID announced that it had reached an agreement to acquire Core Wireless Licensing S.a.r.l., a patent holding company that held 2,000 Nokia patents related to wireless communications standards and implementation. MOSAID stated that it made "no upfront payments" for the patents,¹ and MOSAID reportedly received the patents for free.² MOSAID then announced that it had also reached an arrangement with Microsoft and Nokia regarding the licensing of those patents. Specifically, MOSAID will be responsible for asserting the patents against manufacturers of mobile devices such as cell phones, and MOSAID will hand over to Microsoft and Nokia 2/3 of any licensing revenue it obtains.³ Thus Microsoft will share in the profits even though Microsoft does not appear to have contributed anything of value to the arrangement.

¹ Press Release, "MOSAID Updates Shareholders On Special Committee Process, Addresses Wi-LAN Mischaracterizations", Sept. 12, 2011, <http://www.mosaid.com/corporate/news-events/releases-2011/110912.php>

² Chris Velazco, "Mosaid Acquires 2,000+ Nokia Patents, Will Handle Licensing & Litigation For A Cut", TechCrunch, Sept. 1, 2011, <http://techcrunch.com/2011/09/01/mosaid-acquires-2000-nokia-patents-will-handle-licensing-litigation-for-a-cut/>

³ Id.

The parties are not shy about the power they think is afforded to them under the deal. In MOSAID's words, "the force of this [patent portfolio] is overwhelming",⁴ and MOSAID claims that "all cell phones and smartphones operating in compliance with certain 2G, 3G and 4G wireless telecommunications standards" practice the patents.⁵ MOSAID believes that "four of the top five global cell phone vendors" will soon require a license, and MOSAID is targeting "over a trillion dollars of unlicensed revenues" of mobile devices.⁶ MOSAID boasts that it is an aggressive licensor of its patents, noting that it achieved "complete saturation" of the DRAM market and "licensed all the DRAMs on the planet at one point".⁷ Because MOSAID is a "non-practicing entity"—the euphemism for a patent troll—the usual threat of counterlitigation for patent infringement will have no deterrent effect on its aggressive licensing plans.

The deal is presumably related to Microsoft's horizontal agreement with Nokia, announced earlier this year, to coordinate their use of patents to drive out competitors. In February 2011, Microsoft and Nokia announced that Nokia would soon drop its Symbian operating system and instead adopt Microsoft's Windows Phone 7 as the operating system for its devices. The target of the agreement between Microsoft and Nokia is clear. As Nokia CEO (and former Microsoft executive) Stephen Elop stated shortly after announcing the deal, the "[n]umber one priority is to compete with Android."⁸ The new deal with MOSAID — the negotiations for which began around the time the Microsoft-Nokia partnership was announced — appears to be the mechanism by which Microsoft and Nokia will use Nokia's patents to attack Android devices.

The MOSAID deal is further evidence of Microsoft's broader plan to shield itself from patent lawsuits while also eliminating competition from Android. Obviously, since Microsoft and Nokia are parties to and beneficiaries of the agreement governing MOSAID's patent assertion activities, MOSAID will not be going after Nokia phones or other products using Microsoft's mobile operating systems. Instead, as Microsoft and Nokia have made clear, the primary target is Android. MOSAID, as guided by Microsoft, will now be able to assert the Nokia wireless patents against Android devices that threaten Microsoft's business.

⁴ Interview, "John Lindgren, CEO of MOSAID talks magnitude of Nokia / Microsoft deal", Sept. 13, 2011, <http://www.youtube.com/watch?v=37yzFT9xpys>.

⁵ Statement of MOSAID Vice President Dr. Nima Ahmadvand, "MOSAID acquires 2,000 Nokia Wireless Patents", Sept. 13, 2011, http://www.youtube.com/watch?v=Bdq3_jtOy_E (emphasis added).

⁶ Press Release, "MOSAID Updates Shareholders On Special Committee Process, Addresses Wi-LAN Mischaracterizations", Sept. 12, 2011, <http://www.mosaid.com/corporate/news-events/releases-2011/110912.php>; Interview, "John Lindgren, CEO of MOSAID talks magnitude of Nokia / Microsoft deal", Sept. 13, 2011, <http://www.youtube.com/watch?v=37yzFT9xpys>.

⁷ Interview, "John Lindgren, CEO of MOSAID talks magnitude of Nokia / Microsoft deal", Sept. 13, 2011, <http://www.youtube.com/watch?v=37yzFT9xpys>.

⁸ "Nokia Conversations: Q&A videos, break down", available at <http://conversations.nokia.com/2011/02/22/qa-videos-break-down>.

Microsoft's attempts to direct how others enforce their patents are part of Microsoft's strategy of attempting to maintain its monopoly in PC operating systems by controlling and dominating the Android operating system. Android, which Google gives away for free, threatens Microsoft's traditional business model of licensing its proprietary operating system because OEMs no longer need to pay for a high-quality operating system. In addition, the open source Android operating system is superior to Microsoft's proprietary products. For those reasons, Android threatens Microsoft's core business. Application-rich Android devices such as tablets and smartphones now perform many of the functions once reserved for PCs, a trend that will reduce demand for PCs and PC operating systems, where Microsoft's Windows enjoys a powerful monopoly. Moreover, as operating systems such as Android become more popular, Android will become a viable candidate for adaptation to PCs, putting Android (and its companion, Chrome) into direct competition with Windows. Moreover, Microsoft has announced plans to run its flagship Windows operating system on tablets, and the popularity of Android-based tablets threatens the dominance of Windows.

In response to these competitive threats, Microsoft is embarking on a campaign of asserting trivial and outmoded patents against manufacturers of Android devices. Microsoft demands exorbitant licensing fees (similar to the fee for the entire Windows Phone 7 operating system) and imposes licensing conditions that restrict manufacturers' abilities to upgrade and improve their products with features consumers want. Microsoft is attempting to raise its rivals' costs in order to drive out competition and to deter innovation in mobile devices.

Microsoft's arrangement with MOSAID and Nokia, in conjunction with its improper use of its own patents, is causing and will continue to cause serious harm to competition. Microsoft's conduct will raise costs to consumers, reduce the quality of popular goods, and impede innovation in a technology-rich market. Microsoft's conduct poses serious antitrust concerns and warrants further exploration by the Department of Justice.

Very truly yours,



Peter T. Barbur

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VIA ELECTRONIC MAIL AND FIRST-CLASS MAIL