

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT**

MOTOROLA MOBILITY LLC,	)	No. 14-8003
	)	
Plaintiff-Appellant,	)	On Interlocutory Appeal from an
	)	Order of the United States District
v.	)	Court for the Northern District of
	)	Illinois
AU OPTRONICS CORP., et al.,	)	
	)	Case No. 09-cv-6610
Defendants-Appellees.	)	(The Honorable Joan B. Gotschall)

**APPELLANT’S REQUEST FOR REFERRAL TO EN BANC COURT**

The panel decided this case without any merits briefing. Appellant’s subsequent request for rehearing en banc was joined by the United States and the Federal Trade Commission, and then reaffirmed by the Solicitor General under his personal signature in response to a *sua sponte* order encouraging other departments of the executive branch to file their own briefs. Appellees subsequently responded to the petition and have received two *amicus* submissions in support of their position.

Believing that, given the lack of merits briefing, it would assist the Court’s understanding of its position, Appellant Motorola Mobility LLC immediately moved to file a short reply brief. (*See* Dkt. 41 and the attached motion and brief). Defendants filed the attached opposition. (*See* Dkt. 42). Judge Posner denied that motion. (*See* Dkt. 44).<sup>1</sup> We will not argue the merits of the request and Defendants’ response; Appellants merely request that the motion be referred to the en banc court for decision.

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<sup>1</sup> Judge Posner did subsequently grant the out-of-time motion of Taiwan for leave to file a letter as *amicus curiae* supporting the panel opinion (*see* Dkt. 46). That motion did not seek the consent of the parties, was avowedly paid for by a party defendant, and was prepared by the lead criminal counsel for an officer of AU Optronics Corp., a defendant in this case. (*See* Dkt. 45); <http://briangetzlaw.com/about/>.

We have been advised by the clerk's office that we may request that the motion be referred to the en banc court. Under the circumstances, we believe this is the rare instance in which the procedural motion to file a reply brief is appropriately referred to the full court, which is in any event considering the petition for rehearing en banc.

For the foregoing reasons, the en banc Court should grant leave to file the attached reply brief.

Respectfully Submitted,

/s/Thomas C. Goldstein

Thomas C. Goldstein  
GOLDSTEIN & RUSSELL, P.C.  
5225 Wisconsin Ave. NW  
Washington, D.C. 20015  
(202) 362-0636

May 29, 2014

**CERTIFICATE OF SERVICE**

I, Thomas C. Goldstein, hereby certify that on May 29, 2014, electronically filed the foregoing request for en banc consideration of the motion to file a reply brief in support of the petition for rehearing en banc with the Clerk of the Court of the United States Court of Appeals for the Seventh Circuit using the CM/ECF system. If the motion is granted, I will send 30 copies of the attached reply brief to the Clerk of the Court by FedEx.

I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

May 29, 2014

/s/Thomas C. Goldstein  
Thomas C. Goldstein  
GOLDSTEIN & RUSSELL, P.C.  
5225 Wisconsin Ave. NW  
Washington, D.C. 20015  
(202) 362-0636