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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE**

OpenTV, Inc., NagraVision, SA, and Nagra
France S.A.S.,

Plaintiffs,

v.

Apple Inc.,

Defendant.

Case No. 5:15-CV-02008-EJD

**[PROPOSED] ORDER GRANTING
DEFENDANT'S MOTION TO
PRECLUDE RELIANCE ON CERTAIN
INVENTION DATES AND TO STRIKE
CERTAIN ALLEGATIONS**

[PROPOSED] ORDER GRANTING

1 The Court has carefully considered the arguments of the parties and hereby **GRANTS**
2 Apple's motion to preclude under Fed. R. Civ. P. 16(f)(1)(C) for noncompliance with the Court's
3 Scheduling Order (Dkt. 58) and Patent L.R. 3-1(f) and 3-2(b). It is hereby **ORDERED** that:

- 4 • Plaintiffs are precluded from asserting in this action conception and reduction to
5 practice dates that differ from those expressly disclosed in Plaintiffs' October 15,
6 2015 Patent L.R. 3-1(f) and 3-2(b) disclosures. Specifically, the earliest
7 conception date Plaintiffs may allege for U.S. Patent No. 6,233,736 is February 8,
8 1996, for U.S. Patent No. 7,055,169 is June 30, 2001 (the end of the date range
9 proposed by Plaintiff), and for U.S. Patent No. 7,725,740 is May 28, 2003. *See*
10 Declaration of Melody Drummond Hansen which supports Defendant's motion to
11 preclude ("Drummond Hansen Decl."), Exhibit 1 at 6–7.
- 12 • Plaintiffs are precluded from relying on any documentation to support the alleged
13 priority dates other than what was identified in Plaintiffs' Patent L.R. 3-2(b)
14 October 15, 2015 disclosure, specifically the documents Plaintiff produced that are
15 bates numbered OPENTV2008-00008615 – OPENTV2008-00009148. *See*
16 Drummond Hansen Decl., Ex. 1 at 7.
- 17 • The following language is struck from Plaintiffs' October 15, 2015 Patent L.R. 3-
18 1(f) disclosure:
 - 19 ○ "at least as early as"
- 20 • To the extent Plaintiffs' interrogatory responses allege conception or reduction to
21 practice dates that differ from the dates expressly identified and alleged in its
22 Patent L.R. 3-1(f) and 3-2(b) disclosures, those allegations are struck from
23 Plaintiffs' interrogatory responses.

24 This Order does not relate to U.S. Patent Nos. 7,644,429 or 6,148,081, as those patents
25 were already held invalid in this action.

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28 [PROPOSED] ORDER GRANTING

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IT IS SO ORDERED.

Dated:

By:

Honorable Judge Edward J. Davila

[PROPOSED] ORDER GRANTING