

# EXHIBIT 5

DECLARATION OF MELODY DRUMMOND HANSEN  
IN SUPPORT OF DEFENDANT APPLE INC.'S MOTION  
TO PRECLUDE RELIANCE ON CERTAIN  
INVENTION DATES AND TO STRIKE CERTAIN ALLEGATIONS

**From:** Niemeyer, Elizabeth <Elizabeth.Niemeyer@finnegan.com>  
**Sent:** Friday, February 26, 2016 12:05 PM  
**To:** Choi, Jay  
**Cc:** Drummond Hansen, Melody; Cook, Brian; OpenTV-Apple-2008  
**Subject:** RE: OpenTV v. Apple (N.D. Cal. 5:15-cv-02008-EJD): Discovery Response Deficiencies

Dear Jay and Melody,

Further to our call on February 11, 2016, please note that we will be supplementing OpenTV's response to Interrogatory No. 8 to expressly refer to the invention disclosure that is included with the file history of the '736 patent and identifies a conception date of September 14, 1995 (see March 9, 2000 Response to Office Action, OpenTV2008-00001587 - OpenTV2008-00001610). We will provide updates on a few other outstanding issues as soon as possible.

Sincerely,  
Elizabeth

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

From: Choi, Jay [<mailto:jchoi@omm.com>]  
Sent: Friday, February 05, 2016 1:54 PM  
To: Niemeyer, Elizabeth  
Cc: Drummond Hansen, Melody; Cook, Brian; OpenTV-Apple-2008  
Subject: RE: OpenTV v. Apple (N.D. Cal. 5:15-cv-02008-EJD): Discovery Response Deficiencies

Elizabeth,

Yes, 10 am PT/1 pm ET will work.

Best,  
Jay

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

From: Niemeyer, Elizabeth [<mailto:Elizabeth.Niemeyer@finnegan.com>]  
Sent: Friday, February 05, 2016 10:29 AM  
To: Choi, Jay  
Cc: Drummond Hansen, Melody; Cook, Brian; OpenTV-Apple-2008  
Subject: Re: OpenTV v. Apple (N.D. Cal. 5:15-cv-02008-EJD): Discovery Response Deficiencies

Jay,

Since the call may take a while, are you available earlier in the day (e.g., 10 am PT/1 pm ET)?

Sincerely,  
Elizabeth

On Feb 5, 2016, at 1:04 PM, Choi, Jay <[jchoi@omm.com](mailto:jchoi@omm.com)<<mailto:jchoi@omm.com>>> wrote:

Elizabeth,

Thank you for your response. Would 2:30pm PT/5:30pm ET work for you?

Best,  
Jay

From: Niemeyer, Elizabeth [<mailto:Elizabeth.Niemeyer@finnegan.com>]  
Sent: Friday, February 05, 2016 8:28 AM  
To: Choi, Jay  
Cc: OpenTV-Apple-2008  
Subject: RE: OpenTV v. Apple (N.D. Cal. 5:15-cv-02008-EJD): Discovery Response Deficiencies

Dear Jay,

Please let us know if you are available Thursday (2/11) afternoon (e.g., 1 p.m. PT/4 p.m. ET) for a call. If so, we can use the following dial-in number:

Dial-in: 888-546-0543  
Passcode: 202-408-4478

Sincerely,  
Elizabeth

Elizabeth A. Niemeyer | Attorney at Law | Finnegan, Henderson, Farabow, Garrett & Dunner, LLP | 901 New York Avenue, NW, Washington, DC 20001-4413 | (202) 408-4238 | fax (202) 408-4400 | [elizabeth.niemeyer@finnegan.com](mailto:elizabeth.niemeyer@finnegan.com) <<mailto:elizabeth.niemeyer@finnegan.com>>

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From: Choi, Jay [<mailto:jchoi@omm.com>]  
Sent: Tuesday, February 02, 2016 12:48 PM  
To: Niemeyer, Elizabeth  
Subject: OpenTV v. Apple (N.D. Cal. 5:15-cv-02008-EJD): Discovery Response Deficiencies

Dear Elizabeth,

Please see the attached letter regarding deficiencies in OpenTV's objections and responses to Apple's First Set of Interrogatories and First Set of Requests for Production.

Sincerely,

Jay Choi  
O'Melveny & Myers LLP  
Two Embarcadero Center, 28th Floor  
San Francisco, CA 94111  
415-984-8746  
[jchoi@omm.com](mailto:jchoi@omm.com) <<mailto:jchoi@omm.com>>

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