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17 UNITED STATES DISTRICT COURT
 18 SOUTHERN DISTRICT OF CALIFORNIA

19 APPLE INC.,
 20 Plaintiff,
 21 v.
 22 WI-LAN, INC.,
 23 Defendant.

24
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 26
 27 AND RELATED
 COUNTERCLAIMS
 28

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CASE NO. 3:14-cv-02235-DMS-BLM
 (lead case);
 CASE NO. 3:14-cv-1507-DMS-BLM
 (consolidated)

**PLAINTIFF APPLE INC.'S
 OPPOSITION TO DEFENDANT
 WI-LAN, INC.'S MOTION TO STRIKE
 APPLE'S AMENDED INVALIDITY
 CONTENTIONS**

Dept: 13A
 Judge: Hon. Dana M. Sabraw
 Magistrate Judge: Hon. Barbara L. Major

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1 **I. INTRODUCTION**

2 The Court should deny Wi-LAN's overreaching request to strike Apple's
3 timely amended invalidity contentions.

4 First, Wi-LAN's "untimeliness" argument relies on a superseded set of
5 Patent Local Rules, not the operative Patent Local Rules. The Court should decline
6 Wi-LAN's invitation to rewrite the Patent Local Rules mid-case, particularly
7 because Wi-LAN cannot identify a single court decision, judicial comment, or
8 anything else stating that the current Patent Local Rules mean anything other than
9 what they say; that is, that Apple was entitled to amend its invalidity contentions
10 within 50 days of the Court's claim construction order.

11 Second, Wi-LAN cannot identify any prejudice it suffered from Apple's
12 timely amendments. Instead, Wi-LAN greatly overstates the scope of Apple's
13 amendments, and Wi-LAN never explains exactly what those amendments consist
14 of or how those changes prejudice Wi-LAN. For clarity, Apple's amendments are:

15 • For the '040 patent, Apple added two new claim charts for prior art
16 references (Carvalho and UMTS) that Apple recently discovered, cited two
17 additional GSM-related articles and one additional version of a previously disclosed
18 GSM specification to further explain the previously disclosed and charted GSM
19 reference, and analyzed different combinations of prior art references that Apple
20 disclosed in its June 2017 invalidity contentions;

21 • For the Bandwidth Patents and the '757 patent, Apple simply added
22 further citations to the same prior art references and combinations (Chuah 254,
23 Ericsson and Klayman) that Apple disclosed in June 2017;

24 • For the Section 112 charts, Apple moved its June 2017 contentions
25 from the cover pleading to separate claim charts, addressed the impact of the
26 Court's claim construction ruling on those contentions, and added contentions, such
27 as the lack of antecedent basis, in certain claims;

28 //

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