CONTAINS APPLE CONFIDENTIAL BUSINESS INFORMATION
SUBJECT TO PROTECTIVE ORDER

UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, DC

Before the Honorable Charles E. Bullock
Chief Administrative Law Judge

In the Matter of **CERTAIN MOBILE AND PORTABLE ELECTRONIC DEVICES INCORPORATING HAPTICS (INCLUDING SMARTPHONES AND LAPTOPS) AND COMPONENTS THEREOF**	**Inv. No. 337-TA-1004** **Inv. No. 337-TA-990** **(Consolidated)**

RESPONDENT APPLE INC.'S SUPPLEMENTAL RESPONSES TO COMPLAINANT IMMERSION CORPORATION'S SIXTH SET OF INTERROGATORIES (NOS. 94, 95, 98, 99, 100, 103 AND 104)

Pursuant to Commission's Rules of Practice and Procedure, 19 C.F.R. §§ 210.29 and 210.30, the Chief Administrative Law Judge's Ground Rules (Order No. 2) and the Protective Order (Order No. 1) in Inv. No. 337-TA-990 and Order No. 5 in Inv. No. 337-TA-1004, Respondent Apple Inc. ("Apple") hereby provides supplemental responses to the Sixth Set of Interrogatories propounded by Complainant Immersion Corporation ("Immersion" or "Complainant") as follows:

GENERAL STATEMENT AND OBJECTIONS

1. Apple incorporates by reference the General Statement and Objections included in its original responses to the Sixth Set of Interrogatories propounded by Immersion, as if fully stated herein.

Subject to the foregoing General Statement and Objections, Apple responds as follows:

RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 94:

If Respondent contends that one or more claims of one or more of the Pressure Patents is/are invalid, state all bases for Respondent's contention(s), including all facts, witnesses, information, and documents that relate to such contention(s).

RESPONSE TO INTERROGATORY NO. 94:

Apple objects to this Interrogatory on the grounds set forth in its General Statement and Objections above, and hereby incorporates these by reference as if fully set forth herein. Apple objects to this Interrogatory as overly broad as to subject matter and unduly burdensome. Apple objects to this Interrogatory to the extent it seeks to elicit information subject to and protected by the attorney-client privilege, the attorney work product doctrine, joint defense or common interest privilege and/or any other applicable privileges, protections, or immunities. Apple objects to this Interrogatory to the extent it calls for a legal conclusion and seeks expert testimony. Apple objects to this Interrogatory to the extent that it requests information regarding products outside the scope of this Investigation. Apple objects to this Interrogatory to the extent that it seeks disclosure of confidential information from third parties that Apple is under an obligation not to disclose. Apple objects to this Interrogatory as premature on the grounds that it seeks Apple's contentions and analysis before: (1) the time prescribed in a procedural schedule and (2) Apple has completed discovery relating to these issues. *See* 19 C.F.R. § 210.29(b)(3); *In the Matter of Certain Light Emitting Diodes and Products Containing Same*, Inv. No. 337-TA-512, Order No. 10 (Aug. 20, 2004); *In the Matter of EPROM, EEPROM, Flash Memory, and Flash Microcontroller Semiconductor Devices and Products Containing Same*, Inv. No. 337-TA-395, Order No. 57 (Nov. 2, 1999).

Subject to and without waiving the foregoing general and specific objections, Apple responds as follows: Apple incorporates by reference its Response to the Complaint and Notice of Investigation. Apple will respond to this Interrogatory on the initial deadline that Chief ALJ Bullock sets for responses to contention interrogatories on issues for which the responding party bears the burden of proof.

Apple reserves the right to modify or supplement its response to this Interrogatory as discovery and inquiry continue.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 94:

Apple incorporates its prior objections and responses to this interrogatory, and further responds as follows:

As stated in its initial response, Apple objects to this interrogatory as premature, given the early stage of discovery, and because the interrogatory is properly the subject of expert testimony. Apple's discovery and investigation of Complainant's claims is ongoing, and these contentions are based on information reasonably available to Apple as of this date. Accordingly, Apple reserves the right to amend or supplement its contentions in light of ongoing discovery and investigation.

Further, Apple's final position on the invalidity of the asserted claims will depend on how the claims are construed. Apple reserves the right to supplement its invalidity contentions as the parties clarify or modify their claim construction positions, or as otherwise appropriate or permitted by the Chief ALJ. Nothing in these invalidity contentions should be construed as a concession that Apple agrees with Complainant's interpretation of how the asserted claims should be construed or that any accused devices practice the asserted claim limitations. Apple reserves all rights to modify, supplement, and/or amend this response as appropriate and on the basis of further construction of the asserted claims of the asserted patents.

Apple objects that certain limitations of the asserted claims of the asserted patents are indefinite, and therefore cannot be analyzed to determine whether the prior art practices certain limitations. Apple reserves all rights to modify, supplement and/or amend this response on the basis of subsequent construction, if any, of those terms.

This response is based on the information that Complainant has provided to date. Apple has yet to receive infringement contentions from Complainant, and the claim charts included in the Complaint lack proper and complete disclosure as to Apple's accused products. Accordingly, Apple reserves the right to further supplement or modify its invalidity contentions, including the prior art disclosed and the stated grounds of invalidity.

Complainant has failed to provide a sufficient substantive response to Respondents' interrogatories seeking facts related to any conception, reduction to practice or related diligence, that might support a date of invention for any particular asserted claim prior to the filing date of its respective asserted patent. Apple has relied on Complainant's failure to provide any such facts in formulating these contentions, and will rely on Complainant's failure when preparing Respondents' Notice of Prior Art, due on the deadline of September 30, 2016, set by the procedural schedule. To the extent Complainant ever provides any facts to show, or makes any assertion, that any asserted claim is entitled to a date of invention prior to the filing date of its respective asserted patent, Apple reserves the right to amend and supplement these contentions and Respondents' Notice of Prior Art, including by identifying new prior art to predate any such alleged date of invention.

Apple is continuing to investigate the subject matter of this interrogatory and reserves the right to amend and/or supplement the response to the extent it locates any additional, non-privileged, relevant information or documents responsive to this interrogatory. Apple's experts are expected to address Apple's invalidity contentions, including the knowledge of one of

ordinary skill in the art, at the time designated in the procedural schedule, and this response is not intended to substitute for such expert reports or preclude expert analysis of the facts, documents, and contentions set forth herein.

Apple further may rely on inventor admissions concerning the scope or state of the prior art relevant to the asserted claims, the patent prosecution history for the asserted patents and related patents and/or patent applications, any deposition or hearing testimony on the asserted patent, and the papers filed and any evidence produced or submitted by Complainant in connection with this or related litigation. In addition to any inventor testimony at the hearing in this Investigation, Apple may also rely on any inventor deposition testimony.

Prior art not included in this response, whether known or not known to Apple, may become relevant. In particular, Apple is currently unaware of the extent, if any, to which Complainant will contend that limitations of the asserted claims are not disclosed in the prior art. Accordingly, Apple reserves the right to identify other references that would render obvious the allegedly missing limitation(s) of the disclosed device or method.

Discovery is ongoing and Apple anticipates that additional prior art may be found. Thus, Apple reserves the right to revise, amend, and/or supplement the information provided herein, including identifying, charting, and relying on additional references, should such art be found. Additionally, because third-party discovery is ongoing, Apple reserves the right to present additional items of prior art under 35 U.S.C. §§ 102(a), (b), (e), and/or (g), and/or § 103 located during discovery or further investigation, and to assert contentions of invalidity under 35 U.S.C. §§ 102(c), (d), or (f). For example, Apple may issue additional subpoenas to third parties believed to have knowledge, documentation and/or corroborating evidence concerning the validity of the asserted claims.

Immersion has not timely or properly responded to Apple's discovery requests seeking

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