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18 UNITED STATES DISTRICT COURT
19 SOUTHERN DISTRICT OF CALIFORNIA

21 QUALCOMM INCORPORATED,
22 Plaintiff,
23 vs.
24 APPLE INCORPORATED,
25 Defendant.

CASE NO. 3:17-cv-2402-CAB-MDD
**QUALCOMM INCORPORATED'S
AMENDED PATENT L.R. 3.1 AND
3.2 DISCLOSURES**

26 AND RELATED COUNTERCLAIM
27

28

Case No. Case No. 3:17-CV-02402-CAB-MDD

QUALCOMM INCORPORATED'S AMENDED PATENT L.R. 3.1 AND 3.2 DISCLOSURES

1 **QUALCOMM’S PATENT L.R. 3.1 AND 3.2 DISCLOSURES**

2 Pursuant to Patent Local Rule 3.1 (“Rule 3.1”) and the Amended Case
3 Management Order (Dkt. 116), Plaintiff Qualcomm Incorporated (“Qualcomm”)
4 hereby makes the following Amended Disclosure of Asserted Claims and
5 Infringement Contentions (“Rule 3.1 Disclosures”).

6 **PRELIMINARY STATEMENT**

7 These disclosures are based on information reasonably available to Qualcomm
8 at this time. Because Qualcomm’s discovery efforts and investigation in connection
9 with this case are ongoing, Qualcomm reserves the right to add, modify, amend, or
10 otherwise supplement these Rule 3.1 Disclosures as appropriate, including in response
11 to new information or allegations. Qualcomm reserves the right to rely on testimony
12 by any witness with relevant information, including fact witnesses and experts.

13 Nothing in these Rule 3.1 Disclosures shall be construed to waive rights or
14 objections that otherwise might be available to Qualcomm, nor shall the information
15 herein or documents produced pursuant to Rule 3.2 be deemed an admission of
16 relevancy, materiality, or admissibility for any purpose whatsoever. Qualcomm
17 further states that Defendant Apple Incorporated (“Apple”) has not produced all
18 relevant documents and information concerning the products within the scope of this
19 case (“Accused Products” or “Accused Instrumentalities”). Qualcomm expects Apple
20 to promptly provide complete discovery concerning all products within the scope of
21 this case.

22 **I. Patent Local Rule 3.1(a)**

23 Rule 3.1(a) requires Qualcomm to disclose: “Each claim of each patent in suit
24 that is allegedly infringed by each opposing party.” In response to Rule 3.1(a),
25 Qualcomm states that Apple infringes the following claims (the “Asserted Claims”)
26 of U.S. Patent Nos. 7,834,591 (“the ’591 patent”), 8,229,043 (“the ’043 patent”),
27 8,447,132 (“the ’132 patent”), 8,768,865 (“the ’865 patent”), 8,971,861 (“the ’861
28 patent”), and 9,024,418 (“the ’418 patent”) (collectively, “the Asserted Patents”):

| | | |
|----|--------------------|---|
| 1 | '591 Patent | Claims 1, 3, 4, 6, 8, 11, 12, 15, 18, 19, 21, 24, and 32 are infringed |
| 2 | | under at least 35 U.S.C. § 271 (a), (b), and (c) |
| 3 | | |
| 4 | '043 Patent | Claims 1, 2, 3, 6, 7, 17, and 21 are infringed under at least 35 U.S.C. |
| 5 | | § 271 (a), (b), and (c) |
| 6 | | |
| 7 | '132 Patent | Claims 1, 5, 6, 13, 21, 23, and 33 are infringed under at least 35 |
| 8 | | U.S.C. § 271 (a), (b), and (c) |
| 9 | | |
| 10 | '865 Patent | Claims 1, 3, 4, 5, 6, 21, and 22 are infringed under at least 35 U.S.C. |
| 11 | | § 271 (a), (b), and (c) |
| 12 | | |
| 13 | '861 Patent | Claims 1, 4, 5, 10, 13, 14, and 30 are infringed under at least 35 |
| 14 | | U.S.C. § 271 (a), (b), and (c) |
| 15 | '418 Patent | Claims 1, 2, 4, 5, 17, 18, 19, and 20 are infringed under at least 35 |
| 16 | | U.S.C. § 271 (a), (b), and (c) |
| 17 | | |

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19 As stated above, because Qualcomm's discovery efforts and investigation in

20 connection with this case are ongoing, Qualcomm reserves the right to add, modify,

21 amend, or otherwise supplement these Rule 3.1 Disclosures as appropriate, including

22 in response to new information or allegations, including based on review of

23 confidential Apple and/or third party information. By way of example only,

24 Qualcomm reserves the right to amend as permitted by the Patent Local Rules and/or

25 seek leave from the Court, based on review of confidential Apple and/or third party

26 information, to substitute or add claims, including Claims 5, 33, and 35 of the '591

27 Patent, Claims 5 and 20 of the '043 Patent, Claims 8, 11, 14, 25, 26, 27, and 30 of the

28

1 '132 Patent, Claims 18, 19, and 20 of the '865 Patent, and Claims 6, 8, 10, and 11 of
2 the '418 Patent.

3 **II. Patent Local Rule 3.1(b)**

4 Rule 3.1(b) requires Qualcomm to disclose: “Separately for each asserted
5 claim, each accused apparatus, product, device, process, method, act, or other
6 instrumentality (‘Accused Instrumentality’) of each opposing party of which the party
7 is aware. This identification must be as specific as possible. Each product, device
8 and apparatus must be identified by name or model number, if known. Each method
9 or process must be identified by name, if known, or by any product, device, or
10 apparatus which, when used, allegedly results in the practice of the claimed method
11 or process.” In response to Rule 3.1(b), Qualcomm states as follows:

12 The Asserted Claims of the '591 Patent are infringed by at least the iPhone 6s,
13 the iPhone 6s Plus, the iPhone SE, the iPhone 7, the iPhone 7 Plus, the iPhone 8, the
14 iPhone 8 Plus, the iPhone X, the iPad 5 (A1822), and the MacBook 1534 model
15 (collectively, “the '591 Patent Accused Products”).

16 The Asserted Claims of the '043 Patent are infringed by at least the iPhone 7,
17 iPhone 7 Plus, iPhone 8, iPhone 8 Plus, and iPhone X (collectively, “the '043 Patent
18 Accused Products”).

19 The Asserted Claims of the '132 Patent are infringed by at least iPhone or iPad
20 devices running iOS 5.0 or above (including iPhone 5, 5s, 5c, 6, 6 Plus, 6s, and SE,
21 iPad (3rd generation), iPad (4th generation), iPad Air, iPad Air 2, iPad (2017), iPad
22 Mini, iPad Mini 2, iPad Mini 3, iPad Mini 4, iPad Pro (1st generation), iPad Pro (2nd
23 generation)) (collectively, “the '132 Patent Accused Products”).

24 The Asserted Claims of the '865 Patent are infringed by at least Apple devices
25 running iOS 9 and above, including, but not limited to: iPhone 4S, iPhone 5, iPhone
26 5C, iPhone 5S, iPhone 6, iPhone 6 Plus, iPhone 6S, iPhone 6S Plus, iPhone SE,
27 iPhone 7, iPhone 7 Plus, iPhone 8, iPhone 8 Plus, iPhone X, iPad Pro, iPad Air, iPad
28

1 2 and later, iPad mini and later, and iPod Touch 5th gen. and later,¹ as well as Apple
2 devices running watchOS 4 and above, including, but not limited to: every generation
3 of Apple Watch² (collectively, “the ’865 Patent Accused Products”).

4 Asserted Claims 1, 4, 10, and 13 of the ’861 Patent are infringed by at least
5 Apple devices running iOS 8 and above and compatible with Apple watch software
6 for iOS, including, but not limited to: iPhone 5, iPhone 5C, iPhone 5S, iPhone 6,
7 iPhone 6 Plus, iPhone 6S, iPhone 6S Plus, iPhone SE, iPhone 7, iPhone 7 Plus, iPhone
8 8, iPhone 8 Plus, and iPhone X (collectively, “the ’861 Patent Accused Products”).

9 Asserted Claims 5, 14, and 30 are infringed by at least the ’861 Patent Accused
10 Products in combination with Apple devices running watchOS, including, but not
11 limited to: every generation of Apple Watch.

12 The Asserted Claims of the ’418 Patent are infringed by at least Apple that
13 include the A9 processor, including, but not limited to: iPhone 6s and iPhone 6s Plus;
14 the A9x processor, including, but not limited, to certain variations of the iPad Pro; the
15 A10 processor, including, but not limited to, the iPhone 7, and the iPhone 7 Plus; the
16 A10x processor, including, but not limited to, certain variations of the iPad Pro and
17 the Apple TV digital media player; and the A11 processor, including, but not limited
18 to, the iPhone 8, iPhone 8 Plus, and the iPhone X (collectively, “the ’418 Patent
19 Accused Products”).

20 Additional detail is provided in the charts provided pursuant to Rule 3.1(c).
21
22
23

24
25 ¹ [https://everyi.com/by-capability/maximum-supported-ios-version-for-ipod-
iphone-ipad.html](https://everyi.com/by-capability/maximum-supported-ios-version-for-ipod-iphone-ipad.html) (last accessed Feb. 26, 2018) and <http://iossupportmatrix.com/> (last
26 accessed Feb. 26, 2018) (listing devices compatible with iOS 9 and above).

27 ² <https://www.imore.com/my-apple-watch-compatible-watchos-4> (“Every Apple
28 Watch made to date, from the original that launched in 2015 to the Series 3 coming
out on September 22, is compatible with watchOS 4.”)

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