

Zhong, Annita

From: Sewall, Michaela P. <Michaela.Sewall@wilmerhale.com>
Sent: Tuesday, July 7, 2020 8:19 AM
To: Strabone, Andrew; PanOptis_Apple2; Ppm_Apple@grayreed.com; #Hilco/PanOptis v Apple [Int]
Cc: Tom Gorham; ~Smith, Melissa; WH Apple Optis Service
Subject: RE: Apple v. Optis

Andrew,

Yes, we agree.

Thanks,
Michaela

Michaela P. Sewall | WilmerHale
+1 617 526 6770 (t)
michaela.sewall@wilmerhale.com

From: Strabone, Andrew <AStrabone@irell.com>
Sent: Monday, July 6, 2020 6:41 PM
To: Sewall, Michaela P. <Michaela.Sewall@wilmerhale.com>; PanOptis_Apple2 <PanOptis_Apple2@mckoolsmith.com>; Ppm_Apple@grayreed.com; #Hilco/PanOptis v Apple [Int] <#Hilco/PanOptisvApple@irell.com>
Cc: Tom Gorham <tom@gillamsmithlaw.com>; melissa@gillamsmithlaw.com; WH Apple Optis Service <WHAppleOptisService@wilmerhale.com>
Subject: RE: Apple v. Optis

EXTERNAL SENDER

Michaela,

As you know, the Court's local rules allow for reply briefs to be filed 7 days from the date oppositions were served. Given the parties' agreement not to open each others' filings until after all filings were complete, and that documents filed after 5:00pm are deemed served the following day, does Apple agree that all reply briefs by both parties can be filed on Friday, July 10?

Thanks,
Andrew

From: Strabone, Andrew <AStrabone@irell.com>
Sent: Thursday, July 2, 2020 1:50 PM
To: 'Sewall, Michaela P.' <Michaela.Sewall@wilmerhale.com>; PanOptis_Apple2 <PanOptis_Apple2@mckoolsmith.com>; Ppm_Apple@grayreed.com; #Hilco/PanOptis v Apple [Int] <#Hilco/PanOptisvApple@irell.com>
Cc: Tom Gorham <tom@gillamsmithlaw.com>; ~Smith, Melissa <melissa@gillamsmithlaw.com>; WH Apple Optis Service <WHAppleOptisService@wilmerhale.com>
Subject: RE: Apple v. Optis

Confirmed.

Thanks,
Andrew

From: Sewall, Michaela P. <Michaela.Sewall@wilmerhale.com>
Sent: Thursday, July 2, 2020 1:49 PM
To: Strabone, Andrew <AStrabone@irell.com>; PanOptis_Apple2 <PanOptis_Apple2@mckoolsmith.com>; Ppm_Apple@grayreed.com; #Hilco/PanOptis v Apple [Int] <#Hilco/PanOptisvApple@irell.com>
Cc: Tom Gorham <tom@gillamsmithlaw.com>; ~Smith, Melissa <melissa@gillamsmithlaw.com>; WH Apple Optis Service <WHAppleOptisService@wilmerhale.com>
Subject: RE: Apple v. Optis

Andrew,

We are operating on the same agreement for opposition briefs. Please confirm Plaintiffs will do the same.

Thanks,
Michaela

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From: Sewall, Michaela P.
Sent: Thursday, June 18, 2020 4:27 PM
To: 'Strabone, Andrew' <AStrabone@irell.com>; PanOptis_Apple2 <PanOptis_Apple2@mckoolsmith.com>; Ppm_Apple@grayreed.com; #Hilco/PanOptis v Apple [Int] <#Hilco/PanOptisvApple@irell.com>
Cc: Tom Gorham <tom@gillamsmithlaw.com>; melissa@gillamsmithlaw.com; WH Apple Optis Service <WHAppleOptisService@wilmerhale.com>
Subject: RE: Apple v. Optis

Andrew,

Yes, that is fine with us.

Thanks,
Michaela

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michaela.sewall@wilmerhale.com

From: Strabone, Andrew <AStrabone@irell.com>
Sent: Thursday, June 18, 2020 3:44 PM
To: Sewall, Michaela P. <Michaela.Sewall@wilmerhale.com>; PanOptis_Apple2 <PanOptis_Apple2@mckoolsmith.com>; Ppm_Apple@grayreed.com; #Hilco/PanOptis v Apple [Int] <#Hilco/PanOptisvApple@irell.com>
Cc: Tom Gorham <tom@gillamsmithlaw.com>; melissa@gillamsmithlaw.com; WH Apple Optis Service <WHAppleOptisService@wilmerhale.com>
Subject: RE: Apple v. Optis

EXTERNAL SENDER

Michaela,

Given the number of motions the parties need to file today, we propose the parties agree to not review each other's filings until all of today's filings are completed. This way the parties won't feel the need to wait until later in the evening before filing anything with the court. Please let us know if you will agree and we will do the same.

Thanks,
Andrew

ANDREW J. STRABONE
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From: Sewall, Michaela P. <Michaela.Sewall@wilmerhale.com>
Sent: Wednesday, June 17, 2020 3:06 PM
To: Strabone, Andrew <AStrabone@irell.com>; PanOptis_Apple2 <PanOptis_Apple2@mckoolsmith.com>; Ppm_Apple@grayreed.com; #Hilco/PanOptis v Apple [Int] <#Hilco/PanOptisvApple@irell.com>
Cc: Tom Gorham <tom@gillamsmithlaw.com>; ~Smith, Melissa <melissa@gillamsmithlaw.com>; WH Apple Optis Service <WHAppleOptisService@wilmerhale.com>
Subject: RE: Apple v. Optis

Andrew, thanks. Below is our list.

1. Exclude all references to evidence, arguments, verdicts, judgments, or orders from other litigations and parallel administrative proceedings, including Justice Birss's UK decision in *Unwired Planet v. Huawei*; *Optis Wireless Technology v. Huawei* (E.D. Tex.); *Optis Cellular Technology v. Apple Inc.*, HP-2019-000006 (UK); *FTC v. Qualcomm* (N.D. Cal.); *Apple v. Qualcomm* (S.D. Cal.); and Apple's petitions for IPR filed in IPR 2020-00465, -00466, and -00642
2. Exclude all references to arguments or rulings made during pretrial proceedings, with the exception of *Markman* constructions
3. Exclude all references to parties' pre-suit licensing negotiations and correspondence under FRE 408 and the Confidentiality Agreement
4. Exclude reliance on opinions of experts who do not testify at trial or expert opinions from witnesses who have not submitted expert reports
5. Exclude evidence regarding expert report drafting process and communications between experts and trial teams
6. Exclude evidence or arguments to the jury regarding French law
7. Exclude infringement arguments based on comparing accused products to embodiments in the specification
8. Exclude undisclosed doctrine of equivalents arguments (e.g., for the '557, '284, and '332 patents)

10. Exclude improper proof of conception evidence for the '557 patent
11. Exclude evidence regarding the size or composition of trial teams, and the use of jury consultants, mock trials, focus groups, and similar exercises
12. Exclude evidence regarding Apple's foreign operations, including the size of Apple's operations abroad; the location of Apple's suppliers, manufactures, or assemblers; working conditions or labor issues; and any press concerning such companies or issues.
13. Exclude evidence regarding Apple's overall financial numbers, including Apple's earnings, market capitalization, stock price, cash reserves, total revenues and profits, product-specific revenues and profits; or other indications of wealth.
14. Exclude evidence regarding witness compensation unrelated to this case, including employee compensation, stock options, or net worth
15. Exclude evidence regarding Steve Jobs, political positions taken by Apple or its leadership, media reports unrelated to this litigation, and media speculation about Apple
16. Exclude argument that publishing patents or patent applications or declaring patents or patent applications to ETSI constitutes notice of alleged infringement

Michaela P. Sewall | WilmerHale

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From: Strabone, Andrew <AStrabone@irell.com>

Sent: Wednesday, June 17, 2020 6:02 PM

To: Sewall, Michaela P. <Michaela.Sewall@wilmerhale.com>; PanOptis_Apple2 <PanOptis_Apple2@mckoolsmith.com>; Ppm_Apple@grayreed.com; #Hilco/PanOptis v Apple [Int] <#Hilco/PanOptisvApple@irell.com>

Cc: Tom Gorham <tom@gillamsmithlaw.com>; melissa@gillamsmithlaw.com; WH Apple Optis Service <WHAppleOptisService@wilmerhale.com>

Subject: RE: Apple v. Optis

EXTERNAL SENDER

Michaela, below is our current list of MILs.

List of MILs

- * LAY WITNESS INFRINGEMENT OPINIONS
- * FACT TESTIMONY BEYOND WHAT WAS PROVIDED BY RULE 30(b)(6) TESTIMONY
- * FOREIGN PATENT PROSECUTION HISTORY
- * ALLEGED INVENTOR MISCONDUCT BEFORE THE PTO
- * WITHDRAWN PATENTS
- * THIRD PARTY PATENTS
- * VALUE AND PROPRIETY OF PATENTS ACQUIRED FROM OTHERS
- * ANY DISCUSSION OF FTC V. QUALCOMM OR THAT QUALCOMM'S CONDUCT WAS NOT FRAND
- * ARGUMENT THAT BECAUSE LG, SAMSUNG OR PANASONIC DID NOT SUBMIT THE TECHNICAL PROPOSAL ADOPTED, THIS MEANS THE PATENT IS NOT INFRINGED
- * QUALITY OF PTO AND ITS EXAMINERS
- * PANOPTIS' CORPORATE STRUCTURE
- * PRACTICING THE PRIOR ART
- * PREDECESSORS' NON-ASSERTION OF PATENTS-IN-SUIT AGAINST APPLE
- * DISCUSSION OF TIMING OF DISCLOSURE OF STANDARD ESSENTIAL PATENTS BEFORE JURY
- * APPLE'S ALLEGED RESPECT FOR INTELLECTUAL PROPERTY AND DECISION TO ENTER INTO 2019 LICENSE AGREEMENT WITH QUALCOMM
- * NON-DISCLOSURE AGREEMENT

- * ABSENCE OF INVENTORS AT TRIAL
- * PANOPTIS ACQUISITION
- * FACT TESTIMONY OF CHRISTIAN FABER, OR ON THE TOPICS ON WHICH MR. FABER WAS DESIGNATED.

Thanks,
Andrew

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From: Sewall, Michaela P. <Michaela.Sewall@wilmerhale.com>
Sent: Wednesday, June 17, 2020 7:59 AM
To: Strabone, Andrew <AStrabone@irell.com>; PanOptis_Apple2 <PanOptis_Apple2@mckoolsmith.com>; Ppm_Apple@grayreed.com; #Hilco/PanOptis v Apple [Int] <#Hilco/PanOptisvApple@irell.com>
Cc: Tom Gorham <tom@gillamsmithlaw.com>; ~Smith, Melissa <melissa@gillamsmithlaw.com>; WH Apple Optis Service <WHAppleOptisService@wilmerhale.com>
Subject: RE: Apple v. Optis

Andrew,

We are available to meet and confer at 2pm ET on Thursday. We would also like to discuss the issue of Plaintiff's failure to disclose fact witnesses first identified in Ms. Dwyer's expert report—and contradiction of its prior commitment not to rely on inventor testimony—and the proper remedy for same. We agree to exchange MIL lists at 5pm CT today.

We can use the following dial-in:

(917) 210-2626
Meeting #: 743 252 249

We will arrange for a court reporter to join the call, at our expense.

Thanks,
Michaela

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From: Strabone, Andrew <AStrabone@irell.com>
Sent: Wednesday, June 17, 2020 9:55 AM
To: Sewall, Michaela P. <Michaela.Sewall@wilmerhale.com>; PanOptis_Apple2 <PanOptis_Apple2@mckoolsmith.com>; Ppm_Apple@grayreed.com; #Hilco/PanOptis v Apple [Int] <#Hilco/PanOptisvApple@irell.com>
Cc: Tom Gorham <tom@gillamsmithlaw.com>; melissa@gillamsmithlaw.com; WH Apple Optis Service

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