Filed on behalf of: Patent Owner Masimo Corporation
By: Joseph R. Re (Reg. No. 31,291)
Stephen W. Larson (Reg. No. 69,133)
Jarom D. Kesler (Reg. No. 57,046)
Jacob L. Peterson (Reg. No. 65,096)
William R. Zimmerman (admitted *pro hac vice*)
Jeremiah S. Helm, Ph.D. (admitted *pro hac vice*)
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, Fourteenth Floor
Irvine, CA 92614
Tel.: (949) 760-0404
Fax: (949) 760-9502
E-mail: AppleIPR2020-1520-265@knobbe.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

### APPLE INC.

Petitioner,

v.

MASIMO CORPORATION,

Patent Owner.

Case IPR2020-01520 U.S. Patent 10,258,265

### PATENT OWNER'S SUR-REPLY TO REPLY

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### **TABLE OF AUTHORITIES**

DePuy Spine, Inc. v. Medtronic Sofamor Danek, Inc.,	
567 F. 3d 1314 (Fed. Cir. 2009)	
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### **EXHIBIT LIST**

Exhibit No.	Description
2001	Declaration of Jeremiah S. Helm in Support of <i>Pro Hac Vice</i> Motion
2002	Declaration of William R. Zimmerman in Support of <i>Pro Hac Vice</i> Motion
2003	Reserved
2004	Declaration of Dr. Vijay K. Madisetti
2005	Curriculum Vitae of Dr. Vijay K. Madisetti
2006	Deposition Transcript of Dr. Thomas W. Kenny in <i>Apple Inc. v.</i> <i>Masimo Corp.</i> , IPR2020-01520, IPR2020-01537, IPR2020-01539 (April 22, 2021)
2007	Deposition Transcript of Dr. Thomas W. Kenny in <i>Apple Inc. v.</i> <i>Masimo Corp.</i> , IPR2020-01520, IPR2020-01537, IPR2020-01539 (April 23, 2021)
2008	Deposition Transcript of Dr. Thomas W. Kenny in <i>Apple Inc. v.</i> <i>Masimo Corp.</i> , IPR2020-01536, IPR2020-01538 (April 24, 2021)
2009	Deposition Transcript of Dr. Thomas W. Kenny in <i>Apple Inc. v.</i> <i>Masimo Corp.</i> , IPR2020-01536, IPR2020-01538 (April 25, 2021)
2010	Frank H. Netter, M.D., Section VI Upper Limb, Atlas of Human Anatomy (2003), Third Edition ("Netter")
2011	Declaration of Dr. Thomas W. Kenny in <i>Apple Inc. v. Masimo Corp.</i> , IPR2020-01536
2012	Webster, Design of Pulse Oximeters (1997)
2013	Reserved

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