

August 31, 2020

VIA E-MAIL

Joseph R. Re
 Stephen C. Jensen
 Perry D. Oldham
 Stephen W. Larson
 Knobbe, Martens, Olson & Bear LLP
 2040 Main Street
 Irvine, CA 92614

Re: Masimo Corporation et al. v. Apple Inc., Case No. 8:20-cv-00048 (C.D. Cal.)

Dear Counsel:

We write regarding a petition for *inter partes* review (IPR) being filed with the Patent Trial and Appeal Board (PTAB) to address claim 15 of U.S. Patent No. 6,771,994. The table below lists grounds asserted by Apple in an IPR petition challenging claim 15 of this patent. We write to inform you that Apple hereby stipulates that in the event the PTAB institutes an *inter partes* review including a ground listed in the table against claim 15 (“Instituted Ground”), Apple will not assert that Instituted Ground against claim 15 as listed in the table for that ground in the above captioned litigation (8:20-cv-00048).

Patent No.	Proceeding No.	Claim	Grounds
6,771,994	IPR2020-01526	15	Diab in view of Benjamin and Melby
		15	Webster in view of Melby
		15	Fine
		15	Fine in view of Benjamin and Melby

In so stipulating, Apple seeks to avoid multiple proceedings addressing the validity of these claims based on the Instituted Grounds. Rather, consistent with Congressional intent, through this stipulation, Apple expresses its intention to have only the PTAB address the Instituted Grounds of invalidity of these claims. But, for the sake of clarity and to avoid any doubt, if the PTAB declines to institute any of the grounds identified herein, Apple reserves the right to assert such grounds in this litigation. Additionally, even in the event of

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institution, Apple reserves its rights to continue to assert all grounds other than Instituted Grounds.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brian Rosenthal", is written over a light yellow rectangular background.

Brian Rosenthal

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Appendix – Prior Art References Used in the Listed Grounds

Reference Name	Details
Diab	U.S. Patent No. 5,638,818
Benjamin	U.S. Patent No. 4,015,595
Melby	U.S. Patent No. 5,254,388
Webster	Design of Pulse Oximeters, J.G. Webster; Institution of Physics Publishing, 1997
Fine	WO Pub. No. 1996/41566