

September 30, 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 claims of U.S. Patent No. 10,702,195. The table below lists grounds asserted by Apple in an IPR petition challenging claims of this patent, along with the implicated claims against which each ground is asserted. 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 the corresponding claims listed in the table for that ground (“Instituted Ground”), Apple will not assert that Instituted Ground against the corresponding claims listed in the table for that ground in the above captioned litigation (8:20-cv-00048).

Patent No.	Proceeding No.	Claims	Grounds
10,702,195	IPR2020-01733	1-17	Aizawa in view of Mendelson-2003, Ohsaki, and Goldsmith
		1-17	Aizawa in view of Mendelson-2003, Ohsaki, Goldsmith, and Ali

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
Aizawa	U.S. Pub. No. 2002/0188210
Mendelson-2003	“Measurement Site and Photodetector Size Considerations in Optimizing Power Consumption of a Wearable Reflectance Pulse Oximeter,” Y. Mendelson, et al.; Proceedings of the 25th IEEE EMBS Annual International Conference, 2003; pp. 3016-3019
Ohsaki	U.S. Pub. No. 2001/0056243
Goldsmith	U.S. Pub. No. 2007/0093786
Ali	U.S. Patent No. 6,584,336