

[REDACTED]

----- Original Message -----

From: Michael Pieja <MPIEJA@goldmanismail.com>

Date: Mon, March 08, 2021 6:01 AM -0800

To: KOSS\_LIT <KOSS\_LIT@klgates.com>

CC: "Littmann, Alan E (EXTERNAL)" <alittmann@goldmanismail.com>, Doug Winnard <dwinnard@goldmanismail.com>, Sam Schoenburg <Sschoenburg@goldmanismail.com>, Whitney Woodward <wwoodward@goldmanismail.com>, Tiffany Steele <tsteele@goldmanismail.com>, Steve Wingard <swingard@scottdoug.com>, Stephen Burbank <sburbank@scottdoug.com>

Subject: Koss v. Apple - Correspondence

**External Sender:**

Counsel,

Please see the attached correspondence regarding an IPR petition Apple filed against the '451 Patent yesterday. Best regards,

**Michael Pieja**

200 South Wacker Dr., 22<sup>nd</sup> Floor, Chicago, IL 60606

P 312-881-5954 C 415-420-8963

mpieja@goldmanismail.com

**GOLDMAN ISMAIL TOMASELLI BRENNAN & BAUM LLP**

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March 6, 2021

**VIA E-MAIL AND U.S. MAIL**

Darlene F. Ghavimi  
K&L GATES LLP  
2801 Via Fortuna, Suite #350  
Austin, TX 78746  
darlene.ghavimi@klgates.com

Re: *Koss Corporation v. Apple Inc.*, Case No. 6:20-cv-00665

Dear Ms. Ghavimi:

We write regarding the petition for *inter partes* review (IPR) filed against the patent in suit, U.S. Patent No. 10,298,451, in the above-captioned litigation. We write to inform you that Apple Inc. hereby stipulates that if the Patent Trial and Appeal Board (PTAB) institutes this petition on the grounds presented, then Defendant, Apple Inc. ("Apple"), will not seek resolution within this litigation of any ground of invalidity that utilizes, as a primary reference, US Patent Application Publication No. 2007/0033197 ("Scherzer"), which is the primary reference in the grounds asserted in the IPR petition.

Apple hereby further stipulates that if the PTAB institutes the petition filed on November 25, 2020 (IPR2021-00255) on the grounds presented, which are directed against the same patent in suit, Apple will not seek resolution within the litigation of any ground of invalidity that utilizes, as a primary reference, US Patent No. 9,021,108 ("Brown"), which is the primary reference in the grounds asserted in the November 25, 2020 petition.

In so stipulating, Apple seeks to avoid multiple proceedings addressing the validity of the patents in suit based on the same grounds. Rather, consistent with Congressional intent, Apple wishes the patentability of these patents over grounds in which Scherzer or Brown is the primary reference to be addressed at the Board. But, for the sake of clarity and to avoid any doubt, if the PTAB declines institution of Apple's IPR petition relating to the '451 Patent, Apple reserves the right to pursue any such grounds in this litigation.

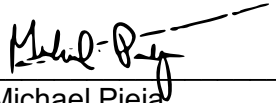
Chicago 200 South Wacker Drive, 22nd Floor Chicago, IL 60606

Dallas 3131 Turtle Creek, Suite 1210 Dallas, TX 75219

Santa Monica 420 Santa Monica Boulevard, Suite 710 Santa Monica, CA

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Sincerely,

A handwritten signature in black ink, appearing to read "Michael Pieja", written over a horizontal line. A dashed line extends from the end of the signature upwards and to the right.

Michael Pieja  
Goldman Ismail Tomaselli Brennan & Baum