

March 22, 2021

VIA E-MAIL AND U.S. MAIL

Darlene F. Ghavimi
K&L GATES LLP
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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. 10,491,982, 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 the 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. 2008/0076489 (“Rosener”), 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 January 4, 2021 (IPR2021-00381) 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, Rosener, which is the primary reference in the grounds asserted in the January 4, 2021 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 Rosener 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 both of Apple's IPR petitions relating to the '982 Patent, Apple reserves the right to pursue any such grounds in this litigation. Additionally, if the PTAB declines institution of one of Apple's IPR petitions relating to the '982 Patent, Apple reserves the right to use Rosener in this litigation as a primary reference against the claims solely at issue in the non-instituted IPR petition.

Sincerely,

/s/ Doug Winnard

Doug Winnard

Goldman Ismail Tomaselli Brennan & Baum LLP