



Peter Knops <peter@noroozipc.com>

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**RE: Amazon joinder in Apple v. Zentian IPRs - IPR2023-01192, IPR2023-01193, IPR2023-01194, IPR2023-01195, IPR2023-01197**

1 message

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**Jessica Benzler** <jbenzler@fenwick.com>

Thu, Oct 5, 2023 at 6:15 PM

To: Kayvan Noroozi <kayvan@noroozipc.com>, Jennifer Bailey <jennifer.bailey@eriseip.com>

Cc: "peter@noroozipc.com" <peter@noroozipc.com>, "katherine.rhoades@bartlitbeck.com"

<katherine.rhoades@bartlitbeck.com>, "nevin.gewertz@bartlitbeck.com" <nevin.gewertz@bartlitbeck.com>,"PTAB@eriseip.com" <PTAB@eriseip.com>,"Adam P. Seitz" <adam.seitz@eriseip.com>,"Adam Sandwell

<adam.sandwell@eriseip.com>,"David Hadden <DHadden@fenwick.com>,"Saina Shamilov <sshamilov@fenwick.com>,"Dargaye Churnet <dchurnet@fenwick.com>,"Amazon-Zentian-IPR <Amazon-Zentian-IPR@fenwick.com>

<adam.sandwell@eriseip.com>, David Hadden <DHadden@fenwick.com>, Saina Shamilov <sshamilov@fenwick.com>, Dargaye Churnet <dchurnet@fenwick.com>, Amazon-Zentian-IPR <Amazon-Zentian-IPR@fenwick.com>

Kayvan,

Amazon confirms that it and Dr. Atlas will be bound by Mr. Schmandt's deposition testimony given while Amazon remains in an understudy role, consistent with its statement in the motions for joinder that it "will not rely on expert testimony beyond that submitted by Apple unless and until Apple is terminated as party to the proceedings." To be clear, this does not preclude Amazon from submitting additional expert testimony as permitted under the PTAB's schedule and rules in the event Apple were to terminate its involvement in the IPRs before all necessary depositions and briefing are complete.

A *Sofera* stipulation is irrelevant to these proceedings. Under the current district court schedule, final written decisions in Apple's IPRs are expected to issue well before the September 23, 2024 trial date in the district court action. Moreover, as a party joining an instituted IPR proceeding, in the event Amazon's motions to join are granted and once final written decisions issue, Amazon would only be estopped from asserting at the district court the grounds specifically at issue in Apple's IPRs.

Regards,

Jessica

Jessica Benzler

Fenwick | Associate | +1 650-335-7279 | [jbenzler@fenwick.com](mailto:jbenzler@fenwick.com)

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**From:** Kayvan Noroozi <kayvan@noroozipc.com>

**Sent:** Thursday, October 5, 2023 3:52 PM

**To:** Jennifer Bailey <jennifer.bailey@eriseip.com>

**Cc:** Jessica Benzler <jbenzler@fenwick.com>; peter@noroozipc.com; katherine.rhoades@bartlitbeck.com;

nevin.gewertz@bartlitbeck.com; PTAB@eriseip.com; Adam P. Seitz <adam.seitz@eriseip.com>; Adam Sandwell

<adam.sandwell@eriseip.com>; David Hadden <DHadden@fenwick.com>; Saina Shamilov <sshamilov@fenwick.com>;

Dargaye Churnet <dchurnet@fenwick.com>; Amazon-Zentian-IPR <Amazon-Zentian-IPR@fenwick.com>

**Subject:** Re: Amazon joinder in Apple v. Zentian IPRs - IPR2023-01192, IPR2023-01193, IPR2023-01194, IPR2023-01195, IPR2023-01197

**\*\* EXTERNAL EMAIL \*\***

Counsel,

Will you be providing a response to our two questions? If we do not hear from you by tomorrow, we will prepare POPRs and joinder oppositions and will have to note to the Board that Amazon did not respond to our outreach.

Best

Kayvan

Kayvan B. Noroozi

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[11601 Wilshire Blvd., Suite 2170](#)

[Los Angeles, CA 90025](#)

[\(310\) 975-7074](#)

Sent via [Superhuman iOS](#)

On Mon, Oct 2 2023 at 11:26 AM, Kayvan Noroozi <[kayvan@noroozipc.com](mailto:kayvan@noroozipc.com)> wrote:

Counsel,

Amazon's IPR Petitions and requests for joinder state Amazon's commitment to serving in an "understudy" role to Apple and to not consuming any more of the Board's or parties' resources beyond the existing Apple IPRs. However, two items are not expressly addressed in Amazon's petitions and motions, for which Zentian requires clarification.

1. While Amazon and its expert have agreed to be bound by Mr. Schmandt's declaration testimony, Amazon and its expert do not seem to have addressed Mr. Schmandt's deposition testimony. Can Amazon and its expert please confirm that they will be fully bound by Mr. Schmandt's deposition testimony (including any future testimony), obviating the need for separate depositions as to Amazon's expert and the possibility of any conflicting positions between Amazon and Apple?
2. Apple obtained institution in part through a Sotera stipulation provided in a reply to Patent Owner's Preliminary Response. While Amazon has agreed to be bound by Apple's positions, it does not seem to have expressly accepted a corresponding Sotera stipulation. Please confirm that Amazon will file its agreement to a corresponding Sotera stipulation in each proceeding prior to the upcoming POPR date of October 12.

To the extent Amazon agrees as to the two above items, Zentian will not oppose joinder or the institution requests. If there is a dispute on either item, however, please let us know by close of business tomorrow, October 3, 2023, so we can prepare our POPRs and joinder oppositions accordingly.

If Amazon would like to meet and confer on any items, I am available on Thursday. I am at the Federal Circuit for arguments on Wednesday and traveling tomorrow.

Best

Kayvan

Kayvan B. Noroozi

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Sent via [Superhuman](#)

On Thu, Jul 20, 2023 at 2:18 PM, Kayvan Noroozi <[kayvan@noroozipc.com](mailto:kayvan@noroozipc.com)> wrote:

Jessica—counsel for Zentian is available on Monday and Tuesday from 12 pm ET, and Wednesday from 1 pm PT onward.

Kayvan B. Noroozi

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On Thu, Jul 20, 2023 at 12:12 PM, Jennifer Bailey <[jennifer.bailey@eriseip.com](mailto:jennifer.bailey@eriseip.com)> wrote:

Jessica -

Counsel for Apple is available at the following times:

Monday 12pm on

Tuesday 10am on


Wednesday 10:30am on

Thursday all day

Friday all day

Thanks,

Jennifer

 **Jennifer Bailey (she/her)**  
shareholder  
**P** 913.777.5600 | **D** 913.777.5641  
**erise IP**  
7015 College Blvd., Ste. 700  
Overland Park, KS 66211

On Jul 20, 2023, at 2:04 PM, Jessica Benzler <[jbenzler@fenwick.com](mailto:jbenzler@fenwick.com)> wrote:

Counsel for Apple and Zentian,

Pursuant to the Consolidated Trial Practice Guide (2019) section II.J, I write to coordinate a conference call between the panel and the parties to discuss Amazon's motions to join Apple's instituted IPRs filed last week as Case Nos. IPR2023-01192, IPR2023-01193, IPR2023-01194, IPR2023-01195, IPR2023-01197. Please provide your availability next week for this call with the panel.

Regards,

Jessica

Jessica Benzler

Fenwick | Associate | +1 650-335-7279 | [jbenzler@fenwick.com](mailto:jbenzler@fenwick.com) | Admitted to practice in California and registered to practice before the USPTO.