

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

MAXELL, LTD.,

Plaintiff,

Case No. 5:16-cv-00179-RWS

v.

JURY TRIAL DEMANDED

ZTE USA INC.,

Defendants.

**DECLARATION OF CLARK BAKEWELL IN SUPPORT OF
PLAINTIFF MAXELL, LTD.'S POST-TRIAL MOTIONS AND
RENEWED MOTION FOR JUDGMENT AS A MATTER OF LAW**

I, Clark Bakewell, declare as follows.

1. I am an attorney with the law firm of Mayer Brown LLP. I am admitted to the bar of the State of Maryland. I am also admitted Pro Hac Vice to practice in the Eastern District of Texas. I represent Plaintiff Maxell, Ltd. in the above-captioned action.

2. I am submitting this declaration on behalf of Maxell in support of its Post-Trial Motions and Renewed Motion for Judgment as a Matter of Law.

3. Attached as Exhibit 1 hereto is a true and correct copy of an E-mail from Kfir Levy to Aisha Haley re: Proposed Jury Instructions, dated June 29, 2018.

4. Attached as Exhibit 2 hereto is a true and correct copy of PX-287, licensing offer letters from Hitachi Ltd. to potential licensees, dated June 10, 2013.

5. Attached as Exhibit 3 hereto is a true and correct copy of PX-303, comprising claim charts for U.S. Patent Nos. 8,311,389; 6,748,317; and 5,396,443.

6. Attached as Exhibit 4 hereto is a true and correct copy of PDX030-1, a trial demonstrative used by Kenji Nakamura.

7. Attached as Exhibit 5 hereto is a true and correct copy of PX-299, the response of Hitachi Maxell to ZTE's Letter received on Feb. 15, 2015 re USP 6,748,317 (dated June 18, 2015).

8. Attached as Exhibit 6 hereto is a true and correct copy of portions of the Deposition Transcript of Dao Tian (taken December 18, 2017).

9. Attached as Exhibit 7 hereto is a true and correct copy of portions of the Deposition Transcript of Fu Li (taken December 13, 2017).

10. Attached as Exhibit 8 hereto is a true and correct copy of portions of the Deposition Transcript of Pinzhen Liao (taken December 11, 2017).

11. Attached as Exhibit 9 hereto is a true and correct copy of portions of the Deposition Transcript of Shengjuan Wang (taken December 14, 2017).

12. Attached as Exhibit 10 hereto is a true and correct copy of portions of the Deposition Transcript of Xiang Dai (taken December 15, 2017).

13. Attached as Exhibit 11 hereto is a true and correct copy of portions of the Deposition Transcript of Yun Zhao (taken December 19, 2017).

14. Attached as Exhibit 12 hereto is a true and correct copy of portions of the Deposition Transcript of Waiman Lam (taken December 12, 2017).

15. Attached as Exhibit 13 hereto is a true and correct copy of portions of the 2017 Annual Report of ZTE Corporation.

16. Attached as Exhibit 14 hereto is a true and correct copy of a October 23, 2017, article from the *Forbes* website entitled “How ZTE Accomplished What Other Chinese Phone Brands Haven't: Enter The U.S. And Japanese Market.”

17. Attached as Exhibit 15 hereto is a true and correct copy of an April 20, 2018, article from *The Wall Street Journal* website entitled “American Hustle: ZTE’s Surprise U.S. Success, Now Under Threat.”

18. Attached as Exhibit 16 hereto is a true and correct copy of a June 7, 2018, article from *The Wall Street Journal* website entitled “China’s ZTE to Pay \$1 Billion Fine in Settlement With U.S.”

19. Attached as Exhibit 17 hereto is a true and correct copy of portions of the Expert Report of Scott Andrews Regarding Non-Infringement of U.S. Patent No. 6,748,317.

20. Attached as Exhibit 18 hereto is a true and correct copy of portions of the Expert Report of Dr. Zhi Ding Regarding Non-Infringement of U.S. Patent No. 6,408,193.

21. Attached as Exhibit 19 hereto is a true and correct copy of portions of the Expert Report of Dr. Barmak Mansoorian Regarding Non-Infringement of U.S. Patent Nos. 8,339,493 and 8,736,729.

22. Attached as Exhibit 20 hereto is a true and correct copy of portions of the Expert Report of Dr. Ketan Mayer-Patel Re: Non-Infringement of U.S. Patent Nos. 8,098,695.

23. Attached as Exhibit 21 hereto is a true and correct copy of portions of the Expert Report of Dr. Andrew Wolfe Regarding Non-Infringement of U.S. Patent Nos. 5,396,443 and 6,329,794.

24. Attached as Exhibit 22 hereto is a true and correct copy of an email from Jamie Beaber to Howard Wisnia re: Maxell v. ZTE – Motion for Alternative Service, dated June 13, 2018.

25. Attached as Exhibit 23 hereto is a true and correct copy of an email from Sara O’Connell to Clark Bakewell re: Maxell v. ZTE – 6/17 Disclosures by Maxell, June 17, 2018.

26. Attached as Exhibit 24 hereto is a true and correct copy of an email from Howard Wisnia to Saqib Siddiqui re: Maxell v. ZTE – 491 and 695 Demonstratives, dated June 27, 2018.

27. Attached as Exhibit 25 hereto is a true and correct copy of an email from Saqib Siddiqui to Howard Wisnia re: ZTE Witness Order, dated June 27, 2018.

28. Attached as Exhibit 26 hereto is a true and correct copy of an email from Howard Wisnia to Jamie Beaber re: meet and confer re asserted claims and prior art, dated June 14, 2018.

29. Attached as Exhibit 27 hereto is a true and correct copy of the initial exhibit list served by ZTE to Maxell on April 27, 2018.

30. Attached as Exhibit 28 hereto is a true and correct copy of the revised initial exhibit list served by ZTE to Maxell on May 2, 2018.

31. Attached as Exhibit 29 hereto is a true and correct copy of an email from Kfir Levy to Howard Wisnia re: Maxell v ZTE – Exhibit Lists, dated May 14, 2018.

32. Attached as Exhibit 30 hereto is a true and correct copy of the rebuttal exhibit list served by ZTE to Maxell on May 21, 2018.

33. Attached as Exhibit 31 hereto is a true and correct copy of a letter from Jamie Beaber to Steven Moore dated January 11, 2018.

34. Attached as Exhibit 32 hereto is a true and correct copy of portions of ZTE’s Response to Maxell’s Second Set of Interrogatories, dated August 2, 2017.

35. Attached as Exhibit 33 hereto is a true and correct copy of the Patent Protective Order for the present case signed by Judge Schroeder on March 6, 2017.

36. Attached as Exhibit 34 hereto is a true and correct copy of an email from Sara O'Connell to the listserv for Maxell Attorneys re: ZTE objections to three items, dated June 21, 2018.

37. Attached as Exhibit 35 hereto is a true and correct copy of the Declaration by Steven A. Moore PhD. In Support of ZTE's Notice of Position Regarding Trial Order, filed with the Court on May 24, 2018.

38. Attached as Exhibit 36 hereto is a true and correct copy of an email from Geoff Culbertson to Brian Craft re: Maxell v ZTE, dated May 18, 2018.

39. Attached as Exhibit 37 hereto is a true and correct copy of Maxell's Notice Regarding ZTE's Opposition to Changing Order of Trials, filed with the Court on May 24, 2018.

40. Attached as Exhibit 38 hereto is a true and correct copy of Exhibits 10 and 17 to the Expert Report of Carla S. Mulhern regarding damages, served on ZTE on January 12, 2018.

41. Attached as Exhibit 39 hereto is a true and correct copy of the bill of taxable costs that Maxell submitted to ZTE on August 2, 2018, and to which ZTE had previously indicated that did not oppose.

42. I hereby declare under penalty of perjury that the foregoing statements are true and accurate to the best of my knowledge, information, and belief.

Executed on August 3, 2018



Clark S. Bakewell