

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

MAXELL, LTD.,

Plaintiff

v.

APPLE INC.,

Defendant.

Civil Action NO. 5:19-cv-00036-RWS

JURY TRIAL DEMANDED

**DECLARATION OF LUANN SIMMONS
IN SUPPORT OF APPLE'S MOTION FOR LEAVE**

I, Luann L. Simmons, declare as follows:

1. I am a partner in the San Francisco office of O'Melveny & Myers LLP ("O'Melveny"), lead counsel of record for Defendant Apple Inc. ("Apple") in the above-captioned matter. I have personal knowledge of the facts set forth in this declaration and, if called to testify as a witness, could and would do so under oath.
2. Before Apple served its invalidity contentions on August 14, 2019, I supervised other attorneys at O'Melveny conducting extensive prior art searches for the patents asserted by Maxell, Ltd. ("Maxell") in this litigation, including specifically searches for prior art for U.S. Patent No. 8,339,493 (the "'493 Patent").
3. In addition to searches conducted by attorneys at O'Melveny, Apple also retained the services of an intellectual property law firm, Erise IP, P.A. ("Erise IP") to search for and analyze prior art relevant to this case, including prior art for the '493 Patent.
4. Attorneys at O'Melveny also retained the services of several firms that specialize in prior art searches to search for prior art relevant to this litigation. A firm named theWise IP was retained to conduct a prior art search for the '493 Patent. Information relating to the Casio QV-8000SX digital camera (the "Casio Camera") was not returned in the results of theWise IP prior art search.
5. In its invalidity contentions served on August 14, 2019, Apple disclosed five prior art products for the '493 Patent. The Casio Camera was not identified in Apple's August 14 invalidity contentions.
6. The Casio Camera was first identified as potential prior art to the O'Melveny team on October 30, 2019.
7. Attached hereto as **Exhibit A** is a true and correct copy of an email sent by my

colleague at O'Melveny, Vincent Zhou, to counsel for Maxell on November 4, 2019 identifying the Casio Camera as prior art and seeking to add it as asserted art in this case.

8. Attached hereto as **Exhibit B** is a true and correct copy of the claim chart for the Casio Camera sent to Maxell's counsel on November 4, 2019.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on November 14, 2019, in San Francisco, California.

/s/ Luann L. Simmons
Luann L. Simmons