

EXHIBIT 5

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

MAXELL, LTD.,

Plaintiff,

vs.

APPLE INC.,

Defendant.

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

**DECLARATION OF DR. BENJAMIN B. BEDERSON IN SUPPORT OF
APPLE INC.'S PROPOSED CLAIM CONSTRUCTIONS**

Claim Term	Apple's Proposal	Maxell's Proposal
"ringing sound generator"	<p>This claim term should be governed by pre-AIA 35 U.S.C. § 112, ¶ 6.</p> <p>Claimed Function: to generate a ringing sound</p> <p>Claimed Structure: Element 1519 in Figure 15 comprising 1, 3a-3c, and 4a-4c in Figure 1; or equivalents thereof</p>	Plain and ordinary meaning

31. I agree with Apple's proposed construction because it reflects the understanding a person of ordinary skill in the art would have had, as of the January 7, 2000 priority date of the '306 patent, regarding the term as used in the patent specification. Indeed, one of ordinary skill in the art would understand the term "ringing sound generator" to be a means-plus-function term, with the claimed function to generate a ringing sound and the claimed structure of Element 1519 in Figure 15 comprising 1, 3a-3c, and 4a-4c in Figure 1; or equivalents thereof.

32. At the outset, I note that one of ordinary skill in the art would not understand the term "generator" to denote sufficiently definite structure. Instead, the "generator" term would be understood as anything that performs the function of generating. Indeed, in different contexts, the word "generator" can be used to refer to entirely different classes of structures. Some examples include electric generators, engine generators, gas generators, motor generators, signal generators, and many others.

33. Further, one of ordinary skill in the art would not understand the term "ringing sound generator" to convey any definite structure or device. Although the term does not use the "means for..." formulation, the term "ringing sound generator" is merely a descriptive term that repeats its intended function, *i.e.*, to generate a ringing sound. Thus, one of ordinary skill in the art would understand that a "ringing sound generator" could be anything that generates a ringing sound. For example, a person ringing a cow bell could be a "ringing sound generator."

50. The term “communication apparatus” never appears in the specification of the ’991 patent. *See generally* ’991 patent. Instead, it appears only in the patent’s title and its claims. *See generally id.*

51. In describing the “Field of the Invention,” the ’991 patent explicitly discloses that “the present technology relates to a television (TV) receiver set with TV phone functionality added thereto, which is arranged to have a video telephone call enabling means to thereby make it possible to perform video/voice-based telecommunication with another machine.” *Id.* at 1:26-35. It further discloses that “[t]his technology also relates to a TV phone system using videophone function-added TV receivers of this type.” *Id.*

52. Indeed, the specification repeatedly and exclusively uses the term “videophone function-added TV receiver” to refer to the devices in the patented system. *See generally id.*

53. In fact, the specification describes a “videophone function-added TV receiver” 284 times, and a “TV receiver” is mentioned 318 times. *See generally id.*

54. Indeed, in the prosecution of U.S. Pat. App. Pub. No. 2015/837,402, which issued as the ’991 patent, the patent application was entitled “Television Receiver with a TV Phone Function” until the applicant’s July 24, 2018 Amendment after Notice of Allowance. *See Applicant’s July 24, 2018 Amendment after Notice of Allowance in ’991 Prosecution History.*

55. The specification does not disclose any device that could be considered a “communication apparatus” except for the disclosed “videophone function-added TV receiver.”

56. Because the patent specification and file history repeatedly and consistently characterizes the claimed invention as a “videophone function-added TV receiver,” one of ordinary skill in the art would understand “communication apparatus” to mean “videophone function-added TV receiver” based on the intrinsic evidence.