

**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

JURY TRIAL DEMANDED

NOTICE OF COMPLIANCE

On November 13, 2019, the Court issued an Order (D.I. 126, “Order”) denying plaintiff Maxell, Ltd.’s (“Maxell’s”) motion to compel defendant Apple Inc. (“Apple”) to produce documents. *See* D.I. 126 at 4 (“Accordingly, Maxell’s motion to compel document production is DENIED.”). The Court stated that it expected Apple to abide by a representation Apple made during the September 17, 2019 hearing to substantially complete its document production by November 27, 2019. *See id.* (citing D.I. 100).¹ Apple hereby provides notice that as of November 27, 2019, it has substantially completed its document production.

Specifically, as of November 27, 2019, Apple has produced over 1,100,000 pages of documents, including, for example, bill-of-materials (“BOM”) documents, user manuals, design schematics, financial data, marketing materials, licenses, pre-suit correspondence, data sheets, presentations and other categories of documents. In response to Maxell’s specific demands, Apple undertook burdensome and costly searches and produced several categories of technical

¹ *See* D.I. 100 (9/17/19 Hrg. Tr.) at 39:10-14 (“Again looking at that if [the Court] decide[s] to adopt Judge Gilstrap’s substantial production deadline of November 27, I don’t see any issue with rolling those documents out prior to that date.”); 41:6-8 (“One more note about the November 27th deadline for substantial completion of production as Judge Gilstrap utilizes.”).

documents that are disproportionate to the needs of the case and for which Maxell did not even attempt to demonstrate a legitimate need. Apple has also made available for inspection, pursuant to the Protective Order in this case (Dkt. No. 45), over 1.6 million source code files, including making available source code, pursuant to Maxell's specific request, for claim limitations for which Maxell did not even identify as "software" limitations under Patent Rule 3-1(g). Accordingly, Apple's document production is now substantially complete.

In its Order, the Court also granted, in whole or in part, Maxell's motion to compel responses to Interrogatory Nos. 3-9. *See* D.I. 126 at 11. The Court did not impose any specific deadline for Apple's supplementation of its interrogatory responses. *See generally id.* at 4-11. After receiving the Court's Order, Apple immediately began the process of gathering information necessary to supplement its responses to these interrogatories in accordance with the Court's Order. On November 27, 2019, Apple served supplemental responses to Interrogatory Nos. 3-9 and informed Maxell that Apple will continue to supplement its responses as it continues its diligent investigation.

As Apple explained during the September 17, 2019 hearing, Maxell's Interrogatory No. 6 includes an attached spreadsheet requesting Apple fill out a chart with 10,164 cells seeking a variety of information about components in the Accused Products covering a six year span. *See* D.I. 100 (9/17/19 Hrg. Tr.) at 49:9-21, 50:6-20. Responding to Interrogatory No. 6 and completing the chart attached thereto is extremely burdensome, and it has required and will continue to require significant time and effort, to the extent all of the information is even in Apple's possession, custody, or control. Moreover, the impending holidays and Apple's corporate shutdowns will also impact the availability of Apple employees required to complete this task. Apple's current supplemental response to Interrogatory No. 6 includes information Apple was able to obtain as of

November 27. Apple is continuing its diligent efforts to collect and compile additional responsive information and expects to further supplement its response with additional information requested in the chart as soon as practicable and on a rolling basis.

Dated: November 27, 2019

/s/ Luann L. Simmons

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on November 27, 2019.

/s/ Melissa R. Smith _____

Melissa R. Smith