

PUBLIC VERSION

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

MAXELL, LTD.,

*Plaintiff,*

v.

APPLE INC.,

*Defendant.*

Case No. 5:19-cv-00036-RWS

**JURY TRIAL DEMANDED**

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**DECLARATION OF TIFFANY A. MILLER IN SUPPORT OF  
MAXELL, LTD.'S OPPOSED MOTION FOR SANCTIONS**

I, Tiffany A. Miller, hereby declare and state as follows:

1. I am an attorney at Mayer Brown LLP, counsel for Plaintiff Maxell, Ltd. (“Maxell”) in the above-captioned lawsuit. I submit this declaration in support of Maxell’s Opposed Motion for Sanctions. I have personal knowledge of the statements herein, and, if called to do so, I could and would testify competently as to the same.

2. Attached as Exhibit A is a true a correct copy of a letter sent from Jamie Beaber to Luann Simmons on June 18, 2019.

3. Attached as Exhibit B is a true a correct copy of a letter sent from Tony Beasley to Jamie Beaber on July 18, 2019.

4. Attached as Exhibit C is a true a correct copy of a letter sent from Tony Beasley to Jamie Beaber on July 18, 2019.

5. Attached as Exhibit D is a true a correct copy of a letter sent from Jamie Beaber to Tony Beasley on September 24, 2019.

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6. Attached as Exhibit E is a true a correct copy of a letter sent from Tony Beasley to Jamie Beaber on October 2, 2019.

7. Attached as Exhibit F is a true a correct copy of a letter sent from Jamie Beaber to Tony Beasley on October 8, 2019.

8. Attached as Exhibit G is a true a correct copy of a letter sent from Jamie Beaber to Tony Beasley on November 14, 2019.

9. Attached as Exhibit H is a true a correct copy of a letter sent from Jamie Beaber to Tony Beasley on December 18, 2019.

10. Attached as Exhibit I is a true a correct copy of a letter sent from Marc Pensabene to Jamie Beaber on January 15, 2020.

11. Attached as Exhibit J is a true a correct copy of an email sent from Tiffany Miller to Marc Pensabene on January 28, 2020.

12. Attached as Exhibit K is a true a correct copy of a letter sent from Marc Pensabene to Jamie Beaber on January 31, 2020.

13. Attached as Exhibit L is a true a correct copy of an email sent from Marc Pensabene to Tiffany Miller on February 12, 2020.

14. Attached as Exhibit M is a true a correct copy of a letter sent from Marc Pensabene to Jamie Beaber on March 4, 2020.

15. Attached as Exhibit N is a true a correct copy of the entire document produced by Apple in this litigation bearing bates range APL-MAXELL\_01198576 – 588.

16. Attached as Exhibit O is a true and correct excerpt of Maxell's Infringement Contentions Appendix 5: Preliminary Infringement Contentions of U.S. Patent No. 6,408,193, served on June 12, 2019.

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17. Attached as Exhibit P is a true and correct excerpt of Maxell's Infringement Contentions Appendix 1: Preliminary Infringement Contentions of U.S. Patent No. 6,748,317, served on June 12, 2019.

18. Attached as Exhibit Q is a true and correct excerpt of Maxell's Infringement Contentions Appendix 6: Preliminary Infringement Contentions of U.S. Patent No. 10,084,991, served on June 12, 2019.

19. The below table provides a high-level overview of the letters exchanged, and meet and confers held, between Maxell and Apple related to Apple's document and source code productions and interrogatory responses. Although additional e-mails exist, they have not been included for the most part:

Date	To/From	Subject Matter
6/18/19	Letter from J. Beaber (Maxell) to L. Simmons (Apple)	Identification of categories of documents that Maxell believed to be most relevant to its claims and defenses.
7/11/19	Letter from J. Beaber (Maxell) to L. Simmons (Apple)	Follow-up to Apple Initial and Additional Disclosures regarding deficient Apple production and providing examples of missing materials.
7/12/19	Letter from T. Beasley (Apple) to J. Beaber (Maxell)	Response to 7/11/19 Maxell letter stating Apple would continue to produce documents on a rolling basis.
7/15/19	Letter from J. Beaber (Maxell) to T. Beasley (Apple)	Response to 7/12/19 Apple letter setting forth position with respect to Additional Disclosures, requesting confirmation that Apple would comply with P.R. 3-4, and requesting date certain when Apple would substantially complete production.
7/18/19	Letter from T. Beasley (Apple) to J. Beaber (Maxell)	Response to 7/15/19 Maxell letter setting forth disagreement with Maxell's interpretation of Additional Disclosure requirement, stating intention to timely comply with P.R. 3-4, and declining to provide date certain for substantial completion of production.
7/18/19	Letter from T. Beasley (Apple) to J. Beaber (Maxell)	Response to 6/18/19 Maxell Letter acknowledging categories of materials requested by Maxell.
7/19/19	Letter from J. Beaber (Maxell) to T. Beasley (Apple)	Response to 7/18/19 Apple Letter supporting position regarding Additional Disclosures.  Identification of deficiencies and improper objections present in Apple's response to Maxell's First Set of Interrogatories.
7/25/19	Letter from T. Beasley (Apple) to J. Beaber (Maxell)	Response to 7/19/19 Maxell Letter setting forth disagreement with Maxell's interpretation of Additional Disclosure requirement, confirming Apple

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		<p>is continuing and will continue to produce documents, and declining to provide date certain for substantial completion of production.</p> <p>With respect to Interrogatories, defends objections and states intent to supplement several responses in due course.</p>
7/30/19	Telephonic Meet and Confer	Parties discussed dispute regarding Additional Disclosure requirement and walked through individual interrogatories.
8/2/19	Letter from T. Beasley (Apple) to J. Beaber (Maxell)	Response pursuant to Paragraph 9(a) of Discovery Order providing Apple's positions on production pursuant to the Additional Disclosures requirement and its responses to Maxell's First Set of Interrogatories.
8/5/19	Filing of Maxell First Motion to Compel (D.I. 56)	Motion to Compel requesting Apple be ordered to substantially complete document production by September 6, 2019 and to provide substantive complete interrogatory responses to Maxell Interrogatory Nos. 2, 3, 4, 5, 6, 7, 8, and 9.
8/16/19	Letter from J. Beaber (Maxell) to T. Beasley (Apple)	Identification of deficiencies in Apple's responses to Maxell's Second Set of Interrogatories.
8/22/19	Letter from T. Beasley (Apple) to J. Beaber (Maxell)	Response to 8/16/19 Maxell Letter defending objections and responses to Maxell's Second Set of Interrogatories and agreeing to supplement one response.
8/30/19	Telephonic Meet and Confer	Parties discussed issues raised with respect to Maxell's Second Set of Interrogatories.
8/30/19	Letter from T. Beasley (Apple) to J. Beaber (Maxell)	Response pursuant to Paragraph 9(a) of Discovery Order providing Apple's positions on its responses to Maxell's Second Set of Interrogatories.
9/17/19	Hearing on Maxell Motion to Compel	
9/23/19	Letter from J. Beaber (Maxell) to T. Beasley (Apple)	Addition of newly released products to case and requesting productions and interrogatory responses be supplemented to reflect addition of such products.
9/24/19	Letter from J. Beaber (Maxell) to T. Beasley (Apple)	Challenge to Apple's representation that technical document production was complete. Identifies potential additional types of documents Apple is expected to have based on publicly available information. Raises issues with format of source code production and identifies deficiencies in source code production.
10/2/19	Letter from T. Beasley (Apple) to J. Beaber (Maxell)	Response to 9/24/19 Maxell Letter confirming compliance with P.R. 3-4 and characterizing Maxell's requests for further production as exceeding the scope of F.R.C.P. 26(b)(1). For specific requested categories of documents, requests explanation of basis for contending documents are relevant and their collection and production not disproportionate to Maxell's needs. With respect to source code, states code was produced in manner kept in ordinary course of business and

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		confirms Apple is investigating raised issues.
10/4/2019	Telephonic Meet and Confer	Parties discussed issues raised in Maxell's 9/24/19 Letter, including incomplete production of technical documents and source code.
10/8/19	Letter from J. Beaber (Maxell) to T. Beasley (Apple)	Follow up to 10/2/19 Apple Letter and 10/4/19 Meet and Confer setting forth position regarding proper scope of discovery, clarifying that Maxell only seeks documents relevant to accused features and functionalities (and identifying the features and functionalities), providing explanation of why Apple's production is deficient and further production is necessary, and repeating relevance of requested source code.
10/11/19	Letter from J. Beaber (Maxell) to T. Beasley (Apple)	Follow up to 10/4/19 Meet and Confer responding to certain information provided by Apple during meet and confer related to source code, identifying 27 categories of further missing source code, and addressing non-source code technical documents described in source code but not produced.
10/16/19	Letter from T. Beasley (Apple) to J. Beaber (Maxell)	Response to 10/8/19 Maxell Letter reiterating Apple's position regarding compliance with and interpretation of P.R. 3-4, noting disagreement with Maxell characterization of Apple technical production, and stating Apple's response regarding each category of documents identified by Maxell in 10/8/19 letter. With respect to source code categories raised by Maxell, stated Maxell had not provided any substantive analysis to demonstrate relevance of the requested code, but noted investigation into issues.
10/22/19	Letter from T. Beasley (Apple) to J. Beaber (Maxell)	Response to 10/11/19 Maxell Letter addressing each category of source code requested.
11/4/19	Telephonic Meet and Confer	Parties discussed Maxell's claims regarding deficiency of Apple's technical production. Apple took position that it had already produced the most relevant information and that the additional documents requested are not proportional to the needs of the case. Parties walked through source code requests by category.
11/14/19	Letter from J. Beaber (Maxell) to T. Beasley (Apple)	Follow-up on Court's Order on Maxell's Motion to Compel, setting forth Maxell's expectations in view of Order. With respect to source code, letter provides identification of operating system versions for which certain project code was not produced. Letter also raises issues with privilege log supplementation.
11/27/19	Letter from T. Beasley (Apple) to J. Beaber (Maxell)	Response to 11/14/19 Maxell Letter providing positions regarding timing of expected interrogatory response supplementations, confirming substantial completion of Apple document and source code production, and responding to issue of privilege log supplementation.

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