

# EXHIBIT E

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-0036-RWS

**JURY TRIAL DEMANDED**

**MAXELL, LTD.'S OBJECTIONS AND RESPONSES TO APPLE INC.'S  
FIRST SET OF INTERROGATORIES (NOS. 1-16)**

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Plaintiff Maxell, Ltd. ("Maxell"), through its undersigned counsel, hereby objects and responds to Defendant Apple Inc.'s First Set of Interrogatories (Nos. 1-16) ("Interrogatories") served by Defendant Apple Inc. ("Apple" or "Defendant") on June 27, 2019, as follows:

**PRELIMINARY STATEMENT**

1. These answers are made solely for the purpose of this action. Each answer is subject to all objections, as to competence, relevance, materiality, propriety, and admissibility, and to any and all other objections on any grounds that would require the exclusion of any statements contained herein if such interrogatory were asked of, or statements contained herein were made by a witness present and testifying in Court, all of which objections and grounds are expressly reserved and may be interposed at the time of trial.

2. Maxell's responses are based upon information presently available to and located by Maxell. Maxell has not completed its investigation of the facts relating to this case, discovery in this action, or its preparation for trial. The responses are given without prejudice to Maxell's

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**INTERROGATORY NO. 2:**

If you contend that you are entitled to injunctive relief of any kind in this litigation, state in detail the factual and legal bases for your contention. Include in your response to this interrogatory, without limitation, the identity of all persons with knowledge of and all documents and things supporting your contention.

**RESPONSE TO INTERROGATORY NO. 2:**

Maxell incorporates herein its Preliminary Statement and General Objections set forth above. Maxell objects to this interrogatory to the extent that it seeks to elicit information subject to and protected by the attorney-client privilege, the attorney work-product doctrine, the joint defense privilege, the common interest doctrine, and/or any other applicable privilege or immunity. Maxell objects to this interrogatory to the extent that it seeks information or documents that are premature and contrary to the procedure set forth in the Federal Rules of Civil Procedure, the Local Rules for the United States District Court for the Eastern District of Texas, or any scheduling order entered in this case. Maxell further objects to this interrogatory to the extent that it seeks a legal conclusion and/or presents a question of law. Maxell further objects that this interrogatory calls for information that will be the subject of expert opinion before the time for disclosure of expert opinions set forth by the Docket Control Order. Maxell further objects to this interrogatory as overly broad, unduly burdensome, and neither relevant nor

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proportional to the needs of the case, including, for example, to the extent it seeks to the extent it seeks “the identity of all persons with knowledge of and all documents and things supporting your contention.” Maxell further objects that the information sought by this interrogatory is outside the possession, custody, or control of Maxell.

Subject to and without waiving the foregoing general and specific objections, to the extent Maxell understands this interrogatory and based on its current knowledge, Maxell responds as follows: The decision on whether injunctive relief is warranted is based on the consideration of four primary factors: (1) whether Plaintiff has suffered an irreparable injury; (2) whether remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) whether, considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) whether the public interest would be disserved by a permanent injunction. *eBay Inc. v. MercExchange, LLC*, 547 U.S. 388 (2006).

Maxell has suffered irreparable injury as a result of Apple’s infringement of the Asserted Patents which cannot be adequately compensated by money damages. Maxell has worked diligently to preserve its patent rights, including the Asserted Patents in this case, through the courts when necessary. Maxell’s licensees, the users of the technology of the Asserted Patents, compete for market share with Apple. These licensees took a license from Maxell so that they could rely on the advantages of the technology of the Asserted Patents in order to gain a competitive edge in the marketplace. Apple’s use of the technology of the Asserted Patents without a license threatens and erodes the market share of Maxell’s licensees and encourages third parties to also improperly use the technology of the Asserted Patents without a license. This in turn has a direct and substantial impact on Maxell as a licensor, including loss of commercial negotiating power, increased legal fees and time in negotiating with such third parties, and

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damaged relationships with Maxell's licensees who paid for the competitive advantage of the Asserted Patents. *See, e.g., Mytee Prods. v. Harris Research, Inc.*, 439 Fed. Appx. 882, 887-88 (Fed. Cir. 2011) (affirming the district court's grant of a permanent injunction and finding that market harm to plaintiff's franchisees would irreparably harm plaintiff); *Robert Bosch LLC v. Pylon Mfg. Corp.*, 659 F.3d 1142, 1153-55 (Fed. Cir. 2011) (finding irreparable harm based on indirect competition through mass merchandisers, automotive specialty retailers, and original equipment manufacturers). Money damages would not be adequate to compensate Maxell for the injury caused by Apple's infringing conduct.

The full extent to which the foregoing *eBay* factors is satisfied is dependent in large part on discovery that is yet to be produced in this case. For example, Apple has not yet produced full discovery regarding its business or regarding components incorporated into the Accused Products. Such discovery impacts the degree of competition between the parties in suit, the adequacy of remedies available at law, the balance of hardships, and the impact on public interest.

Maxell further states that, pursuant to Federal Rule of Civil Procedure 33(d), it has produced documents from which Apple may ascertain relevant information responsive to this interrogatory, including license agreements. Such documents include but are not limited to those bearing Bates nos. MAXELL\_APPLE0107420 – MAXELL\_APPLE0107529 and MAXELL\_APPLE0190027 – MAXELL\_APPLE0190064. Maxell further identifies Kenji Nakamura as a person with knowledge of Maxell's licensees.

Maxell reserves the right to amend, supplement, or otherwise change its response to this interrogatory should any additional information become available.