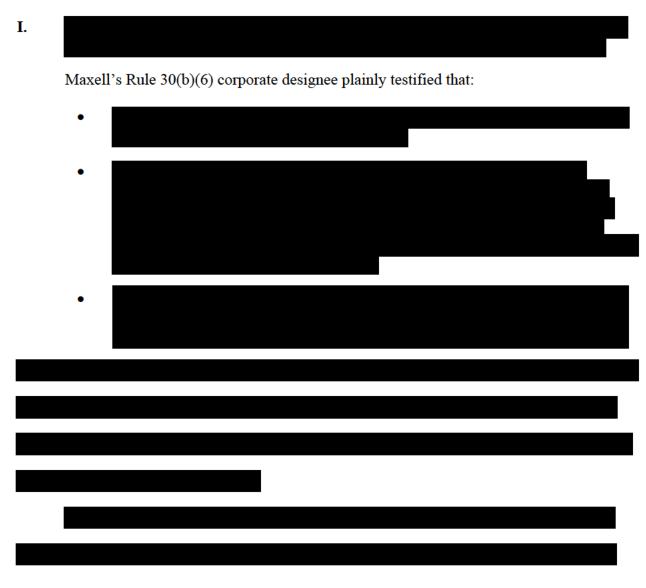
IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS TEXARKANA DIVISION

MAXELL, LTD.,	
Plaintiff	Civil Action NO. 5:19-cv-00036-RWS
v.	JURY TRIAL DEMANDED
APPLE INC.,	
Defendant.	

APPLE INC.'S REPLY IN SUPPORT OF ITS MOTION TO COMPEL LICENSING AND NEGOTIATION DOCUMENTS AND FOR SANCTIONS



Maxell's Opposition reduces to an unsupported argument—directly contradicted by record evidence—that Maxell does not have a relationship with Hitachi.¹ Confronted with the extensive record that Apple presented in its opening brief, Maxell's opposition resorted to disavowing its own 30(b)(6) testimony, obfuscating critical facts about Maxell and Hitachi's current relationships in footnotes, and arguing that Maxell's relationship with Hitachi is limited to certain subsidiaries, certain employees, and certain types of obligations.



¹ This brief refers to Hitachi, Ltd. as "Hitachi," Hitachi Industry Control Solutions as "Hitachi ICS," Hitachi Consumer Electronics Co., Ltd. as "HCE," and combinations of more than one Hitachi subsidiary as "Hitachi subsidiaries."



Maxell offers no support for this narrow interpretation, contradicted by its sworn testimony. And
Maxell never explains why Hitachi would refuse to hand over documents about patents it gave to
Maxell to assert where Hitachi and its subsidiaries have repeatedly offered their help and
employee's testimony to assist Maxell in this litigation.
Tellingly, neither Maxell's corporate witness nor counsel previously claimed such
a limit.
Finally, Maxell never explains why the carefully worded
letter it sent to Hitachi requesting documents was characterized as "a courtesy to Apple," an
entity to whom Hitachi owes no contractual obligation. D.I. 166-2.

II. Maxell's Selective Production Of Licenses Based on Sword-And-Shield Tactics

While Maxell previously alleged it had "produced all prior licenses of which it was aware and had control," D.I. 166 at 6, Maxell does not appear to deny that it actually has the licenses Apple seeks, D.I. 280 at 6 (alleging that, of the requested documents, Maxell only does not have the "earlier sales negotiation materials"). Documents that show Hitachi (or Maxell) exhausted the patent rights Maxell now asserts or that show Hitachi (or Maxell) previously licensed the



patents are relevant to Apple's claims and defenses. Maxell should be ordered to produce them.

III. Maxell An	d Hitachi's Relationship Is Mu	ich Deeper Than Maxell Is Willi	ing To Admit
Hitachi is r	not an unrelated third party to th	is case.	
		Maxell's argument th	at its
relationship is only	with certain Hitachi subsidiari	es and that each witness chose to	participate,
implying they pers	onally desired to travel more th	an 20 hours for the sole purpose of	of being
deposed, is not cre	dible.		
Indeed, so	me Hitachi subsidiaries' emplo	yees testified for Maxell because	of their
employers' relation	nships with Maxell.		
			Maxell's
only rebuttal is to	point out that Mr. Takizawa pro	bably would not be fired for failu	re to attend
and Mr. Nakano h	ad the option to say no. D.I. 280	0 at 3–4. Maxell's rebuttals rely	on the
misconception tha	t jobs are mere checklists of task	ks to avoid being fired.	
Maxell implies that	t the witnesses personally desire	ed to fly to the U.S. to be deposed	l. But these
depositions are not	t personal travel.		



Companies with the separation that Maxell alleges exists between
it and Hitachi do not reimburse each other's employees' business expenses. Maxell's only
response is the conclusory statement that reimbursement "does not establish Hitachi involvement
in the litigation or any arrangement with Hitachi related to the case." D.I. 280 at 4.
Maxell prepared Hitachi witnesses for their depositions and gave them counsel. Maxell
orchestrated the six witnesses' depositions and preparation, and Maxell personnel and counsel
prepared the witnesses and Maxell's counsel represented them. Ex. D1 at 93:11–19; Ex. D2.
But this fact shows that Hitachi treats its employees and its subsidiaries'
employees like one and the same. Even Maxell falls under this umbrella.
employees like one and the same. Even waxen rans under this unforcing.
Maxell tries to argue this merely shows a relationship between
Maxell and Hitachi ICS, but Maxell never answers how Maxell and Hitachi ICS are related if not



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