

# EXHIBIT 3

**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 DAVID AYRES**

I, David Ayres, hereby declare:

1. I am employed by Garmin International Inc. (“Garmin”), where I have been employed since 2006, and currently serve as Associate General Counsel - IP. I submit this declaration in support of Garmin’s responses to Apple Inc.’s subpoenas for documents and deposition. I have personal knowledge of the facts contained in the declaration and, if called upon to do so, I could and would testify to the matters set forth herein.

2. I am familiar with Garmin’s system for archiving documents and materials created by Garmin in the course of developing numerous products. Our systems retain records associated with the development of Garmin products in the ordinary course of business, and I reviewed those records to verify the information provided in this declaration.

3. In response to Apple’s subpoena, Garmin performed a thorough search of available records associated with the discontinued NavTalk GPS/cellular device. As detailed below, each of the located records, attached as Exhibits 1 to 6, are true and correct copies of records maintained by Garmin that were created contemporaneously with the events to which

they refer by persons having actual knowledge of the information contained therein and that were created or received in the ordinary course of Garmin's business.

4. Garmin's search resulted in the discovery of the Owner's Manual and Reference Guide (Rev. A) and the Quick Guide (Rev. A) documents that were provided with the Garmin NavTalk GPS/cellular device at the time of sale. Both documents include Garmin's internal approval sheets establishing dates on which each reference was approved for inclusion in packaging for NavTalk GPS/cellular devices.

5. Attached hereto as Exhibit 1 is a true and correct copy of the NavTalk Cellular Phone/GPS Receiver Owner's Manual and Reference Guide (Rev. A), which is identified by part number 190-00147-00. The cover page of Exhibit 1 includes Garmin's records showing that this reference was approved for distribution on February 5, 1999.

6. Attached hereto as Exhibit 2 is a true and correct copy of the NavTalk Quick Guide (Rev. A), which is identified by part number 190-00147-01. The cover page of Exhibit 2 includes Garmin's records showing that this reference was approved for distribution on February 2, 1999.

7. Attached hereto as Exhibit 3 is a true and correct copy of the Bill of Material (Rev. B) for the NavTalk GPS/cellular device's packaging. The cover sheet of Exhibit 3 includes Garmin's records showing that this reference was revised on September 10, 1998. Based on Garmin's records, which are maintained to track documents and materials, I am informed and believe that the packaging for the NavTalk GPS/cellular device included, when the NavTalk GPS/cellular device was sold, the abovementioned: (i) NavTalk Cellular Phone/GPS Receiver Owner's Manual and Reference Guide (Rev. A), as indicated by the identification of part number 190-00147-00 associated with the "Mnl. GPS Cellular User's" description; and (ii)

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NavTalk Quick Guide (Rev. A), as indicated by the identification of part number 190-00147-01 associated with the “Quick Ref Guide. CPS Cellular” description. The Exhibit 3 Bill of Material is maintained in the ordinary course of business.

8. Attached hereto as Exhibit 4 is a true and correct copy of a press release, titled “Leading GPS Innovator Takes Wireless to the Streets,” dated for October 1, 1998, associated with the discontinued NavTalk GPS/cellular device. I am informed and believe that the attached press release accurately describes features of the NavTalk GPS/cellular device based on the explanation of features provided by the NavTalk GPS/cellular device in the attached Exhibits.

9. Attached hereto as Exhibit 5 is a true and correct copy of sales records for the NavTalk GPS/cellular devices evidencing shipments to customers dating back to at least March 6, 1999. The sales records are maintained in the ordinary course of business.

10. Attached hereto as Exhibit 6 is a true and correct copy of a manufacturing Bill of Material for the NavTalk GPS/cellular device itself, which has been provided as an electronic spreadsheet file named “BOM MFG 010-00141-00.xlsx.” Based on Garmin’s records, I am informed and believe that this spreadsheet describes the complete list of components included inside a NavTalk GPS/cellular device. The Exhibit 6 Bill of Material is maintained in the ordinary course of business.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed at Olathe, Kansas on March 24, 2020



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David Ayres