

**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

**DECLARATION OF MICHAEL JAYNES IN SUPPORT OF DEFENDANT APPLE
INC.'S MOTION TO TRANSFER VENUE UNDER 28 U.S.C. § 1404(a)**

I, Michael Jaynes, hereby declare as follows:

1. I am over 18 years of age and competent to make this declaration. If called to testify as a witness in this matter, I could and would testify truthfully to each of the statements in this declaration.

2. I am employed as a [REDACTED] at Apple Inc. ("Apple") in Sunnyvale, California. [REDACTED]

3. I understand that Maxell, Ltd. ("Maxell") filed the above captioned patent infringement lawsuit against Apple in the United States District Court for the Eastern District of Texas ("EDTX"). I provide this declaration in support of Apple's Motion to Transfer Venue Under 28 U.S.C. § 1404(a) to the Northern District of California ("NDCA"). Unless otherwise indicated below, the statements in this declaration are based on my personal knowledge, my review of corporate records maintained by Apple in the ordinary course of business, and/or my discussions with Apple employees.

[REDACTED]

4. I have reviewed a copy of the Complaint filed in this lawsuit. I understand that Maxell accuses Apple of infringing ten patents: U.S. Patent Nos. 6,748,317 (the “317 patent”); 6,580,999 (the “999 patent”); 8,339,493 (the “493 patent”); 7,116,438 (the “438 patent”); 6,408,193 (the “193 patent”); 10,084,991 (the “991 patent”); 6,928,306 (the “306 patent”); 6,329,794 (the “794 patent”); 10,212,586 (the “586 patent”); and 6,430,498 (the “498 patent”) (collectively, the “Asserted Patents”).

5. I understand that Maxell’s Complaint identifies the following products as allegedly infringing one or more of the Asserted Patents: (a) iPhone XS, iPhone XS Max, iPhone XR, iPhone X, iPhone 8 Plus, iPhone 8, iPhone 7 Plus, iPhone 7, iPhone 6s Plus, iPhone 6s, iPhone 6 Plus, iPhone 6, iPhone SE, iPhone 5s, and iPhone 5c; (b) iPad Pro (12.9-inch 3rd generation), iPad Pro (11-inch), iPad Pro (12.9-inch 2nd generation), iPad Pro (10.5-inch), iPad Pro (9.7-inch), iPad Pro (12.9-inch), iPad Air 2, iPad Air, iPad mini 4, iPad mini 3, iPad mini 2, iPad (6th generation), and iPad (5th generation) ; (c) MacBook, MacBook Pro, MacBook Air, iMac, Mac mini, Mac Pro, and iMac Pro; (d) iPod touch 5th and 6th generations; and (e) Apple Watch Series 1, 2, 3, and 4, and Apple Watch 1st generation (collectively, the “Accused Products”).

6. Apple is a California corporation, founded in 1976. Apple’s global headquarters is in Cupertino, California.

7. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

8. I understand from the Complaint that Maxell alleges that certain Accused Products infringe the '498, '999, and '317 patents. Complaint ¶¶ 14-46, 148-162. Despite the vagueness of the allegations, for purposes of the motion to transfer, I understand Maxell's allegations to accuse technology relating to walking navigation features in Apple Maps and Find My Friends as allegedly infringing the '498, '999, and '317 patents ("Accused Navigation Technology").

9. I understand from the Complaint that Maxell alleges that certain Accused Products infringe the '493 patent. Complaint ¶¶ 47-61. Despite the vagueness of the allegations, for purposes of the motion to transfer, I understand Maxell's allegations to accuse technology relating to cameras with image sensors and/or image stabilization as allegedly infringing the '493 patent ("Accused Camera Technology").

10. I understand from the Complaint that Maxell alleges that certain Accused Products infringe the '794 patent. Complaint ¶¶ 118-134. Despite the vagueness of the allegations, for purposes of the motion to transfer, I understand Maxell's allegations to accuse technology relating to low power mode as allegedly infringing the '794 patent ("Accused Power Management Technology").

11. I understand from the Complaint that Maxell alleges that certain Accused Products infringe the '193 patent. Complaint ¶¶ 75-91. Despite the vagueness of the allegations, for purposes of the motion to transfer, I understand Maxell's allegations to accuse technology relating to controlling the gain and bias power settings for CDMA data transmission as allegedly infringing the '193 patent ("Accused CDMA Technology").

12. I understand from the Complaint that Maxell alleges that certain Accused Products infringe the '991 and '306 patents. Complaint ¶¶ 92-117. Despite the vagueness of the allegations, for purposes of the motion to transfer, I understand Maxell's allegations to accuse technology relating to notifications and alerts for telephone calls and FaceTime video calls as allegedly infringing the '991 and '306 patents ("Accused Notifications Technology").

13. I understand from the Complaint that Maxell alleges that certain Accused Products infringe the '438 and '586 patents. Complaint ¶¶ 62-74, 135-147. Despite the vagueness of the allegations, for purposes of the motion to transfer, I understand Maxell's allegations to accuse technology relating to authenticating Apple devices and allowing data communication between authenticated Apple devices as allegedly infringing the '438 and '586 patents ("Accused Authentication Technology").

14. The "Accused Navigation Technology," "Accused Camera Technology," "Accused Power Management Technology," "Accused CDMA Technology," "Accused Notifications Technology," and "Accused Authentication Technology" are collectively referred to as the "Accused Technology."

15. [REDACTED]

16. Apple sells or has sold the Accused Products throughout the United States.

17. [REDACTED]

[REDACTED] None are in
EDTX.

18. Apple regularly conducts business in NDCA involving the Accused Products.

19. As of the date of this declaration, Apple operates approximately 270 retail stores in the United States, more than 50 of which are in California, including 19 retail stores in NDCA. As of the date of this declaration, Apple does not maintain any retail stores, corporate offices, or any other type of facility in EDTX. Maxell's Complaint identifies two Apple retail stores in EDTX, both of which closed on or about April 12, 2019. I am not aware of any employee in EDTX who has been involved in the research, design, development, or marketing of the Accused Technology or Accused Products. To the extent that any of the Accused Products are sold or used in EDTX, they are and were sold and used nationwide, and are not used in any manner differently in Texas than they are used elsewhere.

20. I am not aware of any relevant business documents or records concerning the research, development, marketing, and/or financials of the Accused Products that are kept in EDTX, and I am unaware of any other evidence located there. I am unaware of any Apple employee with information relevant to this case who resides in EDTX.

21. Based on Apple's current understanding of Maxell's infringement allegations, the primary design, development, and implementation of the Accused Technology in the Accused Products take place in or around Cupertino, California, as explained below.

Accused Navigation Technology

22. [REDACTED]
[REDACTED]

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