

EXHIBIT O

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

MAXELL, LTD.,

Plaintiff,

v.

APPLE INC.,

Defendant.

Civil Action No. 5:19-cv-00036

JURY TRIAL DEMANDED

**MAXELL, LTD.'S
INITIAL AND ADDITIONAL DISCLOSURES**

Pursuant to the Docket Control Order (Dkt. No. 46), and in accordance with Fed. R. Civ. P. 26(a)(1) and Paragraphs 1 and 3 of the Discovery Order (Dkt. No. 42), Plaintiff Maxell, Ltd. ("Maxell"), through its undersigned counsel, provides the following initial and additional disclosures to Defendant Apple Inc. ("Apple" or "Defendant").

THE PARTIES

These mandatory disclosures are based upon Maxell's current knowledge and upon information that is reasonably available to Maxell at this time and within Maxell's possession, custody, or control as of the present date. These disclosures represent a good faith effort to identify information Maxell reasonably believes is relevant to the claims and defenses in this case. Maxell has not completed its investigation, discovery, and evaluation of the facts and evidence that may ultimately be relevant to this case and reserves the right to supplement, amend, modify, or alter these disclosures consistent with Fed. R. Civ. P. 26(e) as new information becomes available.

By making these disclosures, Maxell does not represent that every individual or entity identified herein necessarily possesses information that Maxell will use to support its claims and defenses, or that the individual or entity possesses relevant information. Nor does Maxell represent that it is identifying every document, tangible thing, or witness that it may use to support its claims and defenses.

Nothing herein should be construed as an admission or acceptance by Maxell as to the admissibility or relevance of any document or fact referenced in these disclosures. These disclosures are further made without waiving in any way: (i) the right to object on the grounds of competency, privilege, the work product doctrine, relevancy, materiality, hearsay, undue burden, or any other proper ground, to the use of any such information for any purpose, in whole or in part, in this action or any other action or proceeding; and (ii) the right to object on any grounds, at any time, to any other discovery request or proceeding involving or relating to the subject matter of these disclosures. Maxell does not waive its right to assert any other objection authorized by the Federal Rules of Civil Procedure, the Local Rules of the Court, or any other applicable law or rule in response to interrogatories, requests for admissions, questions at depositions, or any other discovery requests involving or relating to the subject matter of these disclosures.

Maxell reserves the right to continue its investigation and discovery of facts, witnesses, and documents, which may reveal additional information about the issues in this lawsuit. Maxell reserves the right at the time of trial to produce, refer to, and offer into evidence any additional documents, facts, and evidence from any source, and testimony from any witness that may be ascertained through their continuing discovery and trial preparation, notwithstanding the

reference to witnesses, documents and information in these initial disclosures. All the disclosures set forth below are made subject to the above objections and qualifications.

Maxell's Disclosures

I. Paragraph 1(a): “the correct names of the parties to this action;”

The correct name of the Plaintiff is Maxell, Ltd. To the best of Maxell's knowledge, the correct name of the Defendant in this case is Apple Inc.

II. Paragraph 1(b): “the name, address, and telephone number of any potential parties;”

Maxell is not currently aware of any other potential parties to the lawsuit.

III. Paragraph 1(c): “the legal theories and, in general, the factual bases of the disclosing party's claims or defenses (the disclosing party need not marshal all evidence that may be offered at trial);”

The legal theories and the factual bases for Maxell's claims are generally disclosed in Maxell's Complaint for Patent Infringement, filed March 15, 2019 (Dkt. No. 1) and in Maxell's P.R. 3-1 Disclosures, served June 12, 2019, which are all incorporated herein by reference. Maxell provides the following brief description of its legal theories and factual bases for its legal claims based upon information available to Maxell at this time. Full discovery has not yet begun, and Maxell expects to discover additional information that may be relevant to its legal theories and claims. Maxell, therefore, reserves the right to supplement, amend and/or correct the following disclosures as necessary to conform to the evidence obtained through discovery. Maxell's infringement and damages claims will also be the subject of expert testimony, and Maxell will make the required expert disclosures according to the deadlines set forth in the Docket Control Order entered in this case. Those disclosures, when made, are also hereby incorporated by reference in their entirety.

1. Infringement of U.S. Patent No. 6,748,317

Maxell is the assignee of U.S. Patent No. 6,748,317 (“the ’317 Patent”). The ’317 Patent is duly issued, and the asserted claims of the ’317 Patent are valid and non-obvious. Maxell alleges that Apple makes, uses, imports, offers for sale, and/or sells Apple telecommunications technology that infringes upon the asserted claims of the ’317 Patent, and that Apple has induced others to infringe and contributed to the infringement by others of the asserted claims of the ’317 Patent. Apple has been on notice of the ’317 Patent since at least June 25, 2013, and, at the latest, the service of Maxell’s Complaint in this case (Dkt. No. 1). Since at least June 25, 2013, Apple has also been aware of an objectively high likelihood that its actions constituted and continue to constitute infringement of the ’317 Patent, and that the ’317 Patent is valid. As such, Apple willfully infringes the ’317 Patent. Maxell is entitled to no less than a reasonable royalty for damages sustained due to Apple’s infringement of the ’317 Patent.

Maxell further refers Apple to Maxell’s P.R. 3-1 disclosures.

2. Infringement of U.S. Patent No. 6,580,999

Maxell is the assignee of U.S. Patent No. 6,580,999 (“the ’999 Patent”). The ’999 Patent is duly issued, and the asserted claims of the ’999 Patent are valid and non-obvious. Maxell alleges that Apple makes, uses, imports, offers for sale, and/or sells Apple telecommunications technology that infringes upon the asserted claims of the ’999 Patent, and that Apple has induced others to infringe and contributed to the infringement by others of the asserted claims of the ’999 Patent. Apple has been on notice of the ’999 Patent since, at the least, June 25, 2013, and, at the latest, the service of Maxell’s Complaint in this case (Dkt. No. 1). Since at least June 25, 2013, Apple has also been aware of an objectively high likelihood that its actions constituted and continue to constitute infringement of the ’999 Patent, and that the ’999 Patent is valid. As such,

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