EXHIBIT P

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**

DEFENDANT APPLE INC.'S INITIAL AND ADDITIONAL DISCLOSURES

Pursuant to the Court's June 25, 2019 Discovery Order for Patent Cases [ECF 42] and the June 12, 2019 [Proposed] Docket Control Order [ECF 34-1], Defendant Apple Inc. ("Apple") makes the following initial and additional disclosures of information to Plaintiff Maxell, Ltd. ("Maxell"). These disclosures are based on a reasonable investigation conducted in the time available. This investigation is ongoing, however, and Apple expressly reserves the right to supplement these disclosures. Apple's disclosures are made without waiver of, or prejudice to, any objections that Apple may have regarding the subject matter of these disclosures and any documents or individuals identified herein.

I. INITIAL DISCLOSURES REQUIRED UNDER THE COURT'S DISCOVERY ORDER

A. The Correct Names of the Parties to the Lawsuit

The correct name of Apple is: Apple Inc. Apple refers to Maxell's disclosures regarding the correct names of other parties to the lawsuit.

B. The Name, Address, and Telephone Number of Any Potential Parties

Apple is not currently aware of any potential additional parties to this lawsuit. Because the identities of potential parties may be revealed through discovery in this matter, Apple specifically reserves the right to identify and seek to join, upon a showing of good cause, potential parties as discovery proceeds, if necessary.

C. The Legal Theories and Factual Bases of the Disclosing Party's Claims or Defenses

Apple is currently aware of the legal theories and factual bases of its claims and defenses listed below. Apple has not yet filed an Answer in this case but incorporates by reference the responses and defenses that will be asserted therein. Apple also incorporates by reference the responses and defenses raised in its Motion for Partial Dismissal of Plaintiff's Complaint for Failure to State a Claim [ECF 27] and its Reply in support of same [ECF 37] (collectively, "Apple's Motion to Dismiss"). Discovery is ongoing, and Apple reserves the right to assert additional defenses. Apple also reserves the right to modify or supplement its theories and/or the factual bases for its claims or defenses:

Non-infringement. Apple has not directly or indirectly infringed, either literally or under the doctrine of equivalents, any valid and enforceable claim of any of U.S. Patent Nos. 6,748,317 ("'317 Patent"); 6,580,999 ("'999 Patent"); 8,339,493 ("'493 Patent"); 7,116,438 ("'438 Patent"); 6,408,193 ("'193 Patent"); 10,084,991 ("'991 Patent"); 6,928,306 ("'306 Patent"); 6,329,794 ("'794 Patent"); 10,212,586 ("'586 Patent"); and 6,430,498 ("'498 Patent") (collectively, the "Patents-in-Suit"). Apple does not manufacture, use, sell, or offer to sell in the United States, or import into the United States, any product that includes each and every element of any asserted claim of the Patents-in-Suit, or an equivalent, to the extent that Maxell is entitled to any equivalent. Specifically, accused Apple products (and the operation thereof) are missing or do not perform

one or more elements or steps required by the asserted claims of the Patents-in-Suit. Further, Apple products have substantial non-infringing uses. Apple also does not contribute to or induce another's infringement, and Apple has no intent to induce any alleged infringement. Moreover, at least because Apple cannot be liable for infringement of any claims, Apple cannot be liable for willfully infringing the Patents-in-Suit.

Invalidity. The asserted claims of the Patents-in-Suit are invalid under 35 U.S.C. §§ 101, 102, 103, 111, 112, 115, 116, 119, 132, 251, 256, and/or 282. Apple will provide detailed invalidity contentions, prior art, and expert reports on invalidity in the time and manner provided in the Patent Rules for the Eastern District of Texas and the Court's scheduling orders.

Limitation on Damages. To the extent Maxell is entitled to any recovery under the Patents-in-Suit, Maxell's recovery is limited under 35 U.S.C. § 286 and because of Maxell's failure to comply with § 287 and/or § 288.

Estoppel, Waiver, Acquiescence, Patent Misuse and Unclean Hands. To the extent Maxell is entitled to any recovery under the Patents-in-Suit, Maxell's recovery is limited by the equitable doctrines of estoppel, waiver, acquiescence, patent misuse, and unclean hands, including because Maxell's claims were waived and/or estopped, in whole or in part, by discussions between and/or prior agreements entered between Maxell (or a related entity) and Apple.

No Willful Infringement. Maxell is not entitled to a finding of willful infringement because Maxell cannot demonstrate that infringement occurred. Even if Maxell were able to demonstrate that infringement had occurred, Maxell would still not be entitled to a finding of willful infringement for at least the reasons set forth in Apple's Motion to Dismiss, including because, among other reasons, Maxell will not be able to show that any alleged infringement by

Apple constituted egregious misconduct. In addition, through prior agreements and/or discussions, Maxell has waived in whole or in part its right to seek enhanced damages for willful infringement.

License, Implied License, Exhaustion, First Sale. Maxell's claims of infringement are barred or limited to the extent that any allegedly infringing products or components thereof are supplied, directly or indirectly, to Apple or are imported, sold by, offered for sale by, made by, or made for, any entity or entities having express or implied licenses to the Patents-in-Suit, and/or under the doctrines of exhaustion, first sale, or full compensation.

Lack of Entitlement to Injunction Relief. To the extent Maxell is entitled to any relief, Maxell is not entitled to injunctive relief because it has not and will not suffer any irreparable injury, remedies available at law are adequate to compensate any alleged injury, the balance of hardships does not favor an injunction, and the public interest would be disserved by a permanent injunction.

Exceptional Case. Apple should receive its fees and costs pursuant to 35 U.S.C. § 285, as this is an exceptional case. Apple is presently unable to compute these costs, as the majority of them have not yet accrued, but Apple will provide computations of such costs at an appropriate time.

D. Persons Having Knowledge of Relevant Facts

Apple is currently aware of the following persons likely to have discoverable information that Apple may use to support its claims or defenses in this action, excluding those individuals who may have discoverable information that Apple may use solely for impeachment. Apple anticipates that other individuals may also have discoverable information and specifically reserves the right to identify additional witnesses as discovery proceeds. By indicating the general subject matter of information an individual may possess, Apple does not limit its right to call that individual to testify concerning other subjects or agree that all topics within a subject matter would

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