

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 LUANN SIMMONS IN SUPPORT OF DEFENDANT
APPLE INC.'S AMENDED MOTION TO TRANSFER VENUE UNDER 28 U.S.C. §
1404(a)**

I, Luann L. Simmons, hereby declare as follows:

1. I am an attorney at the law firm of O'Melveny & Myers LLP, counsel for Defendant Apple, Inc. ("Apple") in this matter filed by Plaintiff Maxell, Ltd. ("Maxell"). I have personal knowledge of the facts stated herein and if called to testify could and would competently testify thereto.

2. Attached as **Exhibit A** is an excerpt of a true and correct copy of the United States Securities and Exchange Commission's Form 10-K for Intel Corporation for the fiscal year ending December 29, 2018.

3. Attached as **Exhibit B** is an excerpt of a true and correct copy of the United States Securities and Exchange Commission's Form 10-K for QUALCOMM Incorporated for the fiscal year ending on September 30, 2018.

4. Attached as **Exhibit C** are true and correct copies of the United States Patent and Trademark Office's assignment abstract records for U.S. Patent Nos. 6,748,317, 6,580,999,

8,339,493, 7,116,438, 6,408,193, 6,928,306, 6,329,794, 10,212,586, and 6,430,498, printed from the website of the United States Patent and Trademark Office on July 11, 2019.

5. Attached as **Exhibit D** is an excerpt of a true and correct copy of the trial transcript from *Maxell, Ltd. v. ZTE USA, Inc.*, No. 5:16-cv-00179-RWS (E.D. Tex.), dated June 28, 2018.

6. Attached as **Exhibit E** is a true and correct copy of the public records of all businesses associated with 511 N Washington Ave., Marshall, TX 75670, printed from clustrmaps.com on July 8, 2019.

7. Attached as **Exhibit F** is a true and correct copy of the public records of all businesses associated with 3 Garret Mountain Plaza, Woodland Park, NJ 07424, printed from clustrmaps.com on July 9, 2019.

8. Attached as **Exhibit G** is a true and correct copy of the Confidentiality Agreement between Apple Inc. and Maxell Corporation of America, dated and signed by Maxell Corporation of America on November 21, 2013.

9. Attached as **Exhibit H** is a compilation of Google Maps printouts showing the distances from Apple's headquarters to the Northern District of California's Courthouse in San Francisco, CA, to the Northern District of California's Courthouse in Oakland, CA, to the Northern District of California's Courthouse in San Jose, CA, and to the Eastern District of Texas's Courthouse in Texarkana, TX, printed from Google Maps on July 9, 2019.

10. Attached as **Exhibit I** is a compilation of Google Maps printouts showing the distances from Intel's headquarters to the Northern District of California's Courthouse in San Francisco, CA, to the Northern District of California's Courthouse in Oakland, CA, to the Northern District of California's Courthouse in San Jose, CA, and to the Eastern District of Texas's Courthouse in Texarkana, TX, printed from Google Maps on July 9, 2019.

11. Attached as **Exhibit J** is a compilation of Google Maps printouts showing the distances from San Jose, CA, Santa Clara, CA, and San Francisco, CA, amongst which Qualcomm has seven offices, to the Northern District of California's Courthouse in San Francisco, CA, to the Northern District of California's Courthouse in Oakland, CA, to the Northern District of California's Courthouse in San Jose, CA, and to the Eastern District of Texas's Courthouse in Texarkana, TX, printed from Google Maps on July 9, 2019.

12. Attached as **Exhibit K** is a compilation of Google Maps printouts showing the distances from the locations of the named inventors (i.e., Chigasaki, JP; Fujisawa, JP; Hiratsuka, JP; Hitachinaka, JP; Iwaki, JP; Kawasaki, JP; Kodaira, JP; Sagamihara, JP; Tokyo, JP; Yamato, JP; Yokohama, JP) shown on the face of the patents-in-suit to Tokyo, JP, printed from Google Maps on July 11, 2019.

13. Attached as **Exhibit L** is a true and correct copy of a list of non-stop flights from the Tokyo region (Narita International Airport or Haneda Airport) to the San Francisco Bay Area (San Francisco International Airport or San Jose International Airport), printed from Matrix Airfare Search on July 11, 2019.

14. Attached as **Exhibit M** is a true and correct copy of a list of flights from the Tokyo region (Narita International Airport or Haneda Airport) to the Texarkana Regional Airport sorted by duration, printed from Matrix Airfare Search on July 9, 2019.

15. Attached as **Exhibit N** is a true and correct copy of the Cover Pleading of Plaintiff Maxell, Ltd.'s Patent Rule 3-1 and 3-2 Disclosure of Asserted Claims and Infringement Contentions Against Defendant Apple Inc., served in this case on June 12, 2019.

16. Attached as **Exhibit O** is a true and correct copy of Maxell, Ltd.'s Initial and Additional Disclosures, served in this case on July 10, 2019.

17. Attached as **Exhibit P** is a true and correct copy of Apple Inc.'s Initial and Additional Disclosures, served in this case on July 10, 2019.

18. Attached as **Exhibit Q** is an excerpt of a true and correct copy of the deposition transcript of Maxell employee Kenji Nakamura dated December 15, 2017, as produced by Maxell in this case and bearing bates numbers MAXELL_APPLE0095914-915 and -938.

19. Attached as **Exhibit R** is a true and correct copy of Maxell, Ltd.'s Objections and Responses to Apple Inc.'s First Set of Interrogatories (Nos. 1-16), served in this case on July 29, 2019.

20. Attached as **Exhibit S** is a true and correct copy of the Confidentiality Agreement for Patent Sales Discussions between Hitachi, Ltd. and Apple Inc., dated and signed by Hitachi Ltd. on November 4, 2011, and by Apple Inc. on November 7, 2011, as produced by Apple in this case and bearing bates numbers APL-MAXELL_00251347 - APL-MAXELL_00251352.

21. Attached as **Exhibit T** is a true and correct copy of letter dated June 25, 2013, to Patrick Murphy at Apple Inc. from Shigemi Iwasaki at Hitachi, Ltd., as produced by Maxell in this case and bearing bates numbers MAXELL_APPLE0108220 - MAXELL_APPLE0108234.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed in San Francisco, California, on this 9th day of August, 2019.

/s/ Luann L. Simmons
Luann L. Simmons