

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

MAXELL, LTD.,

Plaintiff,

v.

APPLE INC.,

Defendant.

Case No. 5:19-cv-0036-RWS

**JURY TRIAL DEMANDED**

**JOINT MOTION TO PARTIALLY AMEND DOCKET CONTROL ORDER**

Plaintiff Maxell, Ltd. and Defendant Apple Inc. (collectively the “Parties”) hereby jointly move to amend the current Docket Control Order (Dkt. No. 606) in the above-captioned matter with respect to the timing of certain pre-trial exchanges and filings only.

Certain of the pre-trial exchange and filing deadlines in the current Docket Control Order were set based on an expectation that the parties would complete their identification of narrowed issues for trial in accordance with the framework ordered by the Court by January 28, 2021.<sup>1</sup> Dkt. No. 606. However, following issuance of the Court’s Order regarding narrowing of issues for trial on January 27, 2021 (Dkt. No. 619), the Parties determined that additional time was needed to complete their identification of narrowed issues for trial. Specifically, the Parties agreed that Maxell would narrow its asserted patents and claims for trial by February 2 and that Apple would identify preliminary representative products and narrow its prior art election for trial by February 2 and February 8, respectively. The slight change of the schedule with respect to narrowing necessitates that some additional deadlines flowing therefrom, primarily the deadline for exchange of narrowed pretrial disclosures and objections thereto, be adjusted

<sup>1</sup> The Docket Control Order at Dkt. No. 606 inadvertently referenced deadlines for this calendar year as occurring in 2020 instead of 2021. That error is corrected in this filing and the attached Proposed Order.

slightly as well, as set forth below.

The Parties also believe that the addition of several new deadlines is warranted. Specifically, the Parties propose adding deadlines for filing a representative product stipulation and a notice of compliance with the Dkt. No. 619. The Parties also propose adding deadlines for the exchange of drafts of the Amended Joint Final Pretrial Order, Amended Joint Proposed Jury Instructions, and Amended Form of the Verdict for jury trials, which will facilitate the finalization of those papers for filing by the currently set date.

The newly proposed dates do not impact the dates currently set for the filing of the Pretrial Objections, Amended Joint Final Pretrial Order, Amended Joint Proposed Jury Instructions with citation to authority and Amended Form of the Verdict for jury trials. They also do not impact the date currently set for Jury Selection and Jury Trial.

A table presenting the current deadlines and proposed amendments is set forth below:

| Original Date   | Proposed Amended Date | Event   |
|---|-----------------------|---|
| <b>3 DAYS after conclusion of Trial</b>   |                       | Parties to file <b>Motion to Seal Trial Exhibits</b> , if they wish to seal any highly confidential exhibits.<br><br><b>EXHIBITS: See Order Regarding Exhibits below.</b>   |
| March 22, 2021<br><br>Court designated date – not flexible without good cause - Motion Required |                       | <b>9:00 a.m. JURY TRIAL before Judge Robert W. Schroeder III, Texarkana, Texas.</b><br><br>For planning purposes, parties shall be prepared to start the evidentiary phase of trial immediately following jury selection. |
| March 22, 2021<br><br>Court designated date – not flexible without good cause - Motion Required |                       | <b>9:00 a.m. JURY SELECTION before Judge Robert W. Schroeder III, Texarkana, Texas.</b>   |

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| To Be Determined<br><br>Court designated date – not flexible without good cause - Motion Required |  | <b>PRETRIAL CONFERENCE before Judge Robert W. Schroeder III, Texarkana, Texas. (if necessary)</b><br><br>Discuss trial logistics and <i>voir dire</i> procedure. Resolve any pending motions or objections.<br><br>Lead trial counsel must attend the pretrial conference.  |
| March 4, 2021<br><br>[2.5 weeks before trial]   |  | <b>File a Notice of Time Requested for (1) voir dire, (2) opening statements, (3) direct and cross examinations, and (4) closing arguments.</b>   |
| March 1, 2021<br><br>[3 weeks before trial]   |  | <b>File pretrial objections.</b><br><br>The parties are <b>ORDERED</b> to meet and confer to resolve any disputes before filing any objection to pretrial disclosures.  |
| March 1, 2021<br><br>[3 weeks before trial]   |  | <b>File Amended Joint Final Pretrial Order, Amended Joint Proposed Jury Instructions with citation to authority and Amended Form of the Verdict for jury trials.</b><br><br>Parties shall use the pretrial order form on Judge Schroeder's website.<br><br>Proposed Findings of Fact and Conclusions of Law with citation to authority for issues tried to the bench. |
| February 24, 2021<br><br>[3.5 weeks before trial]   | February 25, 2021<br><br>[3.5 weeks before trial]  | Deadline for Parties to meet and confer regarding remaining pretrial objections.  |
|   | February 19, 2021                                  | Apple to serve response to Maxell's drafts of Amended Joint Final Pretrial Order, Amended Joint Proposed Jury Instructions, and Amended Form of the Verdict for jury trials.  |
| February 17, 2021<br><br>[4.5 weeks before pretrial]  | February 22, 2021<br><br>[4 weeks before pretrial] | Parties identify exhibits and deposition designations for which they maintain pretrial objections.  |

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| February 12, 2021<br>[5 weeks before trial]   |   | <b>Notice of Request for Daily Transcript or Real Time Reporting of Court Proceedings due.</b><br><br>If a daily transcript or real time reporting of court proceedings is requested for trial or hearings, the party or parties making said request shall file a notice with the Court.   |
| February 4, 2021<br>[6 weeks before pretrial] | February 15, 2021<br>[4.5 weeks before trial] | <b>Deadline to File Motions Requesting Leave to Designate Exhibits in Excess of 250.</b>   |
| February 4, 2021<br>[5 weeks before pretrial] | February 15, 2021<br>[4.5 weeks before trial] | Exchange Narrowed Pretrial Disclosures (Witness List, Deposition Designations, and Exhibit List). Parties may withdraw, but not supplement, witnesses, deposition designations, and exhibits from those previously exchanged. Remaining deposition designations and exhibits shall maintain previously exchanged objections.<br><br>Video and Stenographic Deposition Designation due. Each party who proposes to offer deposition testimony shall serve a disclosure identifying the line and page numbers to be offered. |
|   | February 12, 2021<br>[5 weeks before trial]   | Maxell to serve drafts of Amended Joint Final Pretrial Order, Amended Joint Proposed Jury Instructions, and Amended Form of the Verdict for jury trials.   |
|   | February 10, 2021                             | <b>File Notice of Compliance with Dkt. No. 619.</b>  |
|   | February 10, 2021<br>[5 weeks before trial]   | <b>File representative product stipulation.</b>  |
|   | February 8, 2021<br>[5.5 weeks before trial]  | Apple to narrow its prior art invalidity challenges to one “ground” per patent, with a “ground” being one anticipatory reference or one obviousness combination, except that this narrowing will not apply to: (a) the prior art defenses to the three “navigation” patents (the ’317, ’498 and ’999 patents); or (b) Apple’s § 101 challenges.  |
|   | February 8, 2021<br>[5.5 weeks before trial]  | Parties to meet and confer on draft representative product stipulation.  |

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|  | February 5, 2021<br>[6 weeks before trial] | Maxell to serve response to Apple's draft representative product stipulation.  |
|  | February 2, 2021<br>[6 weeks before trial] | Maxell to narrow its case to no more than six patents and 10 claims.<br><br>Apple to serve draft representative product stipulation. |
| January 28, 2021<br>[7 weeks before trial] | N/A  | Parties to complete identification of narrowed issues for trial in accordance with framework to be ordered by the Court.             |

A proposed Docket Control Order is submitted herewith.

Dated: February 5, 2021

*/s/ Jamie B. Beaber*

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