

EXHIBIT 1

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-00036-RWS

**DECLARATION OF BENJAMIN NEUMAN, PH.D. IN SUPPORT OF
DEFENDANT APPLE INC.'S MOTION TO STAY PENDING POST-GRANT
REVIEW PROCEEDINGS AT THE PATENT OFFICE AND TO CONTINUE
TRIAL DUE TO THE COVID-19 PANDEMIC**

I. BACKGROUND AND QUALIFICATIONS

1. I am a professor of biology and chief virologist for the Global Health Research Complex at Texas A&M University since January 2021, and a visiting research scientist at Texas A&M-Texarkana, where I was formerly a professor of virology and Chair of Biological Sciences from 2016 to 2021. In this position, I spend most of my time doing research on emerging viruses, virus structure, how viruses behave in the environment, how viruses affect cells, and antiviral discovery and testing. I have taught virology, immunology and synthetic biology at the undergraduate and graduate level. I frequently appear on news TV, radio and print media helping to explain new developments in infectious disease; since 2015 my work in the media has appeared in at least 121 countries, translated into 37 languages.

2. I received my B.S. in Biology from the University of Toledo in 1997, and my Ph.D. in Biological Sciences from the University of Reading in the United Kingdom in 2001. After completing my Ph.D., I was a postdoctoral fellow and then assistant professor at The Scripps Research Institute in La Jolla, California. Following that, I was a lecturer and then an associate professor of virology at the University of Reading. I have remained a visiting professor of virology at the University of Reading since that time.

3. I have studied coronaviruses for 25 years, and published more than 50 articles on the subject. I am also part of the international committee that named SARS-CoV-2, the virus behind the COVID-19 pandemic. I have also authored or co-authored more than 20 peer-reviewed research articles on other topics related to viruses, virus structures, virus behavior in the environment, antivirals, and virus discovery.

II. STATE OF COVID-19 IN THE UNITED STATES, TEXAS, AND TEXARKANA AND THE SURROUNDING AREA

4. As of February 17, 2021, there have been a total of 27,542,421 reported COVID-19 cases in the United States, with more than 56,000 cases in the past week alone. https://covid.cdc.gov/covid-data-tracker/#cases_casesper100klast7days. The total COVID-19 deaths in the United States as of that same date is 485,070, with 1,217 deaths in the past week. https://covid.cdc.gov/covid-data-tracker/#cases_casesper100klast7days.

5. As of February 17, 2021, in Texas there have been a total of 2,579,644 COVID-19 cases and 41,652 deaths. <https://www.worldometers.info/coronavirus/usa/texas/>. In Bowie County, as of that same date, there have been 6,370 cases and 171 deaths. <https://www.worldometers.info/coronavirus/usa/texas/>. However, 13.6% of COVID-19 tests in Bowie County are positive, indicating that a majority of cases are going undetected https://covidactnow.org/us/texas-tx/county/bowie_county/?s=1598540. In the other three

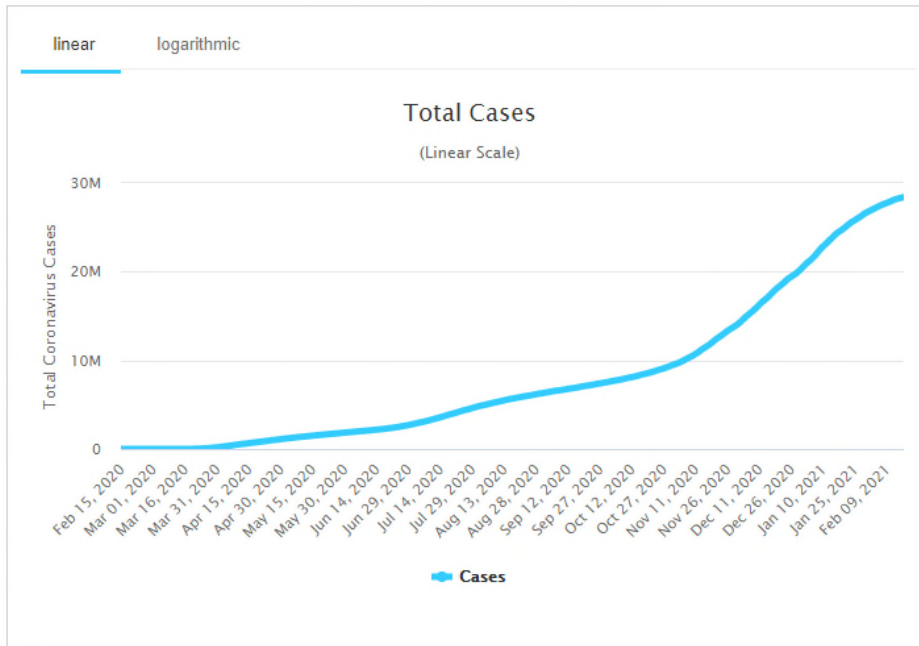
counties from which the Texarkana Division draws jurors—Titus, Red River, Franklin—the total cases as of February 12, 2021 are 4,858 and the total deaths are 129.

<https://www.worldometers.info/coronavirus/usa/texas/>. If the area is expanded to a 75-mile radius around Bowie County, the numbers increase to more than 84,000 cases and nearly 2,000 deaths. Exhibit A, Situational Report for Bowie County.

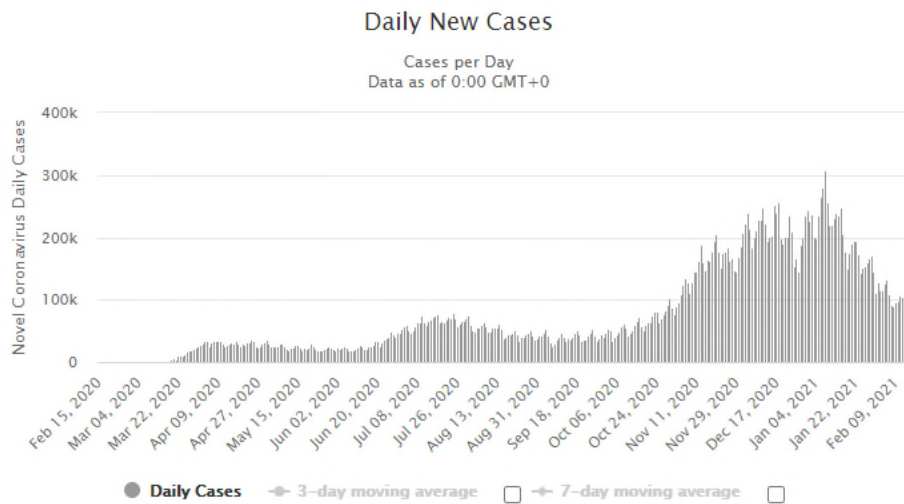
6. My understanding is that the case of *Maxell, Ltd. v. Apple Inc.* was originally scheduled for trial on December 7, 2020, and that on November 12, 2020, the trial was continued to March 22, 2021. There has been a tremendous surge in cases and deaths in the three months since the trial was continued. COVID-19 cases in the United States, Texas, and the relevant counties in Texas have nearly tripled, and the total COVID-19 deaths have nearly doubled. As of November 12, 2020, the total number of cases in the United States was more than 10.9 million, with over 250,000 deaths.

<https://www.worldometers.info/coronavirus/country/us/>. The following graphs show the changes since November 12, 2020, in total U.S. COVID-19 cases, the daily new COVID-19 cases in the U.S., the total COVID-19 deaths in the U.S., and the daily new deaths in the U.S.:

Total Coronavirus Cases in the United States



Daily New Cases in the United States



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