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Maxell Ltd.'s Motion to Compel Apple to Produce Timely Discover

September 17, 2019

Apple's Discovery Misconduct

- Deadlines are **due** dates, not start dates
- Must comply with **all** discovery obligations
 - Expert discovery obligations do not obviate fact discovery obligations
 - Facts must be disclosed even if Apple does not want or like them
 - Partial answers make for incomplete discovery
- “Have not gotten to it yet” is **not** good cause

Apple's Discovery Misconduct

- Disputes are two-pronged: timing **and** scope
- Apple focuses on timing to avoid the genuine disputes on scope
- An effort to kick the can down the road
 - to avoid doing the real work of discovery
 - hoping the case will be transferred
 - hoping to ignore discovery obligations for a bit longer
- The parties have real, substantive disputes **now**

Document Production

Substantial Completion of Document Production

- **July 10, 2019:** Deadline to Comply with Paragraphs 1 & 3 of the Disclosure Order (DCO, D.I. 46)
- Paragraph 3(b):

3. **Additional Disclosures.** Without awaiting a discovery request,¹ each party will make the following disclosures to every other party:

- (b) produce or permit the inspection of **all documents**, electronically stored information, and tangible things in the possession, custody, or control of the party **that are relevant to the pleaded claims or defenses involved in this action**, except to the extent these disclosures are affected by the time limits set forth in the Patent Rules for the Eastern District of Texas; and

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