On behalf of Masimo Corporation
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MASIMO CORPORATION,
Petitioner

v.

APPLE INC.,
Patent Owner

Case No. IPR2023-00728
U.S. Patent No. D962,936

PETITIONER'S *SOTERA* STIPULATION

Pursuant to the Board's authorization on June 9, 2023, Petitioner Masimo Corporation and hereby stipulates that, if the Board institutes this IPR, Petitioner will not pursue, in the Delaware Litigation (*Apple Inc. v. Masimo Corporation and Sound United, LLC*, No. 1:22-cv-01377-MN-JLH, D. Del.), the specific invalidity grounds raised in this Petition or that reasonably could have been raised in this Petition. This stipulation "mitigates any concerns of duplicative efforts between the district court and the Board," and, thus, *Fintiv* factor 4 "weighs strongly in favor of not exercising discretion to deny institution." *Sotera Wireless, Inc. v. Masimo Corp.*, IPR2020-01019, Paper 12 at 19 (PTAB Dec. 1, 2020) (precedential as to § II.A).

Additionally, pursuant to the Board's authorization on June 9, 2023, Petitioner is submitting as an exhibit a copy of the May 25, 2023 Scheduling Order issued by the District Court in the Delaware Litigation.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: June 13, 2023

/Douglas B. Wentzel/
Douglas B. Wentzel (Reg. No. 74,897)

Attorney for Petitioner Masimo Corporation

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e)(4), the undersigned certifies that on June 13, 2023, a complete and entire copy of the foregoing document was provided via email, to the Patent Owner by serving the email correspondence addresses of record as follows:

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