

From: Grace Kim
Sent: Wednesday, September 11, 2024 2:58 PM
To: 'Douglas Wentzel' <Douglas.Wentzel@knobbe.com>
Cc: AppleIPR507-2 <AppleIPR507-2@knobbe.com>; AppleIPR911 <AppleIPR911@knobbe.com>; IPR50095-0135IP2 <IPR50095-0135IP2@fr.com>; IPR50095-0136IP2 <IPR50095-0136IP2@fr.com>
Subject: RE: Apple v. Masimo, IPR2024-00294 and IPR2024-00296 | Deposition of Dr. Kenny

Hi Doug,

Apple does not oppose the proposed date adjustment of DUE DATE 3 for the sur-reply in IPR2024-00294 to February 10, 2025 and DUE DATE 3 for the sur-reply in IPR2024-00296 to February 17, 2025.

Please send us your draft stipulation for our review.

Best,
Grace

Grace Kim :: Principal :: Fish & Richardson P.C.
612 337 2510 direct :: gkim@fr.com
fr.com :: [Bio](#) :: [LinkedIn](#)

From: Douglas Wentzel <Douglas.Wentzel@knobbe.com>
Sent: Tuesday, September 10, 2024 2:53 PM
To: Grace Kim <gkim@fr.com>
Cc: AppleIPR507-2 <AppleIPR507-2@knobbe.com>; AppleIPR911 <AppleIPR911@knobbe.com>; IPR50095-0135IP2 <IPR50095-0135IP2@fr.com>; IPR50095-0136IP2 <IPR50095-0136IP2@fr.com>
Subject: Re: Apple v. Masimo, IPR2024-00294 and IPR2024-00296 | Deposition of Dr. Kenny

Hi Grace,

The current schedule for these IPRs leaves between 4 and 11 days between due date 2 (Apple's Reply) and due date 3 (Masimo's Sur-Reply). We do not believe that timing is reasonable. We also note that the parties agreed last week to schedules with the ordinary 5-6 weeks between due dates 2 and 3, in IPR2024-00241, 00243, and 00244. Masimo therefore proposes adjusting the schedule such that DUE DATE 3 in IPR2024-00294 would move to February 10, 2025 (4 weeks after due date 2) and DUE DATE 3 in IPR2024-00296 would move to February 17, 2025 (4 weeks after due date 2). Please confirm that Apple agrees.

Thank you,

Doug

Douglas Wentzel
Partner
949-721-6352 Direct
Knobbe Martens

From: Grace Kim <gkim@fr.com>
Date: Friday, August 9, 2024 at 11:28 AM
To: Douglas Wentzel <Douglas.Wentzel@knobbe.com>
Cc: AppleIPR507-2 <AppleIPR507-2@knobbe.com>, AppleIPR911 <AppleIPR911@knobbe.com>, IPR50095-0135IP2 <IPR50095-0135IP2@fr.com>, IPR50095-0136IP2 <IPR50095-0136IP2@fr.com>
Subject: RE: Apple v. Masimo, IPR2024-00294 and IPR2024-00296 | Deposition of Dr. Kenny

Doug,

Thank you for your response. We will file the joint stipulations with your proposed edits.

Best,
Grace

Grace Kim :: Principal :: Fish & Richardson P.C.
612 337 2510 direct :: gkim@fr.com
[fr.com](#) :: [Bio](#) :: [LinkedIn](#)

From: Douglas Wentzel <Douglas.Wentzel@knobbe.com>
Sent: Friday, August 9, 2024 11:53 AM
To: Grace Kim <gkim@fr.com>
Cc: AppleIPR507-2 <AppleIPR507-2@knobbe.com>; AppleIPR911 <AppleIPR911@knobbe.com>; IPR50095-0135IP2 <IPR50095-0135IP2@fr.com>; IPR50095-0136IP2 <IPR50095-0136IP2@fr.com>
Subject: Re: Apple v. Masimo, IPR2024-00294 and IPR2024-00296 | Deposition of Dr. Kenny

Grace,

Thanks for sending. Very minor edits. For the IPR2024-00294 stipulation, please add Douglas B. Wentzel (Reg. No. 74,897) to the list of Masimo's counsel and identify AppleIPR507-2@knobbe.com as the service email. With those edits, you have Masimo's approval to file the joint stipulations.

Best regards,

Doug

Douglas Wentzel
Partner
949-721-6352 Direct
Knobbe Martens

From: Grace Kim <gkim@fr.com>
Date: Friday, August 9, 2024 at 9:05 AM
To: Douglas Wentzel <Douglas.Wentzel@knobbe.com>
Cc: AppleIPR507-2 <AppleIPR507-2@knobbe.com>, AppleIPR911 <AppleIPR911@knobbe.com>, IPR50095-0135IP2 <IPR50095-0135IP2@fr.com>, IPR50095-0136IP2 <IPR50095-0136IP2@fr.com>
Subject: RE: Apple v. Masimo, IPR2024-00294 and IPR2024-00296 | Deposition of Dr. Kenny

Doug,

Attached the joint stipulations for each IPR. Please let us know if we have Patent Owner's approval to file the proposed documents.

We also agree to reciprocate not seeking to depose Patent Owner's expert on dates that are consecutive and/or coincide with the holidays in IPR2024-00294 and IPR2024-00296.

Best,
Grace

Grace Kim :: Principal :: Fish & Richardson P.C.
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From: Grace Kim
Sent: Thursday, August 8, 2024 5:49 PM
To: 'Douglas Wentzel' <Douglas.Wentzel@knobbe.com>
Cc: AppleIPR507-2 <AppleIPR507-2@knobbe.com>; AppleIPR911 <AppleIPR911@knobbe.com>; IPR50095-0135IP2 <IPR50095-0135IP2@fr.com>; IPR50095-0136IP2 <IPR50095-0136IP2@fr.com>
Subject: RE: Apple v. Masimo, IPR2024-00294 and IPR2024-00296 | Deposition of Dr. Kenny

Hi Doug,

We plan to provide a draft of the joint stipulation for each IPR by tomorrow.

Best,
Grace

Grace Kim :: Principal :: Fish & Richardson P.C.
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From: Douglas Wentzel <Douglas.Wentzel@knobbe.com>
Sent: Thursday, August 8, 2024 5:34 PM
To: Grace Kim <gkim@fr.com>
Cc: AppleIPR507-2 <AppleIPR507-2@knobbe.com>; AppleIPR911 <AppleIPR911@knobbe.com>; IPR50095-0135IP2 <IPR50095-0135IP2@fr.com>; IPR50095-0136IP2 <IPR50095-0136IP2@fr.com>
Subject: Re: Apple v. Masimo, IPR2024-00294 and IPR2024-00296 | Deposition of Dr. Kenny

Grace,

Please confirm today that you will, by later today or tomorrow morning, provide a draft of the joint stipulation for each of these IPRs.

Thank you,

Doug

Douglas Wentzel
Partner
949-721-6352 Direct
Knobbe Martens

From: Douglas Wentzel <Douglas.Wentzel@knobbe.com>
Date: Wednesday, August 7, 2024 at 11:35 AM
To: Grace Kim <gkim@fr.com>
Cc: AppleIPR507-2 <AppleIPR507-2@knobbe.com>, AppleIPR911 <AppleIPR911@knobbe.com>, IPR50095-0135IP2 <IPR50095-0135IP2@fr.com>, IPR50095-0136IP2 <IPR50095-0136IP2@fr.com>
Subject: Re: Apple v. Masimo, IPR2024-00294 and IPR2024-00296 | Deposition of Dr. Kenny

Grace,

Masimo agrees to stipulate to moving the IPR2024-00294 and IPR2024-00296 due dates as proposed in your email, provided that Apple will likewise not seek to depose Masimo's experts in these IPRs on dates that "coincide with the holidays." Assuming we have that agreement, please provide a draft of the joint stipulation for each IPR for Masimo's approval and signature.

Best regards,

Doug

Douglas Wentzel
Partner
949-721-6352 Direct
Knobbe Martens

From: Grace Kim <gkim@fr.com>
Date: Wednesday, August 7, 2024 at 6:59 AM

To: Douglas Wentzel <Douglas.Wentzel@knobbe.com>
Cc: AppleIPR507-2 <AppleIPR507-2@knobbe.com>, AppleIPR911 <AppleIPR911@knobbe.com>, IPR50095-0135IP2 <IPR50095-0135IP2@fr.com>, IPR50095-0136IP2 <IPR50095-0136IP2@fr.com>
Subject: RE: Apple v. Masimo, IPR2024-00294 and IPR2024-00296 | Deposition of Dr. Kenny

Doug,

Assuming that Masimo is unable to take depositions until late September and early October, Petitioner would ask for a two-week extension on DUE DATE 2 for the Petitioner's Reply since the proposed timeline would otherwise coincide with the holidays.

For IPR2024-00294: If Masimo is available to take Dr. Kenny's deposition on September 27, Apple would stipulate moving the due date for the POR to October 10, moving due date for the Petitioner's Reply to January 13, and agreeing to a joint request to move DUE DATE 3 for the Sur-Reply to January 24.

For IPR2024-00296: If Masimo is available to take Dr. Kenny's deposition on October 4, Apple would stipulate moving DUE DATE 1 for the POR to October 17 and moving DUE DATE 2 for the Petitioner's Reply to January 20, and agreeing to a joint request to move DUE DATE 3 for the Sur-Reply to January 24.

Best regards,

Grace

Grace Kim :: Principal :: Fish & Richardson P.C.
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From: Douglas Wentzel <Douglas.Wentzel@knobbe.com>
Sent: Monday, August 5, 2024 8:29 PM
To: Grace Kim <gkim@fr.com>
Cc: AppleIPR507-2 <AppleIPR507-2@knobbe.com>; AppleIPR911 <AppleIPR911@knobbe.com>; IPR50095-0135IP2 <IPR50095-0135IP2@fr.com>; IPR50095-0136IP2 <IPR50095-0136IP2@fr.com>
Subject: Re: Apple v. Masimo, IPR2024-00294 and IPR2024-00296 | Deposition of Dr. Kenny

Grace,

Masimo is not available to take Dr. Kenny's depositions on the dates proposed in your email. Given Apple's request not to take Dr. Kenny's depositions on consecutive days, Dr. Kenny's availability for depositions, the schedules in these IPRs, and Apple's expressed openness to stipulating to later due dates, Masimo agrees that later due dates will be needed to accommodate these depositions of Dr. Kenny.

For IPR2024-00294: Masimo is available to take Dr. Kenny's deposition on September 26 or 27. If either date works, Masimo would stipulate moving DUE DATE 1 to October 10, moving DUE DATE 2 by the same number of days, to December 30, and moving DUE DATE 3 to January 24.

For IPR2024-00296: Masimo is available to take Dr. Kenny's deposition on October 3 or 4. If either date works, Masimo would stipulate moving DUE DATE 1 to October 17 and moving DUE DATE 2 by the same number of days, to January 6, and moving DUE DATE 3 to January 24.

Best regards,

Doug

Douglas Wentzel

Partner

949-721-6352 Direct

Knobbe Martens

From: Grace Kim <gkim@fr.com>

Date: Monday, August 5, 2024 at 8:44 AM

To: Douglas Wentzel <Douglas.Wentzel@knobbe.com>

Cc: AppleIPR507-2 <AppleIPR507-2@knobbe.com>, AppleIPR911

<AppleIPR911@knobbe.com>, IPR50095-0135IP2 <IPR50095-0135IP2@fr.com>,

IPR50095-0136IP2 <IPR50095-0136IP2@fr.com>

Subject: RE: Apple v. Masimo, IPR2024-00294 and IPR2024-00296 | Deposition of Dr. Kenny

Doug,

Dr. Kenny will be out of the country on the dates proposed by Masimo, and therefore will not be available for the depositions.

Dr. Kenny would be available for deposition in IPR2024-00294 on August 28 and in IPR2024-00296 on September 4. If these proposed dates are not workable for Masimo, please provide your availability for both proceedings after September 2.

Best regards,

Grace

Grace Kim :: Principal :: Fish & Richardson P.C.

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From: Douglas Wentzel <Douglas.Wentzel@knobbe.com>

Sent: Sunday, August 4, 2024 4:08 PM

To: Grace Kim <gkim@fr.com>

Cc: AppleIPR507-2 <AppleIPR507-2@knobbe.com>; AppleIPR911 <AppleIPR911@knobbe.com>; IPR50095-0135IP2 <IPR50095-0135IP2@fr.com>; IPR50095-0136IP2 <IPR50095-0136IP2@fr.com>

Subject: Re: Apple v. Masimo, IPR2024-00294 and IPR2024-00296 | Deposition of Dr. Kenny

Grace,

The proposed dates proposed by Masimo should have read August 13, 14, or 15 and August 20, 21, or 22.

-Doug

Douglas Wentzel

Partner

949-721-6352 Direct

Knobbe Martens

On Aug 4, 2024, at 1:58 PM, Grace Kim <gkim@fr.com> wrote:

Doug,

Would you clarify whether Masimo is proposing to take Dr. Kenny's deposition in IPR2024-00294 and IPR2024-00296 in August or September? We note that August 16, 17, or 18 and August 23, 24, or 25 both fall over a weekend, and Dr. Kenny indicated that he would not be available during either of these time frames.

We would need to confirm, but Dr. Kenny may be available on September 16, 17, 18, 23, 24, and 25. Please let us know if these dates in September would work for Masimo.

Best regards,
Grace

Grace Kim :: Principal :: Fish & Richardson P.C.

612 337 2510 direct :: gkim@fr.com

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From: Douglas Wentzel <Douglas.Wentzel@knobbe.com>

Sent: Friday, August 2, 2024 6:01 PM

To: Grace Kim <gkim@fr.com>; AppleIPR507-2 <AppleIPR507-2@knobbe.com>; AppleIPR911 <AppleIPR911@knobbe.com>

Cc: IPR50095-0135IP2 <IPR50095-0135IP2@fr.com>; IPR50095-0136IP2 <IPR50095-0136IP2@fr.com>

Subject: Re: Apple v. Masimo, IPR2024-00294 and IPR2024-00296 | Deposition of Dr. Kenny

[This email originated outside of F&R.]

Grace,

Masimo is not available to take Dr. Kenny's depositions on the dates proposed in your email. To accommodate Apple's request not to take Dr. Kenny's depositions on consecutive days and the schedule, Masimo is available to take Dr. Kenny's deposition in IPR2024-00294 on August 16, 17, or 18 and his deposition in IPR2024-00296 on August 23, 24, or 25. Masimo expects that Apple will reciprocate concerning any depositions of Masimo's experts such that they also will not occur on consecutive days.

Best regards,

Doug

Douglas Wentzel

Partner

949-721-6352 Direct

Knobbe Martens

From: Grace Kim <gkim@fr.com>

Date: Friday, August 2, 2024 at 2:12 PM

To: AppleIPR507-2 <AppleIPR507-2@knobbe.com>, AppleIPR911
<AppleIPR911@knobbe.com>

Cc: IPR50095-0135IP2 <IPR50095-0135IP2@fr.com>, IPR50095-0136IP2 <IPR50095-0136IP2@fr.com>

Subject: Apple v. Masimo, IPR2024-00294 and IPR2024-00296 | Deposition of Dr. Kenny

Counsel,

Dr. Kenny is available for depositions in IPR2024-00294 and IPR2024-00296 on the following dates: 9/5, 9/6, 9/12 or 9/13.

Petitioner requests that the depositions not be scheduled on consecutive dates. For the 9/12 and 9/13 dates, Petitioner would be open to stipulating to a later date for DUE DATE 1 if Patent Owner is agreeable to stipulating to the same number of days for DUE DATE 2.

Please let us know if Patent Owner would be interested and available to schedule depositions on the above proposed dates for IPR2024-00294 and IPR2024-00296.

Best regards,

Grace

Grace Kim :: Principal :: Fish & Richardson P.C.

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