

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

APPLE, INC.,	)	
	)	
Plaintiff,	)	C.A. No. 22-1377-MN-JLH
	)	22-1378-MN-JLH
v.	)	
	)	
MASIMO CORPORATION,	)	
et al.,	)	
	)	
Defendants.	)	

Wednesday, March 20, 2024
1:00 p.m.
Courtroom 6D

844 King Street
Wilmington, Delaware

BEFORE: THE HONORABLE JENNIFER L. HALL
United States District Court Judge

APPEARANCES:

POTTER, ANDERSON & CORROON, LLP
BY: DAVID E. MOORE, ESQ.

-and-

DESMARAIS LLP
BY: JOHN M. DESMARAIS, ESQ.
BY: PETER C. MAGIC, ESQ.

-and-

1 APPEARANCES CONTINUED:

2 WILMER, CUTLER, PICKERING, HALE & DORR, LLP
BY: MARK FORD, ESQ.

3 BY: JENNIFER MILICI, ESQ.

4 -and-

5 APPLE IN-HOUSE COUNSEL
BY: NATALIE POUS, ESQ.

6 Counsel for the Plaintiff

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8 PHILLIPS, McLAUGHLIN & HALL, P.A.
9 BY: MEGAN C. HANEY, ESQ.

10 -and-

11 KNOBBE MARTENS
BY: JOSEPH R. RE, ESQ.
12 BY: BRIAN HORNE, ESQ.
BY: DANIEL HUGHES, ESQ.
13 BY: STEPHEN JENSEN, ESQ.

14 Counsel for the Defendant

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COURT CLERK: All rise. Court is now in

13:05:40 19

session. The Honorable Jennifer L. Hall presiding.

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THE COURT: Hi. Good afternoon, everybody.

13:05:46 21

Please be seated.

13:05:48 22

All right. We're here for a hearing in 22-1377

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and 22-1378. It's Apple versus Masimo. Let's have

13:06:00 24

appearances for the record, please.

13:06:03 25

MR. MOORE: Good afternoon, Your Honor. David

13:49:09 1 MR. MALZ: Yeah, I mean, we're always happy to
13:49:12 2 try to work things out further. The only example of an
13:49:17 3 alleged inconsistency concerns the '507 patent. We disagree
13:49:21 4 there's an inconsistency, but this is the subject of, I
13:49:26 5 think, the parties' proposed five or six terms for claim
13:49:29 6 construction. The claim constructions are publicly
13:49:32 7 available and I don't think there's any further implicit
13:49:35 8 analysis taking place. This isn't a case where both parties
13:49:41 9 have their own sort of plain meaning.

13:49:43 10 THE COURT: Right.

13:49:44 11 MR. MALZ: The dispute is very -- it's crystal
13:49:47 12 clear. I think it's the "one or more signals" term, but
13:49:53 13 it's crystal clear. Our claim construction is crystal clear
13:49:53 14 and I think Masimo needs -- they need to demonstrate why the
13:49:57 15 publicly available information such as claim constructions
13:50:00 16 is not sufficient for them to make that secondary tertiary
13:50:05 17 point that they want to make. So I do believe that the
13:50:07 18 claim construction issue is clear, it's publicly available
13:50:10 19 and they're free to make those arguments.

13:50:14 20 And just I did want to just clarify or confirm
13:50:18 21 there is zero overlap between asserted prior art in this
13:50:21 22 case and in the IPRs. In fact, we have provided Masimo with
13:50:27 23 stipulations to confirm that there's zero overlap and those
13:50:32 24 are exhibits 20 to 27 to our letter brief.

13:50:38 25 THE COURT: All right. Thank you very much.

13:50:43 1 Okay. I appreciate the argument on this.

13:50:48 2 So Masimo's request to modify the protective
13:50:51 3 order is going to be denied to the extent it requests a
13:50:56 4 blanket edit that would allow Masimo to disclose any and all
13:51:00 5 of Apple's confidential information to the PTAB and the IPRs
13:51:08 6 of the Masimo patents.

13:51:10 7 I think there's minimal relevance of a lot of
13:51:13 8 documents we discussed today to the IPR proceedings.

13:51:17 9 Of course my order doesn't somehow make
13:51:22 10 undiscoverable Apple information that Masimo could ask the
13:51:24 11 PTAB to grant discovery on to the extent Masimo can persuade
13:51:29 12 the PTAB that that information is relevant. Of course I
13:51:32 13 understand the PTAB doesn't normally grant much discovery.

13:51:37 14 To the extent Apple's taking inconsistent claim
13:51:39 15 construction opinions, if those are under seal we can get
13:51:42 16 the relevant portions unsealed. It sounds like they might
13:51:46 17 not be or Apple can agree to have them use, to the extent
13:51:49 18 Masimo thinks that Apple has taken an inherent claim
13:51:55 19 construction position in some of its non-infringement
13:51:59 20 contentions, it can also approach Apple and Apple should
13:52:02 21 agree to work with Masimo to see if we can get that
13:52:06 22 presented to the PTAB, because I don't want to be in the
13:52:08 23 situation where Apple's saying one to thing to us and one
13:52:12 24 thing to the PTAB. So if you can't get that resolved, you
13:52:15 25 can bring that back to the Court, but I will modify the

13:52:17 1 protective order to allow positions like that to be
13:52:20 2 presented to the PTAB if they are inconsistent. And if
13:52:23 3 there are other materials, I'll ask the parties to work
13:52:26 4 together in good faith, but the request for a blanket
13:52:30 5 modification to the protective order is not going to be
13:52:34 6 granted.

13:52:36 7 So that resolves that motion. And that was
13:52:41 8 everything I had on my list for today. I hesitate to ask.
13:52:47 9 Is there anything else we need to discuss?

13:52:51 10 MR. RE: Yeah. I just have a ministerial point.
13:52:55 11 I understand the Court wants simultaneous briefing in seven
13:52:55 12 days on this jury question and --

13:52:58 13 THE COURT: Yep.

13:52:59 14 MR. RE: -- and how it effects trial.

13:53:01 15 THE COURT: My proposal and the flaws you see in
13:53:05 16 it.

13:53:05 17 MR. RE: Yes. Okay. So I hope there's no page
13:53:08 18 limit.

13:53:08 19 THE COURT: Did I not say a page limit?

13:53:10 20 MR. RE: No, but what I'm --

13:53:12 21 THE COURT: I'd be inclined -- I was inclined
13:53:14 22 before we came out here, Mr. Re, to say three pages, but I
13:53:17 23 am inclined and you have persuaded me that the parties
13:53:20 24 should have 20 pages on each side.

13:53:22 25 MR. RE: What I stood up for is since you

13:55:41 1 MR. RE: Seven-day increments?

13:55:43 2 THE COURT: Yes.

13:55:44 3 MR. RE: Thank you, Your Honor.

13:55:46 4 MR. DESMARAIS: Nothing further from Apple.

13:55:48 5 THE COURT: Thank you very much, everybody. It
13:55:50 6 was a pleasure to see everybody. Have a great weekend.

13:55:53 7 (Court adjourned at 1:55 p.m.)

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12 I hereby certify the foregoing is a true and
13 accurate transcript from my stenographic notes in the
14 proceedings.

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16 /s/ Stacy M. Ingram, RPR
17 Official Court Reporter
18 U.S. District Court
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