

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

APPLE INC.,

Plaintiff,

v.

MASIMO CORPORATION and
SOUND UNITED, LLC,

Defendants.

C.A. No. 22-1377-MN-JLH

JURY TRIAL DEMANDED

MASIMO CORPORATION, SOUND
UNITED, LLC

Counter-Claimants,

v.

APPLE INC.

Counter-Defendant.

APPLE INC.,

Plaintiff,

v.

MASIMO CORPORATION and
SOUND UNITED, LLC,

Defendants.

C.A. No. 22-1378-MN-JLH

JURY TRIAL DEMANDED

MASIMO CORPORATION,
CERCACOR LABORATORIES, INC.,
SOUND UNITED, LLC

Counter-Claimants,

v.

APPLE INC.

Counter-Defendant.

REBUTTAL EXPERT REPORT OF STEVEN WARREN

Signed: Steven Warren

Date: December 15, 2023

[REDACTED]

475. **Second**, the Accused Products also do not have a “cavity” under Masimo’s proposed construction—“a hollow space; hole.” Dr. Madisetti merely states without any explanation that “[t]he ‘cavity’ identified in his infringement analysis ... is a ‘cavity’ under Masimo’s construction.” Madisetti Op. Rpt. at E-7. [REDACTED]

[REDACTED]

476. **Third**, under either party’s proposed constructions of “cavity,” the Accused Products do not have “at least three LEDs **recessed into** a cavity.” A POSA would have understood that the plain and ordinary meaning of “recessed into” requires setting the LEDs back into a pre-existing cavity. For example, a contemporaneous dictionary definition for “recess” and “recessed” confirms my opinion regarding the plain and ordinary meaning of “recessed into”:

recess ... 3a. An indentation or small hollow. b. An alcove. ...
[Recessed] ... 1. To place in a recess.

American Heritage College Dictionary (4th Ed. 2002); *see also* Merriam-Webster’s Collegiate Dictionary (10th Ed. 2001) (defining “recess” as a noun as “3a: indentation, cleft ... b: alcove” and defining “recess” as a verb as “to put into a recess”); Collins English Dictionary & Thesaurus (21st Century Ed. 2000) (defining “recess” as a noun as “1 a space, such as a niche or alcove, set back or indented” and defining “recess” as a verb as “to place or set (something) in a recess”). But, as explained above, the Accused Products do not have LEDs that are set into a pre-existing cavity or alcove; instead, the LEDs are mounted on a flat substrate. For example, [REDACTED]

[REDACTED]

[REDACTED]