IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

THETA IP, LLC,	§	
	§	
Plaintiff,	§	Civil Action No. 6:23-cv-00314-ADA
	§	
v.	§	
	§	
APPLE INC.,	§	
	§	
Defendant.	§	
	§	
	§	
	§	

DEFENDANT APPLE INC.'S PRELIMINARY INVALIDITY CONTENTIONS

Defendant Apple Inc. ("Defendant" or "Apple") by and through its counsel, hereby serves its Preliminary Invalidity Contentions on Plaintiff Theta IP, LLC ("Plaintiff" or "Theta").

These Invalidity Contentions are served pursuant to the Court's Scheduling Order. (Dkt. No. 25.) Pursuant to the Scheduling Order, Defendant also serves herewith the document production accompanying these disclosures. These contentions set forth Defendant's initial Invalidity Contentions with respect to the claims currently asserted by Plaintiff. Discovery is ongoing and Defendant reserves the right to amend and/or supplement these Invalidity Contentions as the case proceeds.

I. INTRODUCTION

A. Asserted Patents and Asserted Claims

Plaintiff's Complaint asserts the following patents: U.S. Patent Nos. 7,010,330 (the "'330 patent"); 10,129,825 (the "'825 patent"); 10,524,202 (the "'202 patent"); 11,564,164 (the "'164 patent"); and 11,638,210 (the "'210 patent") (collectively the "asserted patents"). On July 21, 2023, Theta served its Initial Infringement Contentions. The Initial Infringement Contentions list the following asserted claims (collectively the "asserted claims"):

- '330 patent, claims 1, 23, and 29;
- '825 patent, claims 3, 4, and 8;
- '202 patent, claims 7-11 and 13;
- '164 patent, claims 5, 7-9, and 20; and
- '210 patent, claims 3, 6, and 10.

B. Defendant's Contentions are Preliminary and Exemplary

Pursuant to the Scheduling Order (Dkt. 25), Defendant serves invalidity contentions in the form of "(1) a chart setting forth where in the prior art references each element of the asserted claim(s) are found, (2) an identification of any limitations the Defendant contends are indefinite

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Charted Primary and/or Secondary Reference	Short Name	Exhibit No.
U.S. Patent App. Pub. No. 2002/0160740 A1	Hatcher '740	A-17; B-17; C-17; D-17; E-17
U.S. Patent Pub. No. 2003/0181181	Darabi '181	A-12; B-12; C-12; D-12; E-12
U.S. Patent Pub. No. 2003/0080811	Nakatani '811	A-25; B-25; C-25; D-25; E-25
U.S. Patent Pub. No. 2002/0193958	Underbrink '958	A-37; B-37; C-37; D-37; E-37
Japanese Patent Pub. No. JP H10-290173	Sasho '173	A-33; B-33; C-33; D-33; E-33
Japanese Patent Pub. No. 2003-069440	Kawamoto '440	A-22; B-22; C-22; D-22; E-22
Japanese Patent Pub. No. JP H11-298348	Tagami '348	A-35; B-35; C-35; D-35; E-35
Japanese Patent App. 2001-016121	Takashi '121	A-36; B-36; C-36; D-36; E-36
Japanese Patent App. 1996-79108	Okubo '108	A-27; B-27; C-27; D-27; E-27
European Patent Pub. No. EP1168645A2	Rohmer '645	A-31; B-31; C-31; D-31; E-31
European Patent No. 0999649 B1	Rauhala '649	A-30; B-30; C-30; D-30; E-30
WO 2000/19644	Cox '644	A-10; B-10; C-10; D-10; E-10
Behbahani, "Adaptive Analog IF Signal Processor for a Wide-Band CMOS Wireless Receiver," IEEE Journal of Solid-State Circuits, Vol. 36, No. 8, (Aug. 2001)	Behbahani 2001	A-4; B-4; C-4; D-4; E-4
Newman, X-Amp,™ A New 45-dB 500-MHz Variable Gain Amplifier (VGA) Simplifies Adaptive Receiver Designs, Analog Dialogue 36-01 (2002)	Newman 2002	A-26; B-26; C-26; D-26; E-26

B. Identity of Each Item of Prior Art

Subject to Defendant's reservation of rights, Defendant identifies each item of prior art that anticipates or renders obvious one or more of the asserted claims in Section II.C, below, and in the

VIII. FURTHER RESERVATION OF RIGHTS

As noted above, the asserted claims are identified above. Should Plaintiff be permitted to assert more or different claims or any other patents than it does now, Defendant will identify additional/alternative invalidity grounds and prior art as appropriate and will amend or supplement these invalidity contentions accordingly. Nothing in these contentions constitutes an admission of validity as to any other non-asserted claims, or non-asserted patents.

IX. DOCUMENT PRODUCTIONS

Per the Scheduling Order, Defendant is concurrently producing: "(1) all prior art referenced in the invalidity contentions, and (2) technical documents, including software where applicable, sufficient to show the operation of the accused product(s)." (Dkt. 25 at 3.) Per Rule 26, Defendant will supplement, as appropriate and as discovery continues.

Dated: September 29, 2023

/s/Eamonn Gardner

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