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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

DH INTERNATIONAL LTD., Plaintiff, v. APPLE INC., Defendant.	CASE NO. 3:24-cv-06185-TLT **JOINT INITIAL CASE MANAGEMENT STATEMENT** Date: December 5, 2024 Time: 2:00 pm Dept: Courtroom 9, 19th Floor Judge: Hon. Trina L. Thompson

Under Federal Rule of Civil Procedure 26(f), Civil Local Rule 16-9, Patent Local Rule 2¬1(b), the Standing Order for All Judges of the Northern District of California for Contents of Joint Case Management Statement, the Order Setting Initial Case Management Conference and ADR Deadlines (ECF No. 67) and the Joint Motion to Vacate Western District of Texas Procedural Schedule and Enter a Case Management Schedule (ECF No. 70), Plaintiff DH International Ltd. ("DH" or "Plaintiff") and Defendant Apple Inc. ("Apple" or "Defendant") submit this Joint Initial Case Management Conference Statement.

The parties met and conferred on November 11, 2024, under Fed. R. Civ. P. 26(f).

1. Jurisdiction and Service

This is a civil action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. §§ 1 *et seq*. This Court has jurisdiction over the claims presented herein pursuant to 28 U.S.C. §§ 1331 and 1338(a). On August 30, 2024, the United States District Court for the Western District of Texas granted Apple's motion to transfer this case to this District. ECF No. 65. There are no outstanding issues concerning personal jurisdiction or venue. There are no additional parties to be served.

2. Factual Background

On September 15, 2023, DH International initiated this action against Apple in the United States District Court for the Western District of Texas (Austin Division) alleging that certain Apple products infringe two of DH International's patents (U.S. Patent Nos. 7,628,333 ("the '333 patent") and 9,022,294 ("the '294 patent") (collectively, the "Asserted Patents")) that it alleges relate to a portable electronic device (*e.g.,* a cellular phone) that can be used to communicate with an external data exchange device (*e.g.,* system for performing translation such as a point of sale (POS system and/or transaction server) upon receiving an activation cue. ECF No. 1 at ¶ 25. DH International alleges that Apple's Apple Pay mobile payment and digital wallet service and Apple mobile devices capable of Apple Pay infringe certain claims of the Asserted Patents. *Id.* at ¶¶ 26-31. Apple was served with the Complaint on December 13, 2023. ECF No. 8. On February 20, 2024, Apple filed its Answer denying DH International's claims and asserting defenses of noninfringement and invalidity, among others. ECF No. 15.

On July 1, 2024, Apple moved to transfer venue to the Northern District of California pursuant to 28 U.S.C. § 1404(a) ("Motion to Transfer"). ECF Nos. 40, 42. On August 30, 2024, Judge Pitman issued an Order granting Apple's Motion to Transfer and transferred this case to the Northern District of California. ECF Nos. 65-66.

3. Legal Issues

This patent infringement case will involve at least the following issues:

- The proper construction of any claim terms in either of the Asserted Patents;
- Whether Apple has infringed the Asserted Patents pursuant to 35 U.S.C. § 271;
- Whether the Asserted Patents are valid and enforceable, including pursuant to 35 U.S.C. §§ 101, 102, 103, and/or 112 and under the doctrine of prosecution history estoppel;
- The amount of damages and pre-judgment and post-judgment interests, if any, recoverable by DH International if Apple is found to have infringed any valid claim of the Asserted Patents; and
- Whether any other forms of relief are due to any party, including attorneys' fees pursuant to 35 U.S.C. § 285.

Other disputed legal issues may arise as the litigation progresses.

4. Motions

On July 1, 2024, Apple filed a Motion to Transfer venue to the Northern District of California pursuant to 28 U.S.C. § 1404(a). ECF Nos. 40, 42. On July 9, 2024, DH International filed a Motion for (1) Extension of Time to Respond to Defendant's Motion to Transfer Venue and accompanying (2) Request for a Three Month Venue Discovery Period ("Motion for Extension"). ECF No. 45. Apple responded to DH International's Motion for Extension on July 15, 2024, and on July 19, 2024, Judge Pitman of the Western District of Texas denied DH International's Motion for Extension. ECF No. 53. DH International responded to Apple's Motion to Transfer on August 1, 2024, and Apple filed its reply brief on August 8, 2024. ECF Nos. 55-56. On August 30, 2024, Judge Pitman issued an Order granting Apple's Motion to Transfer and transferred this case to the Northern District of California. ECF Nos. 65-66.

On August 30, 2024, the Court entered its Order Setting Initial Case Management Conference and ADR Deadlines setting, among other deadlines, an Initial Case Management Conference for December 5, 2024. ECF No. 67. The following day on August 31, 2024, the Court also entered a Minute Order (ECF No. 68), which "incorporated herein until further notice" the existing ECF No. 58 Western District of Texas procedural schedule. On October 23, 2024, the parties filed a Joint Motion to Vacate Western District of Texas Procedural Schedule and Enter a Case Management Schedule (ECF No. 70), which remains pending.

Prior to the December 5, 2024, Initial Case Management Conference, Apple intends to file petitions for *inter partes* review ("IPR") with the Patent Trial and Appeal Board ("PTAB") challenging the validity of all claims of the Asserted Patents. Prior to this date, the Parties will also file a Stipulation and Proposed Order to Stay this proceeding pending resolution of Apple's IPR petitions and DH International will not object to this stipulation.

5. Amendment of Pleadings

There have been no amendments of pleadings. No additional parties are expected to be added prior to the deadline for amending the pleadings. Discovery will inform whether there will be any additional claims, defenses, or counterclaims. Neither party plans to amend its pleadings at this time, but they reserve their respective rights to do so as necessary to protect their respective rights.

6. Evidence of Preservation

The parties certify that they have reviewed the Guidelines Relating to the Discovery of Electronically Stored Information ("ESI Guidelines") and confirm that the parties have met and conferred pursuant to Fed. R. Civ. P. 26(f) regarding reasonable and proportionate steps taken to preserve evidence relevant to the issues in this action. The parties have instituted reasonable document retention measures to maintain relevant documents.

7. Disclosures

DH International has disclosed the Asserted Patents, their foreign counterparts, and the prosecution history of each. DH International has also disclosed in its Infringement Contentions for the Asserted Patents.

Apple has disclosed a list of witnesses with knowledge related to the marketing of Apple products; Apple's patent licenses and licensing activities; and the design, development and operation of the accused functionality. Apple also has identified third-party witnesses who may have relevant information regarding this case. Apple further identified categories of potentially relevant documentary evidence, including but not limited to technical documents and source code.

8. Discovery

a. Discovery Taken to Date and Anticipated Discovery

On July 8, 2024, pursuant to the Western District of Texas procedural schedule, DH International served on Apple its preliminary infringement contentions for the Asserted Patents, along with producing copies of the Asserted Patents and their prosecution histories. Fact discovery opened on November 11, 2024.

DH International will conduct discovery on at least the following subjects: (1) claim scope of the Asserted Patents; (2) issues of validity of the Asserted Patents raised by Apple; (3) infringement of the Asserted Patents by Apple; (4) financial information relating DH International's allegations of compensatory damages from the sale of Apple's products alleged to infringe the Asserted Patents; (5) Apple's development of the technology alleged to infringe the Asserted Patents; and (6) expert opinions regarding validity/invalidity, infringement/non-infringement and enforcement/unenforceability.

Apple will conduct discovery on at least the following subjects: (1) the claimed inventions and claim scope of the Asserted Patents; (2) non-infringement of the Asserted Patents by the accused products; (3) non-infringing alternatives to the claimed inventions of the Asserted Patents; (4) unenforceability of the Asserted Patents; (5) invalidity of the Asserted Patents; (6) limitations on DH International's recovery of purported damages for claimed infringement of the Asserted Patents; and (7) expert opinions regarding non-infringement, invalidity, unenforceability, and alleged damages for the Asserted Patents.

Currently, there are no pending fact discovery disputes between the parties that are ripe for the Court's resolution.

b. Limitations or Modifications to Discovery

Discovery Limits: The parties agree to abide by the following discovery limits, which do not include any discovery of third parties:

- Interrogatories: 25 per side.
- Requests for Admission: 25 per side.
- Requests for Production: 75 per side.
- Fact Depositions: 10 per side with a maximum duration of 70 hours total per side (not including any depositions taken with respect to claim construction discovery), with no deposition of a single fact witness exceeding seven total hours. The 30(b)(1) and 30(b)(6) depositions of party fact witnesses are to be taken in the same seven-hour deposition day so witnesses are not required to sit for multiple depositions (unless that fact witness is designated on 35% or more of a party's 30(b)(6) deposition topics, in which case that individual may be deposed for two days not to exceed 14 total hours of testimony).
- Expert Depositions: The parties agree that each expert witness shall not be deposed for more than one seven-hour day, absent agreement of the parties and the witnesses. To the extent an expert report relates to multiple subject areas or is otherwise voluminous, the parties shall meet and confer to determine whether more than one day of deposition is appropriate.

Contention Interrogatories: The parties further agree that contention interrogatories need not be answered until sixty (60) days before the close of Fact Discovery, after which a Party may move to compel responses or more definitive answers to Contention Interrogatories, to the extent a Party does not adequately respond to any Contention Interrogatory that was properly served at least 30 days prior to the deadline for Substantial Completion of Fact Discovery.

Deposition Locations: The parties further agree that depositions shall presumptively occur in the location specified by the noticing party, but the parties may stipulate that a deposition may be taken by remote means, consistent with Fed R. Civ. P. 30(b). The parties will work together to make reasonable accommodations for the convenience of all parties and

witnesses. Additionally, reasonable notice shall be given regarding the deposition of any witness, and particularly for international witnesses, the parties agree to make all reasonable efforts to avoid changes to the date, time 30(b)(6) topics, and location of the deposition on short notice.

Privilege Logs: The parties also agree that neither side is required to list on their respective privilege log any material dated on or after the complaint in this lawsuit was filed.

Subpoenas: The parties agree that, when a party issues a subpoena in this case, the issuing party shall request that subpoenaed parties simultaneously produce materials to all parties, and if notwithstanding such request, the subpoenaed party does not produce the materials, the issuing party shall provide a copy of all materials to the other parties within five business days of receipt of the materials from the subpoenaed party.

Authenticity Presumption: Subject to the below, exceptions, DH International agrees that documents produced by DH International in response to document requests in this action shall be presumed to be authentic within the meaning of Federal Rule of Evidence 901, and Apple agrees that documents produced by Apple in response to document requests in this action shall be presumed to be authentic within the meaning of Federal Rule of Evidence 901. Nothing shall preclude either party from objecting, including on grounds of authenticity, to a document produced by another party or a third party. Moreover, if a party serves a specific good-faith written objection to the authenticity of a document that it did not produce from its ordinary business records, the presumption of authenticity will no longer apply to that document. Any objection to a document's authenticity must be provided prior to or with the exchange of objections to trial exhibits. The parties will promptly meet and confer to attempt to attempt to resolve any objection. The parties request that the Court resolve any objections that are not resolved through the discovery process or as part of pretrial proceedings regarding the admissibility of proposed trial exhibits.

c. Protective Order

The parties are working cooperatively to reach agreement on the terms of a Protective Order.

d. Any Other Orders That the Court Should Issue Under Rule 26(c) or Under Rule 16(b)

Email Courtesy Copies

The parties have consented to service by electronic means as set forth in Fed. R. Civ. P. 5(b)(2)(E), and hereby stipulate to serve all pleadings, disclosures, and discovery by email.

ESI and E-Mail Discovery

The parties acknowledge the burden of discovery involving emails and other forms of electronic communication and agree that emails and electronic communications presumptively need not be searched in response to document requests pursuant to Rule 34. The general search and production of email or other electronically stored information (ESI) (such as metadata) shall only be required upon a showing of good cause. If a party believes targeted email/ESI discovery is necessary, it shall propose a procedure identifying custodians and search terms it believes the opposing party should search. The opposing party can oppose or propose an alternate plan. If the parties cannot agree, they shall raise their dispute with the Court.

e. Topics Required Under Patent Local Rule 2-1

Pursuant to Patent Local Rule 2-1(b), the parties provide the following information:

(1) Proposed modification of the obligations or deadlines set forth in these Patent Local Rules to ensure that they are suitable for the circumstances of the particular case (see Patent L.R. 1-3)

The parties have filed a Joint Motion to Vacate Western District of Texas Procedural Schedule and Enter a Case Management Schedule (ECF No. 70) in which the parties adopt the obligations and deadlines set forth in the Patent Local Rules. Therefore, the parties do not believe that modification to the obligations or deadlines set forth in the Patent Local Rules are required.

(2) The scope and timing of any claim construction discovery including disclosure of and discovery from any expert witness permitted by the court.

The parties agree that they may conduct claim construction discovery, including potentially from discovery of expert witnesses permitted by the court, but the parties do not

anticipate deviating from the schedule set forth in the Patent Local Rules for timing of that discovery.

(3) The format of the Claim Construction hearing, including whether the Court will hear live testimony, the order of presentation, and the estimated length of the hearing;

The parties request a hearing before the Court on any claim terms in dispute but cannot estimate the length or scope of the hearing at this time. The parties do not expect at this time to present live testimony at the hearing, and instead expect to present attorney argument based on the briefs and affidavits filed by the parties.

(4) How the parties intend to educate the court on the technology at issue;

After exchanging initial claim terms and constructions, the parties will meet and confer as to whether a technology tutorial or technical advisor is necessary in this case.

(5) The parties shall provide the court with a non-binding, good-faith estimate of the damages range expected for the case along with an explanation for the estimates. If either party is unable to provide such information, that party shall explain why it cannot and what specific information is needed before it can do so. Such party shall also state the time by which it should be in a position to provide that estimate and explanation.

On October 23, 2024, the parties filed a Joint Motion to Vacate Western District of Texas Procedural Schedule and Enter a Case Management Schedule (ECF No. 70) in which the parties adopt the obligations and deadlines set forth in the Patent Local Rules, including those relating to damages contentions. The parties incorporate by reference their forthcoming damages contentions.

DH International contends that compensatory damages based on a reasonable royalty are appropriate for this case. DH International seeks discovery on damages, willfulness and intends to seek an award of reasonable attorneys' fees, costs, expenses, and any other relief the Court may deem just and proper.

Apple contends that DH International cannot recover any damages at least because each

asserted claim of the Asserted Patents is invalid, and Apple does not infringe any claims of the Asserted Patents. Apple intends to seek an award of reasonable attorneys' fees, costs, and expenses, and any other relief as the Court may deem just and proper.

9. Class Action

This is not a class action.

10. Related Cases

On October 29, 2020, the prior owner of the Asserted Patents, G. Holdings Ltd. ("G. Holdings"), filed a suit against Samsung Electronics Co., Ltd. and Samsung Electronics America Inc. (collectively, "Samsung") in the Eastern District of Texas styled *G. Holdings Ltd., v. Samsung Electronics Co., Ltd. and Samsung Electronics America Inc.*, No. 2:20-cv-00342 in which G. Holdings alleged that Samsung infringed the same '294 and '333 patents presently asserted against Apple. On April 30, 2021, Samsung filed IPR petitions with the PTAB challenging the validity of certain claims of the Asserted Patents. *See Samsung Electronics Co., Ltd. v. G. Holdings, Ltd*, IPR2021-00884 (PTAB); *Samsung Electronics Co., Ltd. v. G. Holdings, Ltd*, IPR2021-00885 (PTAB). On August 18, 2021, G. Holdings and Samsung filed a joint stipulation of dismissal of the Eastern District of Texas action with prejudice, which was granted on August 19, 2021, and the Eastern District of Texas action was dismissed. No. 2:20-cv-00342, ECF Nos. 65-66. On August 26, 2021, in each of the IPRs, G. Holdings and Samsung filed joint motions to terminate the IPRs prior to the PTAB rendering institution decisions. IPR2021-00884, Paper No. 7; IPR2021-00885, Paper No. 7. On September 17, 2021, the PTAB granted that joint motion and terminated both Samsung IPRs prior to institution. IPR2021-00884, Paper No. 9; IPR2021-00885, Paper No. 9.

On September 15, 2024, DH International filed a suit against Google LLC ("Google") in the Western District of Texas styled *DH International Lt. v. Google LLC*, No. 1:23-cv-01116-DII in which DH International alleged that Google infringed the same '294 and '333 patents presently asserted against Apple. On December 14, 2023, before Google answered, DH International filed a Notice of Voluntary Dismissal Without Prejudice, which the Western District of Texas court granted on December 15, 2023, and the case was closed. *DH*

International Lt. v. Google LLC, No. 1:23-cv-01116-DII, ECF Nos. 9-10. On September 11, 2024, Google filed the following IPR petitions involving the Asserted Patents, which are presently pending before the PTAB:

- IPR2024-01321 filed by Google challenges claims 1-13 of the '333 patent, has been accorded a filing date of September 11, 2024, and the patent owner's preliminary response to the petition (if any) is due on December 26, 2024.
- IPR2024-01322 filed by Google challenges claims 1-20 of the '294 patent, has been accorded a filing date of September 11, 2024, and the patent owner's preliminary response to the petition (if any) is due on December 26, 2024.

Prior to the December 5, 2024, Initial Case Management Conference, Apple intends to file IPR petitions with the PTAB challenging the validity of all claims of the Asserted Patents.

11. Relief

a. DH's Statement of Relief

DH International asserts that Apple's Apple Pay product infringes the Asserted Patents which are presumed valid and enforceable. Because of Apple's infringing activities, DH International is entitled to receive compensatory damages of not less than a reasonable royalty; and is also seeking a decision that this case is exceptional pursuant to 35 U.S.C. § 285 thus allowing DH International to recover enhanced damages up to treble the compensatory award as well as allowing for the recovery of its attorneys' fees and costs.

b. Apple's Statement of Relief

Apple denies that it infringes any of the Asserted Patents. Apple seeks a finding that all Asserted Patents are invalid and unenforceable. Apple denies that DH International is due any damages. Apple denies that DH International is due any attorneys' fees. Apple requests that the Court issue an order awarding Apple its costs and fees incurred in this action and finding this case is exceptional pursuant to 35 U.S.C. § 285, entitling Apple to an award of its reasonable and necessary attorneys' fees, expenses, and costs, and pre-judgment interest thereon.

12. Settlement and ADR

The parties have had initial discussions regarding settlement and ADR and have agreed to

mediation pursuant to ADR Local Rule 6. The parties have filed their ADR certifications and stipulation consistent with this representation in compliance with ADR Local Rule 3-5 on November 14, 2024. On November 14, 2024, the Court granted the parties stipulation and set mediation for 60 days after issuance of the Markman order in this matter.

13. Consent to Magistrate Judge for All Purposes

The parties do not consent to proceed before a Magistrate Judge for all further proceedings including trial and entry of judgment.

14. Other References

The parties do not believe this case is suitable for reference to binding arbitration, a special master, or the Judicial Panel on Multidistrict Litigation.

15. Narrowing of Issues

The parties believe the scope of the case as to both **infringement** and **invalidity** can be reduced and resolution of these issues expedited through an agreement to limit the number of asserted claims and prior art references, and the parties commit to meeting and conferring to set a schedule for such narrowing. The parties will also continue to work in good faith to attempt to narrow issues by agreement and/or motion as this case proceeds and to prepare a schedule for case narrowing.

16. Expedited Trial Procedure

The parties agree that this is not the type of case that should be handled under the Expedited Trial Procedure of General Order No. 64, Attachment A.

17. Scheduling

The parties agree to the attached schedule set forth in Appendix A.

18. Trial

The parties demand a jury trial. Based on their current understanding of the issues expected to be tried and the expectation that claim and prior art narrowing will be conducted prior to trial, the parties believe that this two-patent case will likely require five to seven full trial days, excluding jury selection.

19. Disclosure of Non-Party Interested Entities or Persons

Pursuant to Civil Local Rule 3-15, on October 23, 2024, the parties each filed their respective "Certification of Interested Entities or Persons."

DH International certifies that, as of this date, there is no conflict of interest (other than the named parties), that DH International has no parent corporation, and that no publicly held corporation owns 10% more of its stock.

Apple certifies that, as of this date, there is no conflict of interest (other than the named parties), that Apple has no parent corporation, and that no publicly held corporation owns 10% more of its stock.

20. Professional Conduct

All attorneys of record for the parties have reviewed the Guidelines for Professional Conduct for the Northern District of California.

21. Additional Matters

None.

Dated: November 26, 2024

ADDYHART P.C.

By: /s/ Paul Tauger

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Attorneys for Defendant
Apple Inc.

ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1

Pursuant to Civil L.R. 5-1(i)(3), I hereby attest that concurrence in the filing of this document has been obtained from each of the above signatories.

/s/ *Robert Hart*

Robert Hart

APPENDIX A

Event	Deadline
Deadline to make initial disclosures (See F.R. Civ. P. 26(a)(1))	11/28/2024
Deadline to file Joint Case Management Statement. (See Standing Order for All Judges of the Northern District of California)	11/28/2024
Initial Case Management Conference: To be held by Zoom. Go to cand.uscourts.gov/tlt for Zoom link.	12/5/2024 at 2:00 PM
Opening of Fact Discovery	11/14/2024
Parties to File Stipulation and Proposed Order Form Selecting ADR Process (Thompson Civ. S.O. ¶ 14; Civil L.R. 16-8(c); ADR L.R. 3-5(b))	11/26/2024
Disclosure of Asserted Claims and Infringement Contentions and Accompanying Document Production (Patent L.R. 3-1 & 3-2)	12/19/2024
Invalidity Contentions and Accompanying Document Production (Patent L.R. 3-3 & 3-4)	02/03/2025
Exchange of Proposed Terms for Construction (Patent L.R. 4-1)	02/18/2025
Exchange of Preliminary Claim Construction and Extrinsic Evidence (Patent L.R. 4-2)	03/11/2025
Damages Contentions (Patent L.R. 3-8)	03/25/2025
Joint Claim Construction and Prehearing Statement and service of Claim Construction Expert Reports (Patent L.R. 4-3)	04/04/2025
Responsive Damages Contentions (Patent L.R. 3-9)	04/24/2025
Damages Contentions Meeting and submission of Damages Meeting Certification (Patent L.R. 3-10)	06/23/2025
Completion of Claim Construction Discovery (Patent L.R. 4-4)	05/05/2025
Opening Claim Construction Brief and Claim Construction Tutorial (Patent L.R. 4-5(a); Thompson Pat. S.O. ¶ 8)	05/19/2025
Responsive Claim Construction Brief (Patent L.R. 4- 5(b))	06/02/2025
Reply Claim Construction Brief (Patent L.R. 4-5(c))	06/09/2025
Claim Construction Hearing (Patent L.R. 4-6)	6/23/2025, or based on Court's convenience

Event	Deadline
Disclosure of Reliance on Advice of Counsel and Supporting Documentation (Patent L.R. 3-7) – 30 days after Claim Construction Order	30 days after Claim Construction Order
Close of Fact Discovery	90 days after Claim Construction Ruling
Designation of Expert Witnesses and Exchange of Initial Expert Reports for Which Party Bears the Burden (Fed. R . Civ. P. 26(a)(2))	45 days after Close of Fact Discovery
Designation of Rebuttal Experts and Exchange of Rebuttal Expert Reports (Fed. R. Civ. P. 26(a)(2))	90 days after Close of Fact Discovery
Completion of Expert Discovery	111 days after Close of Fact Discovery
Deadline to File Dispositive Motions and Any Motion to Limit or Exclude Expert Testimony	156 days after Close of Fact Discovery
Pretrial Conference	Based on Court's Convenience
Trial	Based on Court's Convenience