

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

MYW SEMITECH, LLC,)
)
 Plaintiff,) C.A. No. 25-504-RGA
)
v.)
)
APPLE, INC.,)
)
 Defendant.)

Thursday, February 12, 2026
2:00 p.m.
Courtroom 6A

844 King Street
Wilmington, Delaware

BEFORE: THE HONORABLE RICHARD G. ANDREWS
United States District Court Judge

APPEARANCES:

STAMOULIS & WEINBLATT, LLC
BY: RICHARD C. WEINBLATT, ESQ.

-and-

DAIGNAULT IYER, LLP
BY: DONALD JACKSON, ESQ.

Counsel for the Plaintiff

1 APPEARANCES CONTINUED:

2
3 POTTER, ANDERSON & CORROON, LLP
4 BY: DAVID ELLIS MOORE, ESQ.

5 -and-

6 SHEPPARD, MULLIN, RICHTER & HAMPTON, LLP
7 BY: JAMES L. DAVIS, JR., ESQ.
8 BY: DANIEL W. RICHARDS, ESQ.

9 Counsel for the Defendant

14:01:22 10

14:01:22 11

COURT CLERK: All rise.

14:01:31 12

THE COURT: Please be seated. And so this is

14:01:35 13

MYW Semitech versus Apple, number 25-504.

14:01:45 14

Mr. Weinblatt, good afternoon. Good to see you.

14:01:51 15

MR. WEINBLATT: Good afternoon, Your Honor.

14:01:51 16

Good to see you too. With me today is Don Jackson, and

14:01:53 17

we're representing plaintiff.

14:01:55 18

THE COURT: All right. Mr. Jackson, welcome.

14:01:58 19

You don't need to come forward just yet.

14:02:03 20

Mr. Moore, been a while since I've seen you.

14:02:05 21

Hello.

14:02:07 22

MR. MOORE: Good afternoon, Your Honor. Good to

14:02:08 23

see you. David Moore from Potter Anderson on behalf of

14:02:09 24

Apple. I'm joined by my co-counsel from Sheppard Mullin,

14:02:14 25

Jim Davis and Daniel Richards. And we're also joined by

14:02:20 1 Natalie Pous from Apple.

14:02:20 2 THE COURT: Okay. All right. So I read the
14:02:24 3 letters and I looked at some of the exhibits that were
14:02:28 4 attached. And I think I would like to start with -- well,
14:02:38 5 I'll just call it Semitech's request from Apple. And in the
14:02:46 6 proposed order there is, on the second page, a list of
14:02:53 7 documents, there's like 25 of them, which corresponds, I
14:03:01 8 think, exactly to a list of documents that is in the
14:03:06 9 correspondence back and forth between Apple and Semitech,
14:03:15 10 and in particular, on page 5 of docket item 71-1, which is a
14:03:27 11 letter from Semitech to Mr. Richards that says here's a
14:03:34 12 whole bunch of stuff that we want.

14:03:38 13 It's unclear to me, is there, in fact, agreement
14:03:44 14 that this is stuff that Semitech should get? I think the
14:03:58 15 question whether there's agreement is going to be coming
14:04:02 16 from Apple, not Semitech.

14:04:07 17 MR. RICHARDS: I can just briefly address that,
14:04:08 18 Your Honor. Dan Richards on behalf of Apple. There are two
14:04:11 19 categories of documents here and from Apple's perspective a
14:04:13 20 lot of these documents are, in fact, things that are already
14:04:16 21 produced to Semitech.

14:04:18 22 THE COURT: Well, okay. So that's an
14:04:22 23 interesting answer. The things that aren't already produced
14:04:25 24 to Semitech, is there -- those are the things I'm interested
14:04:30 25 in.

14:04:31 1 MR. RICHARDS: Yes, Your Honor. And those kind
14:04:33 2 of fall into really two categories, one of which is there's
14:04:38 3 a bunch of things that are related to what you see on the
14:04:42 4 list referred to as thermal specs in that second list of
14:04:46 5 paragraph four of the order. Those documents we're in the
14:04:49 6 process of collecting right now, but the reasoning that is
14:04:52 7 set forth in Semitech's letter as to the relevance of those
14:04:55 8 documents is that they say that those are relevant to a
14:05:00 9 claim limitation that relates to the coefficient --

14:05:03 10 THE COURT: Well, so you're collecting them so
14:05:05 11 that you will produce them, right?

14:05:07 12 MR. RICHARDS: We're working on that to confirm,
14:05:09 13 but we don't think they're going to be relevant. What we're
14:05:13 14 also producing is actually --

14:05:15 15 THE COURT: So if you're collecting them, then
14:05:18 16 I'm going to ask that you produce them and that will resolve
14:05:22 17 the thermal spec portion of this. What's the other bucket?

14:05:27 18 MR. RICHARDS: The other bucket is there's a
14:05:27 19 couple of documents here we just candidly do not understand
14:05:28 20 what exactly is being requested.

14:05:31 21 THE COURT: Like, for example?

14:05:32 22 MR. RICHARDS: An example of that is the second
14:05:35 23 bullet on the second page where it says Ansys model .db and
14:05:42 24 .rst files. It's not clear that those are actually
14:05:45 25 documents that exist and that is part of the challenge that

14:05:47 1 we're having is depending on what it is, the information
14:05:52 2 Semitech is trying to connect to that it's likely we'd
14:05:57 3 produce overlapping information, but that needs to be the
14:05:59 4 subject of additional meet and confers so we can actually
14:06:02 5 understand what it is that's missing.

14:06:05 6 THE COURT: All right. So is there anything in
14:06:07 7 this list that you know -- that you have determined you're
14:06:17 8 not going to produce?

14:06:19 9 MR. RICHARDS: No, Your Honor.

14:06:20 10 THE COURT: Okay. So here's what I'm going to
14:06:22 11 do. I'm going to order you to produce all of that say
14:06:25 12 within a month. Is that a reasonable amount of time?

14:06:30 13 MR. RICHARDS: Just I want to make sure what it
14:06:32 14 is that you're referring to, Your Honor.

14:06:34 15 THE COURT: Well, so it's the same list that
14:06:36 16 we've just been talking about in paragraphs four and second
14:06:43 17 four in the proposed order. I say second four, because it's
14:06:48 18 paragraph four and five are both number four, which is the
14:06:51 19 same thing that's in that e-mail from December. And so what
14:06:55 20 you've told me is some of that you've already produced, some
14:07:00 21 of that you are collecting to produce, and some of that you
14:07:02 22 don't understand. So what I'm telling you or what I want to
14:07:06 23 tell you is when you've already produced it, you can say
14:07:10 24 here's where we produced it, and that would count as
14:07:14 25 production. You can collect it and produce it and that will

14:07:19 1 count as production. And if the response is we don't know
14:07:23 2 what this is, then I guess that will lead to a further
14:07:29 3 discussion about what it is.

14:07:31 4 MR. RICHARDS: Okay. I think I understand what
14:07:33 5 you're saying, Your Honor. So if we look at the first list
14:07:36 6 of the -- the first paragraph four, so the one that is at
14:07:39 7 the top of the page there, that's the one where to the
14:07:42 8 extent there's something more that is needed, I think that
14:07:45 9 needs to be the subject of meet and confers because we don't
14:07:47 10 know what additional information is missing.

14:07:49 11 THE COURT: Well, so no. So at this point,
14:07:53 12 because I've gotten your letter and, you know, maybe it's a
14:07:58 13 product of we limit it to three pages, your letter was full
14:08:02 14 of generalities and so what I want you to do -- what is
14:08:10 15 today? The 12th. I don't have my calendar in front of me.

14:08:18 16 Is March 14th a day of the week?

14:08:22 17 COURT CLERK: That's a Saturday.

14:08:23 18 THE COURT: Okay. March 13th, I want you to
14:08:27 19 either say for each of these bullet point items, we have
14:08:32 20 produced it, then you can give them some reference as to
14:08:36 21 where you produced it, or say here it is and then you
14:08:40 22 produce it, or say we don't know what you're talking about,
14:08:44 23 in which case there will probably be some further discussion
14:08:47 24 as to what they're talking about.

14:08:50 25 MR. RICHARDS: I think -- if that's the point is

14:08:52 1 by then either production or meet and confer is necessary,
14:08:55 2 Your Honor, I think that's --

14:08:55 3 THE COURT: Well, no, no. I want you to put --
14:08:59 4 you know, meet and confer is only necessary if you actually
14:09:01 5 don't understand what they're talking about. You said Ansys
14:09:05 6 model db and rst files for the IC packages with included
14:09:11 7 materials. If the answer is you don't know what that is,
14:09:14 8 well, okay, say you don't know what that is. Otherwise,
14:09:18 9 produce it.

14:09:20 10 MR. RICHARDS: Yes. Your Honor, I think I
14:09:22 11 understand what you're saying. I just wanted to confirm you
14:09:26 12 are asking us to do by that date is first, if we know what
14:09:30 13 the file is, then that is something that should be produced.
14:09:32 14 I just want to confirm if we don't know what the file is
14:09:36 15 what it is that should be done with those. There's a
14:09:40 16 separate issue for some of these --

14:09:41 17 THE COURT: If you don't know what the file is,
14:09:43 18 first thing is to put in some kind of formal response, we
14:09:46 19 don't know what this is. And then that will lead to further
14:09:52 20 discussion. But among other things, this will narrow the
14:09:55 21 amount of disputes. Part of my, I don't know -- you know,
14:10:05 22 you've said there hasn't been enough meeting and conferring.
14:10:12 23 They said you're stalling. I don't know who is right, but I
14:10:15 24 think that what I'm saying here will lead to, among other
14:10:21 25 things, narrowing what the disputes are. Right now I can't

14:10:25 1 tell whether you've produced any of this stuff. But you're
14:10:28 2 telling me you have. Okay. Great. But I need it to be --
14:10:33 3 I need it to be, you know, pinned down, so to speak, okay?

14:10:42 4 MR. RICHARDS: And that makes sense, Your Honor.
14:10:44 5 I think for the documents that we understand what they're
14:10:47 6 looking for and the relevance, those are things that we can
14:10:51 7 certainly produce by that date. The concern I have with
14:10:54 8 respect to the things we don't understand exactly what
14:10:57 9 they're asking for, certainly for some of those there might
14:11:00 10 be a concern about the breadth of this where the documents
14:11:03 11 don't have any bearing on what's here, and that's something
14:11:06 12 we can address at that time.

14:11:07 13 THE COURT: Well, so, in fact, you give me the
14:11:10 14 good idea, which is for the ones where you truly don't know
14:11:16 15 what they're asking for, you can list them and tell them
14:11:21 16 that by the end of February, and maybe that will start
14:11:24 17 promoting the discussion of what it is that they actually
14:11:30 18 think they're asking for. But I have no way of parsing this
14:11:37 19 otherwise.

14:11:42 20 So, basically, tell them by February 28th the
14:11:53 21 ones you don't understand and for the rest of them, produce
14:11:59 22 something by March 13th. Okay?

14:12:03 23 MR. RICHARDS: I think that makes sense, Your
14:12:05 24 Honor. And just to be clear for the ones we don't
14:12:08 25 understand, that's the ones including we need clarification

14:12:11 1 of what the scope is of what it is they're producing.

14:12:14 2 THE COURT: That's different. Then you
14:12:19 3 understand it. You're then saying essentially, I don't
14:12:21 4 know, it's overbroad or something. But if you understand
14:12:32 5 it, I want you to produce it. Okay? I don't want you to
14:12:37 6 argue about the scope. I want you to produce it. And --
14:12:46 7 all right?

14:12:48 8 MR. RICHARDS: Okay, Your Honor.

14:12:49 9 THE COURT: Okay. Thank you.

14:12:51 10 All right. So that resolves one third of the
14:12:58 11 request. So then we've got the Taiwanese Semiconductor
14:13:08 12 Manufacturing Company or whatever. And so is it the case
14:13:13 13 that Apple -- and so, as I understand it, the Taiwan
14:13:21 14 Semiconductor Manufacturing Company fabricates these, I
14:13:25 15 guess, chips, and Apple pays them money so that they supply
14:13:32 16 them to Apple, right?

14:13:34 17 MR. RICHARDS: Roughly, Your Honor, yes. That's
14:13:36 18 a good summary.

14:13:37 19 THE COURT: Okay. And I gather that then the
14:13:40 20 chips go into, among other things, iPhones?

14:13:44 21 MR. RICHARDS: Among other things, yes, Your
14:13:46 22 Honor.

14:13:46 23 THE COURT: Okay. If I have an iPhone, am I
14:13:51 24 recused?

14:13:51 25 MR. RICHARDS: I'm sorry, say that again.

14:13:53 1 THE COURT: If I have an iPhone, should I recuse
14:13:57 2 myself?

14:13:58 3 MR. RICHARDS: I defer to Your Honor whether
14:14:00 4 that gives rise to that, Your Honor. I don't know that
14:14:03 5 that's necessary in this instance, Your Honor.

14:14:04 6 THE COURT: Might be kind of hard to find a
14:14:07 7 judge if that is a conflict.

14:14:10 8 All right. So what is it that you are going to
14:14:17 9 produce -- just tell me, start off in generic terms. You
14:14:22 10 say you're working on -- actually, let's not do that.

14:14:26 11 So they asked for an order, a grievance with,
14:14:35 12 I'm just going to call it the Taiwanese about the accused
14:14:41 13 chips as well as all related or follow-on periodic
14:14:45 14 statements of work, contractually required reports,
14:14:48 15 production supply forecasts, commercial invoices, price
14:14:52 16 quotes, and specification sheets. What's objectionable
14:14:59 17 about that request?

14:15:01 18 MR. RICHARDS: There's two things, Your Honor.
14:15:03 19 First, just at the outset, the thing that Apple is in the
14:15:06 20 process of producing right now are what are referred to as
14:15:10 21 statements of work that you see that are listed there.

14:15:12 22 THE COURT: Okay.

14:15:13 23 MR. RICHARDS: That's the information that sets
14:15:17 24 the relationship between the parties with respect to the
14:15:22 25 accused products themselves.

14:15:23 1 THE COURT: Does that include -- I would think
14:15:25 2 that would include specifications too?

14:15:27 3 MR. RICHARDS: So what I was referring to, Your
14:15:30 4 Honor, is the agreements. In addition to that, anything
14:15:32 5 that is a technical document relating to the accused
14:15:36 6 functionality Apple either has already or is in the process
14:15:42 7 of collecting and producing what it is aware of.

14:15:43 8 THE COURT: Okay. So that would be the
14:15:44 9 specifications?

14:15:45 10 MR. RICHARDS: Yes, Your Honor.

14:15:46 11 THE COURT: So what are -- so you said you
14:15:51 12 either -- the statements of work, have you already produced
14:15:55 13 them?

14:15:55 14 MR. RICHARDS: No. We are in the process of
14:15:56 15 collecting those right now. We expect to be able to produce
14:15:59 16 them soon.

14:16:00 17 THE COURT: All right. Well, so "soon" is not a
14:16:03 18 word that I like, though it's better than some other words,
14:16:07 19 but I'd like to have a date here. The statements of work,
14:16:13 20 the technical thing, which I guess includes specifications,
14:16:17 21 I want to put you down for producing them by March 13th
14:16:22 22 also.

14:16:23 23 MR. RICHARDS: That should be fine, Your Honor.
14:16:25 24 As far as I'm aware, we've already produced everything that
14:16:28 25 we are aware of to date.

14:16:30 1 THE COURT: Okay.

14:16:31 2 MR. RICHARDS: So we can supplement with
14:16:32 3 anything we became aware of by then.

14:16:34 4 THE COURT: All right. So, right. To the
14:16:41 5 extent I sign some order directing you to produce stuff and
14:16:45 6 you already produced it, you don't have to produce it again.

14:16:51 7 So, but there's also then what they call
14:16:55 8 contractually required reports, production supply forecasts,
14:17:00 9 commercial invoices, and price quotes. I take it that at
14:17:05 10 least what you pay -- what consideration you give for
14:17:10 11 Taiwan, the Taiwanese for making these chips, that's a
14:17:14 12 relevant thing to produce, right?

14:17:16 13 MR. RICHARDS: Yes, Your Honor. And that
14:17:18 14 information is actually in the statement of work -- the
14:17:21 15 statements of work, if my understanding is correct, it lists
14:17:24 16 the pricing information there. If, after looking at that,
14:17:27 17 Semitech believes there's additional detail that's needed,
14:17:30 18 we're happy to investigate that additional detail.

14:17:32 19 THE COURT: So what you're telling me is the
14:17:35 20 request for commercial invoices and price quotes is
14:17:38 21 essentially redundant because whatever the actual prices are
14:17:43 22 are going to be in the agreements?

14:17:45 23 MR. RICHARDS: Yeah. In terms of financial
14:17:48 24 information between the information -- the other financial
14:17:51 25 information Apple just produced a couple of days ago, which

14:17:54 1 speaks to financial information in the relevant time period,
14:17:58 2 as well as the statements of work, we believe that that
14:18:01 3 should be sufficient. But financial information to address
14:18:06 4 what is Semitech going forward.

14:18:07 5 THE COURT: Then there's two other things in
14:18:10 6 their request. Contractually required reports. I'm not
14:18:16 7 entirely sure what they mean by that. Production supply
14:18:21 8 forecasts. I could guess more or less that there's -- that
14:18:32 9 Apple might send to the Taiwanese forecasts for how many of
14:18:37 10 these chips they need?

14:18:39 11 MR. RICHARDS: Your Honor, I don't know if
14:18:42 12 that's the way that this works in the relationship, and I'm
14:18:45 13 not sure that that's how Apple does the procurement for
14:18:49 14 these.

14:18:51 15 THE COURT: Well, so -- all right. So Mr.
14:18:55 16 Richards, why don't you hold, just stand there for a minute.

14:18:59 17 Mr. Jackson, so I think you either have or will
14:19:04 18 get the statements of work, the prices and the specification
14:19:09 19 sheets. So that leaves what you describe here as
14:19:15 20 contractually required reports and production supply
14:19:18 21 forecasts. What is it that you think you're getting there
14:19:23 22 that is helpful?

14:19:25 23 MR. JACKSON: Thank you, Your Honor. If you
14:19:27 24 need me to go to a microphone --

14:19:29 25 THE COURT: I actually thought you'd come stand

14:19:32 1 next to your friend, Mr. Richards, and that presumably you
14:19:37 2 will not come to blows. So it might be helpful.

14:19:42 3 MR. JACKSON: Thank you, Your Honor. Yeah. So
14:19:46 4 in each of those categories, contractually required reports,
14:19:49 5 now obviously we don't know exactly what's being exchanged
14:19:53 6 between them.

14:19:54 7 THE COURT: Well, so if you get these
14:19:56 8 agreements, then you'll find out whether anything is
14:19:58 9 required at all, right?

14:20:00 10 MR. JACKSON: True.

14:20:01 11 THE COURT: Okay.

14:20:02 12 MR. JACKSON: I would expect there to be some
14:20:04 13 testing. There's going to be, you know -- TSMC has to do
14:20:10 14 some degree of work even if they get the design.

14:20:10 15 THE COURT: Well, so testing, would that fall
14:20:12 16 under the technical documents that you've said are being
14:20:15 17 produced, Mr. Richards?

14:20:16 18 MR. RICHARDS: The information relating to
14:20:18 19 testing that is in Apple's possession, yes, Your Honor, that
14:20:21 20 is the stuff that is being collected and produced.

14:20:24 21 THE COURT: All right. So what else is in these
14:20:27 22 contractually required reports that you might want, Mr.
14:20:30 23 Jackson?

14:20:30 24 MR. JACKSON: Yes, Your Honor. So I think those
14:20:34 25 were primarily the area of concern. As counsel previously

14:20:41 1 mentioned, there are some coefficient of temperature
14:20:44 2 requirements.

14:20:44 3 THE COURT: All that's either in the agreements
14:20:47 4 or the specification or that's in the testing.

14:20:49 5 MR. JACKSON: Yes.

14:20:50 6 THE COURT: So I think we're good there. What
14:20:54 7 about production supply forecasts? So the agreements -- if
14:20:58 8 there's some -- I'm guessing. The agreements are going
14:21:04 9 to -- you know, this might be what's called a requirements
14:21:11 10 contract, it might require -- it might say you need to give
14:21:17 11 us an estimate of how many of these chips you're going to
14:21:20 12 need in the future. Is that what you have in mind?

14:21:22 13 MR. JACKSON: Exactly, Your Honor. Exactly,
14:21:24 14 Your Honor. So there are going to be periodic forecasts,
14:21:27 15 maybe it's done quarterly, maybe it's done on a different
14:21:30 16 time period, but it's going to be an indication of demand,
14:21:35 17 how much expected demand there is for those chips going
14:21:38 18 forward on a rolling basis.

14:21:39 19 THE COURT: Okay. So do you know whether such
14:21:41 20 things -- I think Mr. Richards has already said you don't,
14:21:45 21 but do you know whether such things exist or are called for
14:21:49 22 by the contracts?

14:21:50 23 MR. RICHARDS: I do not know at this time, Your
14:21:52 24 Honor.

14:21:52 25 THE COURT: Okay. So based on what's been said,

14:22:07 1 I'm going to cross out contractually required reports. I'm
14:22:11 2 going to leave production supply forecasts in there with the
14:22:15 3 understanding that that's essentially -- that that's really
14:22:26 4 directed towards anything Apple says to the Taiwanese about
14:22:32 5 their needs in the future, what I think Mr. Jackson has
14:22:38 6 referred to as demand. It's probably going to be pretty
14:22:43 7 clear once you look at the contract whether -- whether such
14:22:49 8 things exist, I would think. And if they do exist, then you
14:22:54 9 need to find them. I imagine it's not going to be real
14:23:00 10 hard, so I'm going to leave them in as something to be
14:23:03 11 produced. The specification sheets, I'm going to write down
14:23:06 12 specification sheets and testing, but that's really just to
14:23:13 13 reflect what Mr. Richards has said, really something that he
14:23:21 14 thinks is already being produced. And commercial invoices
14:23:28 15 and price quotes, with the understanding that that's not
14:23:31 16 anything actually additional, assuming that the financial
14:23:34 17 information is in the agreements that are going to be
14:23:37 18 produced. All right?

14:23:40 19 Yes, Mr. Jackson.

14:23:41 20 MR. JACKSON: Can I interject one more thing on
14:23:44 21 this point? We had asked for this order. Apple's
14:23:47 22 agreements with TSMC concerning the accused chips as well as
14:23:52 23 related or follow-on periodic statements of work. So the
14:23:55 24 bigger picture, and maybe we should have spelled this out
14:23:58 25 more clearly, is typically there's something called a master

14:24:01 1 services agreement between two companies, especially large
14:24:05 2 sophisticated companies like this. The master service
14:24:07 3 agreement typically specifies all the general terms and
14:24:10 4 conditions that the parties are going to agree to for
14:24:13 5 delivery under that agreement. And then what happens is as
14:24:16 6 each new product, for example, each new chip in this case is
14:24:20 7 issued, there's a specific statement of work directed to
14:24:22 8 that chip that fills in specific details like timelines,
14:24:27 9 what the specific deliverables might be under that statement
14:24:29 10 of work.

14:24:30 11 THE COURT: So, Mr. Jackson, as much as I
14:24:33 12 appreciate the broader picture, what is the relevance of
14:24:37 13 what you're telling me?

14:24:38 14 MR. JACKSON: We don't know where the terms,
14:24:40 15 relevant terms are going to be split. Are they going to be
14:24:43 16 in the master services agreement or the statements of work,
14:24:46 17 so we'd like to get the master services agreement.

14:24:49 18 THE COURT: Well, so I'm going to leave that up
14:24:51 19 to Apple. If there's two agreements covering this
14:24:56 20 relationship, they need to produce both agreements. If
14:24:59 21 there's only one agreement, then they need to produce one
14:25:02 22 agreement, right, Mr. Richards?

14:25:06 23 MR. RICHARDS: So I just want to unpack what it
14:25:09 24 is you're saying for a second, Your Honor, because Apple and
14:25:14 25 TSMC have a very broad relationship. Only a small part on

14:25:18 1 that relates to the parties' relationship as relevant to the
14:25:20 2 accused functionalities here. The statements of work that
14:25:23 3 I've indicated that we're collecting and producing are the
14:25:26 4 agreements that specify the relationships between the
14:25:29 5 parties with respect to those particular chips.

14:25:31 6 THE COURT: With respect to the accused chips?

14:25:33 7 MR. RICHARDS: Yes, Your Honor.

14:25:34 8 THE COURT: Right. I don't think Mr. Jackson is
14:25:36 9 asking for statements of work relating to the rest of it.
14:25:40 10 What he is asking for, though, is if there is a separate
14:25:44 11 agreement that you need to understand all the relevant terms
14:25:51 12 related to the chips, you need to produce that. Right?

14:25:57 13 MR. RICHARDS: If there's an agreement like
14:25:59 14 that, then it would be something that -- the statements of
14:26:04 15 work on their own we believe are sufficient to understand
14:26:07 16 the relevant aspects of the Apple/TSMC relationship.

14:26:11 17 THE COURT: Well, so they may or they may not
14:26:14 18 be. If you think they are, you can produce them, and say
14:26:19 19 the master services agreement is irrelevant, assuming there
14:26:24 20 is such a thing. But it better be irrelevant that the
14:26:27 21 statement of work is a self-contained contract that -- but
14:26:34 22 if there are terms that are being supplied from somewhere
14:26:37 23 else, you're going to need to provide where that somewhere
14:26:40 24 else is. But in the first instance, that's your call as to
14:26:44 25 whether contract A has any relationship to the accused

14:26:48 1 chips, okay?

14:26:50 2 MR. RICHARDS: Okay.

14:26:51 3 THE COURT: And presumably when you produce
14:26:53 4 this, if Mr. Jackson thinks he can't understand it without
14:26:58 5 contract A, it will be followed up, but you'll be a lot
14:27:04 6 closer to the solution.

14:27:05 7 Okay. So I'm going to grant paragraph two as
14:27:11 8 I've amended it to cross out contractually required reports
14:27:16 9 to add in "and testing," and with the gloss that I put on
14:27:20 10 this -- on the record here. So that resolves two. And I am
14:27:29 11 changing the date to March 13th, as I have done in paragraph
14:27:42 12 four and second paragraph four.

14:27:53 13 All right. So the paragraph three about
14:28:01 14 defendant Apple has already produced any documents to be
14:28:05 15 obtained by Taiwan but in Apple's possession, custody or
14:28:08 16 control based on agreements between Taiwan and Apple, I'm
14:28:12 17 not sure what that paragraph is directed at, but I'm
14:28:15 18 inclined to just cross that out because it seems to me that
14:28:18 19 based on what you're getting from paragraph two, that covers
14:28:22 20 what you need.

14:28:23 21 MR. JACKSON: It's unclear whether three will
14:28:27 22 encompass more documents. The idea of three was is to say,
14:28:32 23 okay, if they've taken a narrow read of paragraph two, which
14:28:37 24 is contractual-related document, then we want to obviously
14:28:40 25 make sure we obtain any other technical documents especially

14:28:43 1 relating to the accused products they may have obtained in a
14:28:46 2 less formal exchange with TSMC.

14:28:49 3 THE COURT: Well, I think Mr. Richards already
14:28:52 4 said you're going to get all the technical documents, so I
14:28:55 5 think paragraph three is superfluous, so I'm just going to
14:29:00 6 cross that out. I'll renumber first paragraph four as three
14:29:09 7 and restore some order here.

14:29:11 8 MR. JACKSON: I apologize, Your Honor. I was
14:29:13 9 going to point that out. I noticed that yesterday.

14:29:15 10 THE COURT: It's not the worst thing in the
14:29:17 11 world. That's for sure.

14:29:20 12 So then as I gather paragraphs five and six
14:29:24 13 relate to financial information, is that right, Mr. Jackson?

14:29:30 14 MR. JACKSON: Five relates to financial
14:29:34 15 information. When I say five, by the way, that's the
14:29:37 16 originally numbered one?

14:29:38 17 THE COURT: There's only one five.

14:29:43 18 MR. JACKSON: It should be six, right?

14:29:45 19 THE COURT: No.

14:29:47 20 MR. JACKSON: And then six is relating more to a
14:29:49 21 date restriction.

14:29:50 22 THE COURT: But a date restriction for what?

14:29:53 23 MR. JACKSON: Date restriction for both the
14:29:55 24 technical as well as the financial documents. This doesn't
14:29:57 25 necessarily have specifically to do with TSMC. This is more

14:30:01 1 when we exchanged e-mails and meet and confers with Apple
14:30:04 2 they took the position that the only documents that were
14:30:07 3 relevant were documents that were generated or dated from
14:30:10 4 the date of the first patent to issue forward, that was in
14:30:15 5 2021, and our point is that this technology --

14:30:18 6 THE COURT: Mr. Jackson, I thought I saw saw in
14:30:21 7 Apple's letter that they were saying, yes -- in somebody's
14:30:29 8 letter, there seemed to be an acknowledgment that some
14:30:35 9 documents that predate the issuance -- some Apple documents
14:30:39 10 that predate the issuance would be relevant or would be
14:30:42 11 produced, so maybe the best thing for me to do is ask Mr.
14:30:45 12 Richards, what -- am I correct that that is your position?
14:30:49 13 And if so, what kind of thing that predates the issuance of
14:30:54 14 the patents do you expect to -- do you concede that you
14:30:59 15 should produce?

14:31:00 16 MR. RICHARDS: Your Honor, what I would say is
14:31:02 17 what we are collecting and producing without date
14:31:06 18 limitations is technical information relating to the accused
14:31:10 19 products. We gave an example of a document that we have
14:31:12 20 produced that goes back more than a decade back from when
14:31:17 21 the complaint was actually filed as one example of that.
14:31:21 22 But all of the technical documents relating to each of the
14:31:25 23 accused products that we're able to locate that relate to
14:31:28 24 the accused functionality we are producing without date
14:31:31 25 restrictions.

14:31:32 1 THE COURT: Okay. Anything besides these
14:31:38 2 technical documents?

14:31:38 3 MR. RICHARDS: So far, no, Your Honor. And part
14:31:40 4 of the reason for that is if you take a look at the requests
14:31:46 5 that are at issue in paragraph six, which is talking about
14:31:49 6 the date limitations, I have a slide that shows some of the
14:31:53 7 language from those if it would be helpful.

14:31:55 8 THE COURT: Show me, because I have not looked
14:31:58 9 at all these -- or actually any of these requests for
14:32:02 10 production.

14:32:02 11 MR. RICHARDS: Certainly, Your Honor. If I may
14:32:04 12 approach with a copy of some slides that I have.

14:32:16 13 THE COURT: All right. Tell me which page.

14:32:18 14 MR. RICHARDS: For this, if we go to slide 19.

14:32:24 15 THE COURT: Okay.

14:32:26 16 MR. RICHARDS: This is not all of the requests
14:32:28 17 that have been moved on, but these are exemplars of them
14:32:32 18 that show that the types of information for which Semitech
14:32:38 19 is asking really needs to be the subject of narrowing before
14:32:41 20 we focus on what actually needs to be produced. For
14:32:44 21 example, you look at request 31, any revenue information
14:32:48 22 relating to --

14:32:48 23 THE COURT: Right. Right. I guess you'll make
14:32:52 24 a record here, so I'm sorry I should let you speak.

14:32:56 25 MR. RICHARDS: I can be succinct about it, but

14:32:59 1 if you look at those it's really any information relating to
14:33:03 2 Apple products, marketing, all agreements relating to
14:33:06 3 manufacturing that's not limited to the accused
14:33:09 4 functionality, forecasts, divisional financial statements,
14:33:13 5 strategic planning documents, substantial numbers of
14:33:17 6 documents like this that go far beyond the scope of what is
14:33:20 7 relevant to this case both from a temporal perspective but
14:33:24 8 also from subject matter perspective.

14:33:26 9 THE COURT: Okay. Mr. Jackson, what's your
14:33:27 10 response to that?

14:33:28 11 MR. JACKSON: Thank you, Your Honor. So when we
14:33:30 12 refer to, you know, revenue, we're specific to the Apple
14:33:36 13 chips or Apple chips with Apple products. And so, I think
14:33:41 14 we're trying to link it to the chips, but there's also the
14:33:44 15 issue that the chips do get embedded into the product and
14:33:47 16 then what Apple sells is actually obviously the phone,
14:33:51 17 right? They don't sell the chip. So if we're going to try
14:33:54 18 to get relevant financial information that they likely have,
14:33:57 19 we're going to have to at least start with the phone
14:34:00 20 information, the phone revenue, and then there's going to
14:34:04 21 have to be an apportionment to get back to the value of the
14:34:07 22 inventions.

14:34:07 23 THE COURT: Why do you need anything before
14:34:09 24 let's say January 1 of 2021 for this?

14:34:13 25 MR. JACKSON: So it goes to -- the technology we

14:34:16 1 believe was introduced I think it's 2015 or 2016 with the
14:34:20 2 iPhone 7.

14:34:21 3 THE COURT: Okay.

14:34:22 4 MR. JACKSON: That's the patented technology.
14:34:24 5 There's a development cycle that we understand takes two to
14:34:28 6 three years. Because it relates to financial information,
14:34:30 7 it would have been in the 2015 time frame, I believe with
14:34:34 8 the iPhone 7. But we also want to get the forecasts before
14:34:37 9 they introduced the technology, any financial analysis.
14:34:41 10 There's going to be tons of financial analysis relating to
14:34:44 11 the phone as a whole, obviously, but also specifically this
14:34:48 12 new technology, what does it bring, what advantages does it
14:34:51 13 bring.

14:34:51 14 THE COURT: Well, so the new technology, are
14:34:54 15 these chips, are they called the A8 and the A9 chips?

14:35:00 16 MR. JACKSON: The accused chips, there's three
14:35:02 17 different series. There's an A series an M series and an S
14:35:07 18 series. The A series, the first accused chip is A10.

14:35:11 19 THE COURT: Okay.

14:35:13 20 MR. JACKSON: We asked for the A8 and A9 to look
14:35:16 21 at the financial picture with respect to the prior
14:35:20 22 generations of those chips before the new technology was
14:35:25 23 introduced so that we can see the change in financial --
14:35:29 24 from the financial perspective of how the new technology
14:35:33 25 impacts Apple's revenue and profits, etc., etc. So that's

14:35:38 1 why we wanted to get a benchmark to look at, A8 and A9 and
14:35:46 2 start with the accused chip, the A10. That introduction, as
14:35:48 3 I said, of the A10 we think is, off the top of my head right
14:35:50 4 now I don't remember if it was 2015 or '16, but it was the
14:35:54 5 iPhone 7, whatever year that was. So we want to get the
14:35:58 6 benchmark and then look at the change because that's going
14:36:01 7 to drive a lot of the expert's damages analyses as it
14:36:04 8 relates to the reasonable royalty that's going to be
14:36:06 9 appropriate. They're going to see what incremental value,
14:36:10 10 what incremental change in the profitability, for example,
14:36:13 11 of Apple's products or perhaps its cost reduction which
14:36:17 12 would of course increase indirectly profitability.

14:36:21 13 THE COURT: So I realize how much Apple pays in
14:36:30 14 chips may not be something one wants to say out loud in a
14:36:34 15 public courtroom, but in -- can you give me a ballpark of
14:36:45 16 what -- I guess first off, are there multiple chips in an
14:36:50 17 iPhone or just one chip?

14:36:52 18 MR. JACKSON: My understanding is that in each
14:36:55 19 phone, just to take that example, this is the central master
14:36:59 20 processor, so there's one.

14:37:01 21 THE COURT: Okay. And is it true that at this
14:37:06 22 point, Mr. Jackson, you don't know how much Apple pays for
14:37:10 23 this central master processor?

14:37:12 24 MR. JACKSON: That's correct. I don't know.

14:37:14 25 THE COURT: What is -- so take a guess. What do

14:37:17 1 you think -- what's your guess as to how much they pay.

14:37:21 2 MR. JACKSON: Per unit, honestly, Your Honor, if
14:37:24 3 I had to guess, I would say -- maybe on the order of \$200.
14:37:33 4 But obviously there could be massive volume discounts.

14:37:36 5 THE COURT: Okay. All right. So it's -- it
14:37:39 6 would be your guess this is a significant percentage of the
14:37:44 7 actual iPhone cost?

14:37:46 8 MR. JACKSON: It's purely a guess, Your Honor.

14:37:48 9 THE COURT: Okay. That's all right. And then
14:37:57 10 this processor that you think costs -- that you guess costs
14:38:02 11 \$200, this is a processor they've been using since 2015, you
14:38:07 12 think?

14:38:07 13 MR. JACKSON: The first accused product was 2015
14:38:11 14 commercially sold in the iPhone 7. Each -- I won't say
14:38:16 15 every year because I didn't go back and look to be sure, but
14:38:20 16 typically when Apple introduced a new phone like the iPhone
14:38:24 17 8, often times they'll introduce a new master processor, so
14:38:27 18 the next one would be the A11. And you'll see or we've seen
14:38:32 19 in their marketing literature online, especially they tout
14:38:38 20 the enhanced improvements of the A11 over the A10, it's
14:38:41 21 faster, it has greater computing processing power, etc.,
14:38:42 22 etc. And so then at some other point, again, I don't know
14:38:46 23 that it tracks every single year, but they'll introduce an
14:38:49 24 A12 and then an A13. So the A10 remains resident, as I
14:38:54 25 understand it in the iPhone 7 until its end of life, no

14:39:00 1 longer being some. So there's going to be this overlap of
14:39:03 2 generations of chips with the older phones maintaining the
14:39:07 3 original A chip, the master processor chip, until they're no
14:39:11 4 longer being sold by Apple in which case then the oldest
14:39:15 5 phone might be the iPhone 8 and it will have an A11 and it
14:39:21 6 will be sold continuously until that iPhone is discontinued
14:39:24 7 by Apple. Did that answer your question?

14:39:26 8 THE COURT: It's helpful. I'm just trying to
14:39:29 9 absorb it, so I'm just thinking for a second.

14:39:44 10 All right. So my thought is this. It's
14:40:04 11 possible that plaintiff has a theory as to why revenue,
14:40:24 12 marketing, promotion, planning, analyst reports relating to
14:40:32 13 these earlier chips is relevant. I do think, just looking
14:40:44 14 at the requests, that even given that plaintiff -- even
14:40:57 15 accepting the plaintiff has a theory here, I'm not going to
14:41:04 16 order responses to all these RFPs because they are written
14:41:11 17 in grossly overbroad terms and I do think that the parties
14:41:21 18 need to spend some time trying to work this out as to what
14:41:32 19 plaintiff may actually need.

14:41:36 20 Let me just ask you, Mr. Richards, the general
14:41:42 21 gist of what Mr. Jackson has said, that the history,
14:41:52 22 profitability of these chips over time, and the expectations
14:41:57 23 of profitability are something that the plaintiff needs for
14:42:11 24 apportionment in developing its damages theory. That's
14:42:20 25 plausible, right?

14:42:24 1 MR. RICHARDS: We can debate out the merits of
14:42:28 2 it, but we understand the plaintiff's position on this. And
14:42:31 3 you are saying or suggesting, Your Honor, it sounds like if
14:42:34 4 there's some information that is needed, we're happy to work
14:42:37 5 with plaintiff to try to find a way of getting something
14:42:40 6 that is more focused.

14:42:42 7 THE COURT: I understand Apple is a pretty big
14:42:45 8 company and has got a lot of ability to spend money in
14:42:51 9 defense of itself, but it does strike me that, that this is
14:43:02 10 not the place to just say, yeah, you know, do the best you
14:43:06 11 can. So I'm going to -- so at least as far as RFP 6 goes,
14:43:17 12 I'm going to deny that, but I think that's something --
14:43:24 13 something that the parties need to go through more than I
14:43:29 14 think they have done so far in terms of making a reasonable
14:43:38 15 request for documents. So I'm going to cross out paragraph
14:43:51 16 six. What is it -- so paragraph five, which talks about
14:43:55 17 damages and financial documents relating to -- hold on a
14:44:11 18 second. So there was -- I think you've said, Mr. Richards,
14:44:16 19 that there was some very recent production of financial
14:44:20 20 information.

14:44:20 21 MR. RICHARDS: Yes, Your Honor. We made a
14:44:22 22 supplemental production of financial information two days
14:44:25 23 ago.

14:44:26 24 THE COURT: Two days ago?

14:44:29 25 MR. RICHARDS: Yes, Your Honor.

14:44:30 1 THE COURT: My favorite thing, after the dispute
14:44:34 2 is sent to me. Tell me generally what is it you produced
14:44:39 3 two days ago?

14:44:42 4 MR. RICHARDS: Two things to preface that, prior
14:44:44 5 to this dispute being brought to Your Honor, we notified
14:44:47 6 Semitech that we would produce this.

14:44:50 7 THE COURT: To be fair to you, I think I saw
14:44:53 8 that in here.

14:44:54 9 MR. RICHARDS: The information we believe is
14:44:57 10 more than sufficient financial information for the damages
14:44:58 11 window that goes back to 2021.

14:45:01 12 THE COURT: Well, and so these would be how much
14:45:04 13 you actually pay for the chips and how much you actually
14:45:08 14 sell the phones for and, I don't know, stuff, you know,
14:45:15 15 information, papers, analyses as to contribution of the
14:45:28 16 chips to the overall profitability of the iPhones and things
14:45:29 17 like that?

14:45:29 18 MR. RICHARDS: I think that's about right, Your
14:45:30 19 Honor. It includes your typical revenue sort of
14:45:34 20 information. It also includes the cost breakdown of the
14:45:38 21 different phones. It includes that for all of the damages
14:45:42 22 period.

14:45:42 23 THE COURT: Okay. So Mr. Jackson, I imagine --
14:45:46 24 well, so first off, how big of a production was this, Mr.
14:45:50 25 Richards?

14:45:52 1 MR. RICHARDS: I have to double-check the exact
14:45:55 2 number of pages. It was several hundred documents, I
14:45:58 3 believe.

14:45:58 4 THE COURT: Several hundred documents. I
14:46:00 5 understand a document is a smaller unit than a page, right?

14:46:05 6 MR. RICHARDS: Not necessarily. Several of the
14:46:08 7 documents that were produced are native Excel files. Of
14:46:11 8 course Excel files can be much broader, so those ones a
14:46:15 9 single page for purposes --

14:46:16 10 THE COURT: So when exactly two days ago did you
14:46:20 11 produce this?

14:46:21 12 MR. RICHARDS: I believe it was in the morning
14:46:22 13 two days ago.

14:46:25 14 THE COURT: Is this something where you have
14:46:28 15 some shared space where they have a password and they can
14:46:32 16 log in or do you actually send them a, I don't know, a thumb
14:46:37 17 drive with a bunch of documents?

14:46:39 18 MR. RICHARDS: It's a secure file transfer, so
14:46:42 19 the moment it goes out it's in their e-mail inboxes so they
14:46:46 20 can download it immediately.

14:46:47 21 THE COURT: So, Mr. Jackson, I'm not saying you
14:46:49 22 should have, but have you studied what you got two days ago?

14:46:53 23 MR. JACKSON: Me personally, I have not. We
14:46:55 24 have people on our team that have started looking at those
14:46:57 25 documents. And Judge, just to clarify, Mr. Richards is

14:47:00 1 correct in the way that they're sent. There's a link and
14:47:05 2 separately using your separate password, you click on the
14:47:11 3 link and you can download the files when you enter the
14:47:12 4 password.

14:47:14 5 THE COURT: You were going to say?

14:47:15 6 MR. JACKSON: We've heard it a lot today and
14:47:18 7 honestly we've heard it a lot in the meet and confer,
14:47:21 8 there's a lot of discussion about, you know, Apple will
14:47:26 9 determine what is sufficient or Apple will determine what's
14:47:28 10 relevant. And I think that's part of the problem. We asked
14:47:31 11 for categories of documents. There may be irrelevant
14:47:35 12 documents there, but there may, we believe, very well be
14:47:39 13 lots of relevant information in there as well. So when
14:47:42 14 someone like Apple is taking it upon themselves to determine
14:47:45 15 what's sufficient, sufficient typically means some bare
14:47:49 16 minimum amount of information that because of their
14:47:52 17 knowledge of what that information means in their minds they
14:47:56 18 know or believe at least that they've complied with the
14:47:59 19 requirement. We don't have the same level of background
14:48:02 20 knowledge.

14:48:03 21 THE COURT: Okay. Well, so I accept what your
14:48:06 22 saying, but I think -- I think I'm going to cross out
14:48:12 23 paragraph five too and ask that after you have reviewed the
14:48:37 24 information you got two days ago that you then follow up
14:48:44 25 with Apple as to what you actually need. You know, the way

14:48:53 1 that you -- don't mean you personally necessarily, but
14:48:56 2 whoever wrote the letter with the bullet points of, you
14:49:00 3 know, we need this, we need that -- you know, you can do
14:49:09 4 your job better than I can, but, you know, the more specific
14:49:16 5 you are about what you continue to need after you've
14:49:19 6 reviewed their financial documents, the more productive any
14:49:26 7 meet and confer will be, and in the end the more amenable to
14:49:33 8 a resolution by a judge any further disputes would be. So
14:49:41 9 I'm going to cross that out, though I see Mr. Weinblatt
14:49:46 10 standing.

14:49:46 11 MR. WEINBLATT: So, Your Honor --

14:49:47 12 THE COURT: I'm guessing that's for some reason
14:49:50 13 other than --

14:49:50 14 MR. WEINBLATT: Yeah. I've perused some of
14:49:52 15 Apple's production and what we've noticed is there are PDFs
14:49:57 16 that were produced that have links in the document. You can
14:49:58 17 see there's a difference in color to other file names for
14:50:01 18 documents, and those were not produced. And we're seeing a
14:50:05 19 trend in Apple's production of making productions like that
14:50:08 20 and then wanting us to go back and say these weren't
14:50:11 21 produced. So one of the reasons why we're here is we just
14:50:14 22 want all of the information, not for Apple to say this is
14:50:17 23 relevant or this is what you need.

14:50:19 24 THE COURT: Well, you know, I get a lot of
14:50:20 25 documents that have links in them too and they're not from

14:50:24 1 spammers, a lot of them are just not important.

14:50:29 2 MR. WEINBLATT: I believe Mr. Jackson may have a
14:50:32 3 printout of one of them.

14:50:33 4 THE COURT: Yeah, yeah. All right. Well, one
14:50:36 5 link is not going to do much for me, so I'm going to cross
14:50:40 6 out number five. Review the financial information and get
14:50:47 7 back specifically.

14:50:48 8 There's one other thing I wanted to say. So I'm
14:50:51 9 going to -- so that's going to resolve this, so I'm actually
14:50:55 10 just going to sign this marked up order. Today is the 12th.

14:51:01 11 MR. RICHARDS: Your Honor, just one quick thing
14:51:05 12 to interject with respect to clarification. We had been
14:51:07 13 discussing list of bulleted items that are on the second
14:51:11 14 page of the order. Paragraph three has that phrasing
14:51:15 15 "including but not limited to" there. My understanding of
14:51:18 16 Your Honor's order is that we're going to be producing the
14:51:21 17 documents that are listed in that bullet point list unless
14:51:24 18 we need additional clarification as is previously corrected,
14:51:28 19 but it's focused on that list. Is that correct, Your Honor?

14:51:32 20 THE COURT: I'm sorry, say that again.

14:51:34 21 MR. RICHARDS: My concern is there's the
14:51:36 22 language in the paragraph that is identifying requests for
14:51:39 23 production.

14:51:40 24 THE COURT: Right. It's limited to that list.

14:51:42 25 MR. RICHARDS: Okay. That's what I wanted to

14:51:44 1 confirm, Your Honor.

14:51:46 2 THE COURT: Okay. Which is not to say that in
14:51:48 3 the future they cannot ask for more documents when they get
14:51:52 4 those. There is kind of an iterative process to this.

14:51:58 5 And so one other thing, which is there were
14:52:02 6 maybe in one of e-mails and certainly in the Semitech's
14:52:09 7 letter reference to illegible documents. I don't really
14:52:18 8 know any other way to address that then to just say if you
14:52:22 9 get an illegible document and you think there might be a
14:52:27 10 legible document somewhere, you got to identify it to Apple
14:52:30 11 and say do you have a legible document. You would think if
14:52:34 12 it was illegible in the first place that Apple might not
14:52:38 13 have produced it, but who knows. That's something you got
14:52:40 14 to work out on, you know, document by document. And if you
14:52:45 15 do that, I don't think you'll be bringing that complaint
14:52:49 16 back. I assume that Apple isn't purposefully making these
14:52:54 17 documents illegible.

14:52:56 18 MR. RICHARDS: No, Your Honor.

14:52:57 19 THE COURT: Okay. So I'm going to --

14:52:59 20 MR. JACKSON: Your Honor, I have an example of
14:53:01 21 illegible as well if you wanted to see it.

14:53:04 22 THE COURT: Nope.

14:53:05 23 MR. JACKSON: Just so you know we're not making
14:53:07 24 this up.

14:53:07 25 THE COURT: You know, you should be able to

14:53:09 1 resolve this without me.

14:53:11 2 Okay. So I'm going to give the proposed order
14:53:14 3 to my deputy clerk -- so is some of this -- so my deputy
14:53:31 4 clerk alertly asked, is the specificity in paragraphs three
14:53:41 5 and four something that is revealing very confidential
14:53:46 6 information if it's just published.

14:53:48 7 MR. RICHARDS: Yes, Your Honor. Paragraph four,
14:53:51 8 if you see there, the first word that appears in some of
14:53:55 9 those bullet points is Apple highly confidential information
14:53:59 10 there.

14:54:00 11 THE COURT: Okay. All right. Well, we will
14:54:02 12 redact paragraph four's bullet point list, okay?

14:54:09 13 MR. RICHARDS: Yes. And then there's also the
14:54:11 14 last word that's listed in bullet point four.

14:54:15 15 THE COURT: Sorry. What?

14:54:15 16 MR. RICHARDS: In addition to that, in the first
14:54:17 17 sentence there for the bullet points, the label of the
14:54:19 18 document that is listed, it describes the name of a document
14:54:22 19 at the end of the sentence in bullet point four. The name
14:54:26 20 of that document is also something that Apple considers
14:54:29 21 sensitive information.

14:54:30 22 THE COURT: So I was just going to redact -- in
14:54:38 23 the public version, just redact all the bullet point stuff
14:54:42 24 in paragraph four. I don't see anything else.

14:54:47 25 MR. RICHARDS: The word after Apple's product

14:54:51 1 there, the word after that is one addition that we'd
14:54:55 2 request.

14:54:55 3 THE COURT: Where it begins with a small S?

14:54:57 4 MR. RICHARDS: That's correct, Your Honor.
14:54:58 5 That's referring to a specific type of document that Apple
14:55:10 6 considers sensitive information.

14:55:12 7 THE COURT: Okay. I have my doubts about that,
14:55:14 8 but we'll do that.

14:55:17 9 All right. So that leaves us with the Apple's
14:55:20 10 requests of Semitech, which is essentially for -- well,
14:55:34 11 first off, there was a reference, I think it was actually
14:55:38 12 the other set of letters that said Semitech has produced no
14:55:44 13 documents in this case. That cannot possibly be right, is
14:55:51 14 it?

14:55:54 15 MR. RICHARDS: Yes, Your Honor. The only thing
14:55:56 16 that Semitech has produced in this case are the file
14:55:59 17 histories themselves. We actually sent a letter to
14:56:02 18 Semitech, I think it was maybe a week, two weeks ago now,
14:56:06 19 asking for even the documents that were cited in their
14:56:09 20 infringement contentions to be produced. Those have yet to
14:56:12 21 be produced.

14:56:12 22 THE COURT: Okay. Mr. Jackson, do you have any
14:56:15 23 comment on that?

14:56:16 24 MR. JACKSON: Yes, Your Honor. We are going to
14:56:19 25 produce all of the documents in the client's possession that

14:56:23 1 have been requested by the end of this month. So there have
14:56:27 2 been some -- you know, he mentioned file histories.
14:56:30 3 Personally I thought that the infringement contention
14:56:32 4 documents had been produced, so that's news to me. I'm
14:56:36 5 going to go back and make sure we get those collected and
14:56:39 6 produced if they haven't already been produced. But in
14:56:41 7 addition to that --

14:56:41 8 THE COURT: Well, I mean, infringement
14:56:43 9 contentions, I'm not sure that's a document of -- I wouldn't
14:56:48 10 have understood that to be included. But have you got
14:56:51 11 infringement contentions?

14:56:53 12 MR. RICHARDS: We've gotten contentions, Your
14:56:54 13 Honor, but in those contentions --

14:56:56 14 THE COURT: -- the things that are referred to.

14:56:58 15 MR. RICHARDS: Yes, Your Honor.

14:57:00 16 THE COURT: Okay. All right. Well, Mr.
14:57:05 17 Jackson, yeah, I think February 28th, you should produce
14:57:13 18 those things.

14:57:15 19 MR. JACKSON: February 28th I know we can get
14:57:17 20 the non-infringement contention documents produced. I think
14:57:20 21 we can probably get the infringement contention documents
14:57:23 22 produced. But as I said, that's a new category that I
14:57:26 23 wasn't aware of was at issue. I assumed it had already been
14:57:30 24 produced. The other stuff in the client's possession, which
14:57:33 25 I assume -- infringement contentions is somewhere in the

14:57:36 1 public domain. So at least that's my understanding. So
14:57:41 2 we're going to get the stuff from the client that needs to
14:57:44 3 be produced certainly by February 28th.

14:57:47 4 THE COURT: Okay. Well, do the client stuff by
14:57:49 5 February 28th. But you ought to get the rest of the stuff.
14:57:52 6 The prosecution history is in the public domain too, but you
14:57:55 7 still have to produce it, right?

14:57:57 8 MR. JACKSON: True.

14:57:58 9 THE COURT: Okay. All right. So we've got a
14:58:01 10 request that -- so I have the impression that the inventor
14:58:14 11 formed the Semitech company or formed some company and -- so
14:58:24 12 actually, Mr. Richards, why don't you tell me in less than
14:58:31 13 one minute what the factual scenario is that's leading you
14:58:37 14 to ask for these documents. In other words, the inventor
14:58:46 15 got these three patents in 2021 and after, been working on
14:58:50 16 it for a long time. When -- do you know when the Semitech
14:58:55 17 company was formed? Does it have some existence before the
14:58:57 18 first of these patents? Oh, Mr. Davis.

14:59:01 19 MR. DAVIS: Yes, Your Honor. If it's all right,
14:59:03 20 I'll be addressing this.

14:59:04 21 THE COURT: Yeah, yeah. I just didn't look up
14:59:07 22 to see that you switched.

14:59:08 23 MR. DAVIS: No problem. Yeah, so -- with
14:59:11 24 respect to the formation of the company, I understand that
14:59:13 25 it was later on, more recently. I don't have an exact date

14:59:17 1 in front of me. And Your Honor had asked at the beginning
14:59:22 2 of that, I believe, what was the genesis of these different
14:59:26 3 requests.

14:59:26 4 THE COURT: Yeah, kind of. Try it.

14:59:28 5 MR. DAVIS: We understand there's kind of at
14:59:32 6 least three groupings of discussions and pieces of
14:59:37 7 information that are relevant here. There could be more,
14:59:41 8 but they at least include -- we understand that there was an
14:59:44 9 attempt to sell the patents at one point through a patent
14:59:47 10 broker. We understand that there's also going to be some
14:59:52 11 transfer of the patents -- assignment of the patents, so
14:59:57 12 things relating to ownership. We also understand, related
15:00:00 13 to that, that the named inventor had different employers
15:00:05 14 over time, and so would have had different IP obligations,
15:00:09 15 assignment obligations to those employers.

15:00:12 16 THE COURT: Okay. So let me -- so the one in
15:00:18 17 the middle there, the assignments, is that basically a
15:00:23 18 standing case?

15:00:25 19 MR. DAVIS: Yes, Your Honor. So it's
15:00:26 20 assignments relating to the patent and any other IP
15:00:29 21 agreements that you might have with employers, with his
15:00:33 22 employers during the relevant time periods, those all relate
15:00:37 23 to standing in ownership.

15:00:41 24 THE COURT: And then you said the patent broker.

15:00:47 25 MR. DAVIS: Yes, Your Honor.

15:00:49 1 THE COURT: And then what was the third one?

15:00:51 2 MR. DAVIS: The third one I hadn't mentioned
15:00:53 3 yet, Your Honor.

15:00:54 4 THE COURT: Okay.

15:00:55 5 MR. DAVIS: The third one was anything relating
15:00:57 6 to litigation funding. Specifically we're aware of funding
15:01:05 7 by an entity named Piccadilly and we believe that's tied
15:01:09 8 with another entity named Davidson Kempner. We appreciate
15:01:14 9 that Your Honor has issued prior orders on that topic, and I
15:01:17 10 can go further into that.

15:01:18 11 THE COURT: Let's do that one third. Because I
15:01:21 12 understood somewhere in here that I think Mr. Jackson has
15:01:26 13 said that he's going to -- or maybe he hasn't. The
15:01:31 14 assignments of -- Mr. Jackson. Yeah, sorry. I just wanted
15:01:36 15 to make sure you knew I was asking you a question.

15:01:40 16 MR. JACKSON: Yes, Your Honor.

15:01:40 17 THE COURT: Mr. Davis, just stay there.

15:01:43 18 So the request for essentially the assignment
15:01:49 19 history of the patents, documents relating to that, as well
15:01:54 20 as documents relating to the inventor's agreements, if any,
15:02:02 21 with his employers, is that something you're going to
15:02:06 22 produce?

15:02:06 23 MR. JACKSON: Yes. We've committed to producing
15:02:09 24 anything that touches on standing. So anything that
15:02:13 25 validates standing, in particular.

15:02:14 1 THE COURT: When are you going to produce that
15:02:17 2 by?

15:02:18 3 MR. JACKSON: Much of that will be in the
15:02:20 4 February 28th production, if not all of it. Again, all of
15:02:23 5 it should be on February 28th.

15:02:25 6 THE COURT: Okay. All right. So that's number
15:02:34 7 two in your proposed order, Mr. Davis, right, documents
15:02:38 8 relating to standing including any agreements involving the
15:02:41 9 named inventor, agreements including those agreements
15:02:44 10 involving current and former employees. That's --

15:02:50 11 MR. DAVIS: Yes, Your Honor.

15:02:51 12 THE COURT: So we'll make that within -- well,
15:03:01 13 so in any event, that's February 28th.

15:03:06 14 Okay. And then the other part is the patent
15:03:11 15 broker. Let's do that second.

15:03:16 16 Mr. Jackson, was there a patent broker who made
15:03:23 17 some efforts to settle these patents?

15:03:27 18 MR. JACKSON: Well, we don't know who they're
15:03:29 19 referring to. There is a patent broker, but I don't know if
15:03:32 20 it's the same broker that they're referring to because they
15:03:35 21 haven't specified who that entity is.

15:03:38 22 THE COURT: I don't think they have to specify
15:03:39 23 the patent broker, all they have to say is patent broker and
15:03:44 24 if you know a patent broker, right?

15:03:46 25 MR. JACKSON: Yes.

15:03:46 1 THE COURT: So are you going to produce anything
15:03:48 2 in relation to the patent broker?

15:03:51 3 MR. JACKSON: I have not looked at the documents
15:03:54 4 myself. These are documents from the client. But if there
15:03:58 5 are unprivileged, you know, I'm reaching out to engage you
15:04:01 6 type of e-mails, certainly.

15:04:03 7 THE COURT: Well, it's hard for me to believe
15:04:06 8 that anything with a patent broker would be privileged.
15:04:13 9 so -- so I'm going to direct that as to the -- do you have a
15:04:19 10 sense -- actually I should ask this, I suppose. Was the
15:04:23 11 patent broker engaged after 2021?

15:04:26 12 MR. JACKSON: I honestly don't know, Your Honor.
15:04:29 13 As I said, I'm not sure exactly who they are thinking of,
15:04:33 14 but they've indicated they're planning to subpoena somebody,
15:04:36 15 so I don't know that it's the same entity, but with respect
15:04:40 16 to the broker that I'm aware of, I don't know when the
15:04:42 17 engagement occurred.

15:04:44 18 And just if I could point out, Your Honor, at
15:04:46 19 some point there likely would be a common interest privilege
15:04:49 20 that would attach. At least initially there's going to be
15:04:53 21 more of an introduction and sort of here's what I have, and,
15:04:56 22 you know, let's form a relationship of some sort. But once
15:05:00 23 a relationship is formed, I think there's going to be a
15:05:02 24 common interest that attaches from that point forward. Both
15:05:05 25 entities, both the patent owner as well as the broker are

15:05:08 1 going to have an interest in being successful in whatever
15:05:12 2 vehicle they decide to go with respect to --

15:05:14 3 THE COURT: Yeah, that's the commercial success.
15:05:16 4 I mean, I think your argument is not a patent broker that
15:05:20 5 has some common interest privilege, you know. If you feel
15:05:25 6 the need to assert that, you can do it and you can list the
15:05:28 7 documents and we can go from there, but I think that's -- in
15:05:33 8 my experience, that's a losing argument.

15:05:40 9 So if you have any -- so I'm going to ask, first
15:05:46 10 off, that if you do nothing else by February 28th, identify
15:05:51 11 the patent broker that you know about to Mr. Davis, okay?

15:05:55 12 MR. JACKSON: Yes, Your Honor.

15:05:58 13 THE COURT: If you have any documents relating
15:06:01 14 to the patent broker, and I'm imagining you do or your
15:06:06 15 client does -- sorry, not your client. The inventor does.
15:06:09 16 Well, actually the inventor, is he, so to speak, a
15:06:13 17 consultant with Semitech?

15:06:15 18 MR. JACKSON: So, again, my understanding is
15:06:19 19 that the inventor was the original owner of the patents and
15:06:23 20 he created Semitech. So my understanding is it's his
15:06:26 21 company. And so --

15:06:27 22 THE COURT: Is it his company today?

15:06:30 23 MR. JACKSON: His company today.

15:06:31 24 THE COURT: Okay. Well, then --

15:06:35 25 MR. JACKSON: At least in part.

15:06:36 1 THE COURT: So if there was a patent broker,
15:06:39 2 it's inconceivable that he doesn't have documents relating
15:06:42 3 to it, right?

15:06:43 4 MR. JACKSON: I assume if they exist that he
15:06:45 5 would, yes. And that's part of the -- I just don't know
15:06:52 6 what the retention policies were, for example. I don't want
15:06:56 7 to commit to something, Your Honor, and then I turn out to
15:06:59 8 be wrong.

15:06:59 9 THE COURT: Okay. I understand that. Well, so
15:07:08 10 I'm going to direct -- I'm going to say that by March 13th,
15:07:17 11 while they're busy producing stuff to you, you need to
15:07:21 12 either produce everything that you have about the patent
15:07:24 13 broker or whatever you don't produce submit a privilege log
15:07:34 14 with your claimed privilege, okay?

15:07:37 15 MR. JACKSON: Understood, Your Honor.

15:07:38 16 THE COURT: All right. So that takes care of
15:07:40 17 that.

15:07:41 18 Then there's the litigation funding. And so
15:07:47 19 when do you think, Mr. Davis, this litigation funding was
15:07:53 20 taken place, sometime after 2021 and before this suit was
15:07:57 21 filed earlier this year or earlier last year?

15:08:00 22 MR. DAVIS: Last year. I believe that's
15:08:02 23 correct, Your Honor. We don't have further information,
15:08:05 24 other than the fact that there was a security interest that
15:08:08 25 was registered at the patent office by Piccadilly, one of

15:08:19 1 the funders.

15:08:23 2 THE COURT: Okay. So litigation funding is more
15:08:39 3 sensitive and it's also more remote from any damages
15:08:55 4 analysis, because it's about the success at trial, it's not
15:09:03 5 at -- I'll let you speak in a bit, Mr. Davis. It's not --
15:09:12 6 it's a step further removed than trying to sell the patents
15:09:18 7 from the value of the patents. And unlike the patent broker
15:09:22 8 thing, you know, in the past I've seen it, you know,
15:09:32 9 basically the defendant wants to see how much financing the
15:09:35 10 plaintiff has. And that's, I think, more for tactical
15:09:45 11 reasons more than it actually has any relevance. So my
15:09:49 12 inclination here is to say to the plaintiff that you need to
15:10:06 13 identify -- and so I guess one other thing is, sometimes
15:10:13 14 litigation funding, if it's not done correctly, also has an
15:10:17 15 impact on standing. So that's part of the reason why
15:10:25 16 often -- and I'm often thinking of permitting discovery into
15:10:30 17 that. And so my inclination is to allow, because it's not
15:10:46 18 briefed up here, is to basically sign the order with the
15:10:52 19 understanding that the response may be a whole lot of
15:10:57 20 privilege log. And in any event, contrary to my normal
15:11:05 21 policy of not allowing partial redactions, allowing, if it
15:11:13 22 is produced, for the plaintiff to redact the financial terms
15:11:20 23 so that you have -- so that the defendant doesn't see how
15:11:34 24 much funding the plaintiff actually has. But, as I said,
15:11:43 25 I've had more than one case where the litigation funding

15:11:46 1 resulted in the litigation funder having enough control in
15:11:55 2 the litigation so there was a serious standing issue. So in
15:11:58 3 any event, that's what I'm inclined to do.

15:12:01 4 Mr. Davis, you wanted to speak. Maybe Mr.
15:12:04 5 Jackson wants to speak. What do you want to say?

15:12:07 6 MR. DAVIS: Yes, Your Honor. Thank you. And I
15:12:09 7 understand the Court's preference with respect to the
15:12:11 8 litigation funding agreement. There's an additional set of
15:12:17 9 communications that we would also like to address, Your
15:12:21 10 Honor. Prior to the actual signing of the funding
15:12:27 11 agreement, the parties would be having a negotiation
15:12:30 12 concerning what the terms of that funding agreement should
15:12:32 13 be, and there are three topics in particular that would come
15:12:36 14 up that we believe are relevant to the case. One is the
15:12:40 15 value of the patents where the parties -- that those parties
15:12:45 16 being Semitech and the funder, wouldn't be aligned on what
15:12:49 17 that value is, so any discussion of the value of the
15:12:53 18 patents. Second is with the scope of the -- what the scope
15:12:56 19 of the patents are and relatedly strengths and weakness of
15:13:00 20 infringement and validity. Again, the parties wouldn't be
15:13:03 21 aligned on that. Semitech would be saying it has a strong
15:13:08 22 case and the funder may have the opposite view or may be
15:13:12 23 trying to poke holes in that as they're trying to negotiate
15:13:15 24 the funding agreement.

15:13:16 25 THE COURT: So before you go on to the third

15:13:18 1 thing, what's the relevance of the funder saying your
15:13:21 2 patents are terrible?

15:13:22 3 MR. DAVIS: Your Honor, it's a correspondence
15:13:25 4 and a back and forth between the parties. It's at minimum
15:13:28 5 relevant what Semitech has said about its patents. And I
15:13:33 6 understand there could be more of a debate on what the
15:13:36 7 funder has said, but at minimum --

15:13:38 8 THE COURT: But Semitech is going to say these
15:13:40 9 are the greatest patents in the world. How does that help
15:13:43 10 you?

15:13:44 11 MR. DAVIS: Or maybe they don't. Maybe they say
15:13:46 12 something else regarding the scope of the patents. I don't
15:13:50 13 know what that correspondence was. But at minimum there's
15:13:52 14 no common interest at this point regarding that subject --

15:13:56 15 THE COURT: No, no. I understand that part of
15:13:58 16 your argument. What I don't understand is how this has any
15:14:01 17 relevance to anything.

15:14:03 18 MR. DAVIS: Well, Your Honor, presumably -- and
15:14:09 19 as courts have recognized, those discussions wouldn't be
15:14:13 20 about things that are irrelevant. They'd be about things
15:14:16 21 that are relevant to the case. So Semitech's perspectives
15:14:21 22 on what the scope of its patents are, what they do and don't
15:14:27 23 cover or in the third topic is relatedly is who owns those
15:14:32 24 patents and who has rights to them. So those three topics,
15:14:36 25 value of the patents, their scope, and their ownership and

15:14:40 1 standing, anything in the negotiations leading up to the
15:14:43 2 funding agreement, that wouldn't be covered by a common
15:14:47 3 interest.

15:14:48 4 THE COURT: Okay. Mr. Jackson, I said I'd give
15:14:53 5 you a chance too.

15:14:54 6 MR. JACKSON: Thank you, Your Honor. Thank you,
15:14:55 7 Your Honor. So this is a lot of fishing, right? There's
15:14:59 8 no -- he's assuming a lot of things that he thinks may exist
15:15:03 9 that may or may not exist. I think your point is well
15:15:07 10 taken. What's the relevance? I don't think -- contrary to
15:15:10 11 the suggestion, I don't think that the patent owner is going
15:15:12 12 to say my patents have holes, I'm aware of them, it's -- the
15:15:17 13 patents are not worth very much. If you decide to invest or
15:15:22 14 provide funding, then good luck with getting your money
15:15:26 15 back. I don't think that's a realistic view of what
15:15:29 16 happened. But that's really the basis, the implied basis
15:15:33 17 for making the request. As Your Honor said, what the funder
15:15:37 18 may or may not say is really completely irrelevant. They're
15:15:40 19 not a party. They don't own the patents. I'm not even sure
15:15:43 20 they would have made any comments. But assume that they did
15:15:46 21 make comments, those would be completely irrelevant. And
15:15:49 22 frankly, the whole discussion of valuation, I mean, I take
15:15:52 23 issue really with foundation number one on that issue.
15:15:55 24 Valuation is a very general word that can have different
15:15:59 25 meanings in the patent context depending on the particular

15:16:02 1 situation. Sale of a patent, for example, is one situation.
15:16:06 2 Licensing is another.

15:16:07 3 THE COURT: Well, no, no. That's, I think,
15:16:10 4 true, but that's a question to be resolved where everybody
15:16:15 5 has the information. You know, sometimes there are
15:16:24 6 circumstances, peoples' estimates on the value of the patent
15:16:28 7 are, particularly the owner of the patent's estimate of the
15:16:36 8 value is irrelevant. Sometimes it's not. But it's kind of
15:16:41 9 hard to tell until you have the context.

15:16:44 10 MR. JACKSON: So I can respond two ways. Two
15:16:47 11 points, rather. First of all, there were no formal
15:16:51 12 valuations where somebody sketched out an analysis and came
15:16:54 13 up with the value of the patent. We've looked. There
15:16:56 14 aren't any of those. Other parties may have done that, but
15:17:00 15 our client certainly didn't do that, doesn't have any of
15:17:04 16 those either.

15:17:05 17 Secondly, I think -- this is going to be a
15:17:08 18 reasonable royalty case. And so you have to tie relevance
15:17:11 19 back to the reasonable royalty analysis. And we don't have
15:17:15 20 the parties at issue in the funding context that we have in
15:17:18 21 the reasonable royalty analysis. The royalty analysis, as
15:17:22 22 Your Honor well knows, you have to have the licensor, the
15:17:25 23 patent owner, and the licensee, somebody who is making the
15:17:29 24 product, presumed to infringe, presumes the patents are
15:17:32 25 valid. None of that is at play, for example, in the funding

15:17:36 1 context. Each party may have their own views, but there
15:17:39 2 isn't that assumption that's what we're dealing with. There
15:17:40 3 isn't a licensor, there isn't a licensee. And then of
15:17:44 4 course the factors that go into the actual analysis, for
15:17:48 5 example, under Georgia Pacific where you look at
15:17:50 6 profitability and success of the invention, etc., etc., none
15:17:54 7 of that is at play.

15:17:56 8 THE COURT: No, no. That's all consistent with
15:17:57 9 what I said, which is, you know, how much relevance it has
15:18:07 10 is an issue for -- I didn't say this -- but an issue for
15:18:11 11 another day. But the fact that it has some marginal
15:18:15 12 relevance, that's hard to argue. So you haven't addressed
15:18:18 13 the question of who owns the patents.

15:18:21 14 MR. JACKSON: Semitech owns the patents.

15:18:23 15 THE COURT: No, no, no. I mean, Mr. Davis says
15:18:26 16 three things we're interested in, discussion that would
15:18:31 17 reflect on the ownership of the patents. To the extent
15:18:42 18 there is any, that would be relevant, wouldn't it?

15:18:45 19 MR. JACKSON: Yes. And I think that's -- I
15:18:48 20 didn't get his three bullet points written down exactly, but
15:18:52 21 if we're talking about standing, we've committed to giving
15:18:55 22 the standing documents. So anything that touches on
15:18:57 23 ownership, ownership of rights, whatever, transfer of
15:19:02 24 rights, whatever there might be, we've committed to giving
15:19:06 25 those.

15:19:07 1 THE COURT: All right. Well, you have anything
15:19:12 2 more you want to say, Mr. Davis?

15:19:15 3 MR. DAVIS: Just a couple quick points, Your
15:19:17 4 Honor, that I thought might be helpful. These are
15:19:20 5 Semitech's -- cited cases that Semitech cites to in its
15:19:25 6 briefing, particularly *Entangled Media* has some language
15:19:28 7 that's helpful to this issue. It says, "If the withheld
15:19:29 8 documents include some that comment on the value of the
15:19:32 9 asserted patents and or the merits of the claims and
15:19:37 10 defenses asserted in the case, such documents should be
15:19:39 11 considered relevant." This is the authority that Semitech
15:19:43 12 has been citing. I believe Your Honor's decision in *TQ*
15:19:49 13 *Delta v. ADTRAN* as well as *Acceleration Bay* are consistent
15:19:52 14 with that.

15:19:52 15 MR. JACKSON: So, Your Honor, if we don't have
15:19:54 16 any documents that comment on the value or the infringement,
15:19:57 17 then we don't.

15:19:58 18 THE COURT: Well, that's a different -- if you
15:19:59 19 don't have them, you don't have them.

15:20:01 20 MR. JACKSON: Right.

15:20:03 21 THE COURT: So.

15:20:04 22 MR. JACKSON: My point, Your Honor, was what he
15:20:07 23 said was if there -- there was an "if/then" clause there.
15:20:11 24 If the documents have this information in it, then they're
15:20:14 25 relevant. But if we don't have the documents, then they're

15:20:17 1 not relevant and we shouldn't have to produce them, if we
15:20:20 2 don't have documents commenting on the value or merits of
15:20:24 3 the case exchanged between the two entities.

15:20:27 4 THE COURT: All right. So I'm not sure that --
15:20:35 5 all right. So here's -- Mr. Jackson, the -- I have to say
15:22:05 6 at some point I imagine if there is a litigation funding, as
15:22:16 7 there seems to be here, the parties, through the litigation
15:22:24 8 funding, whether it was Semitech and some other company,
15:22:29 9 they came to an agreement. The involvement of your law
15:22:35 10 firm, is that after the agreement was formed or before, if
15:22:40 11 you know?

15:22:41 12 MR. JACKSON: Your Honor, I joined this firm
15:22:43 13 November 3rd of last year. I don't have any knowledge of
15:22:46 14 what happened prior to that. And I haven't seen any
15:22:48 15 information about that period of time.

15:22:50 16 THE COURT: Okay. Well, that's -- I understand
15:22:54 17 that answer.

15:22:56 18 Do you have a sense of how much documentation
15:23:11 19 Semitech has? You know, you said you're going to produce
15:23:16 20 some other things on February 28th. How big of a stack of
15:23:22 21 documents are we talking about?

15:23:25 22 MR. JACKSON: My understanding is it's not a
15:23:28 23 large volume.

15:23:28 24 THE COURT: Yeah, so not large, like if it was
15:23:31 25 paper, would it be, I don't know, a foot high?

15:23:36 1 MR. JACKSON: Your Honor, the way it was
15:23:37 2 characterized to me was not large. I don't have a good
15:23:40 3 sense. It's mostly going to be electronic. I think e-mail
15:23:44 4 type stuff that we're going to produce, you know, without
15:23:47 5 having to go through the ESI procedures, but, yes, honestly
15:23:53 6 Your Honor, I don't have any characterization beyond that.

15:23:55 7 THE COURT: Okay. And I take it, Mr. Davis,
15:24:28 8 from the way you've talked about before Semitech came to an
15:24:34 9 agreement with the litigation funder, is you're using the
15:24:39 10 date of that agreement as kind of a cutoff?

15:24:43 11 MR. DAVIS: Your Honor, I think there's two
15:24:47 12 categories of information. We are requesting all -- we
15:24:49 13 disagree overall with the common interest claim. I
15:24:54 14 understand the Court may disagree with that. I just put
15:24:57 15 that out there. But it creates two different segments of
15:25:01 16 time. There's presigning of the litigation funding
15:25:03 17 agreement and post. And there's also the litigation funding
15:25:07 18 agreement. I guess it's in the middle. So at minimum what
15:25:12 19 should be produced is the presigning, because we think there
15:25:19 20 can be no common interest on those documents there. We
15:25:23 21 appreciate the Court's suggestion. We'd ask for the whole
15:25:27 22 agreement, but we understand that the Court's, if I
15:25:31 23 understand you correctly, saying the agreement should be
15:25:33 24 produced, but the funding agreement should be produced but
15:25:37 25 the amount should be redacted. We'd request post funding

15:25:40 1 agreement correspondence as well. We understand Your Honor
15:25:44 2 may disagree on that. That is part of the overall request.

15:25:49 3 THE COURT: Okay.

15:25:52 4 MR. JACKSON: Your Honor, if I could just make
15:25:54 5 one comment about the middle category. Mr. Davis --

15:25:57 6 THE COURT: The agreement itself?

15:25:58 7 MR. JACKSON: The agreement itself. Just wanted
15:26:01 8 to clarify. So typically these are relatively complex
15:26:03 9 agreements. There's not going to be just a dollar amount
15:26:08 10 someplace in an agreement to be redacted. I'm just telling
15:26:11 11 you this, Your Honor, because I don't want there to be
15:26:13 12 certain expectations that don't turn out to be true.
15:26:16 13 Basically the commercial terms, the financial related terms
15:26:19 14 we would certainly redact. I think that those are very
15:26:23 15 sensitive. They're not relevant, as Your Honor said
15:26:25 16 earlier.

15:26:26 17 THE COURT: Well, by commercial terms, other
15:26:30 18 than the amount funded and maybe the timetable for funding
15:26:35 19 that amount.

15:26:41 20 MR. JACKSON: So I haven't seen this agreement
15:26:44 21 myself, but often times there are repayment schedules or
15:26:48 22 percentages that will be, you know, returned to the
15:26:53 23 interested parties in these agreements. So that's, you
15:26:57 24 know, financial in nature, but it's not a dollar figure
15:27:02 25 necessarily. So all of that information seems to us as

15:27:05 1 highly irrelevant.

15:27:05 2 THE COURT: All right. So here's what I'm going
15:27:07 3 to do. I'm going to direct that you produced the litigation
15:27:10 4 funding agreement. You can remove or redact any of what you
15:27:16 5 called commercial information about dollars, the amounts
15:27:26 6 loaned or the repayment schedule, anything that where the
15:27:31 7 numbers would give -- show how much is actually the subject
15:27:38 8 of the agreement. You know, when Mr. Davis gets the
15:27:46 9 agreement, if there's something in there that he thinks --
15:27:51 10 you know, that can be the subject of further discussion.
15:27:55 11 But I don't think -- I agree with you at this point that
15:27:58 12 there's no reason to produce any of the numbers.

15:28:02 13 On the other hand, if there's something about
15:28:04 14 obviously ownership interests or right to control or, you
15:28:10 15 know procedures like that, obviously that's relevant, that
15:28:14 16 could be relevant to standing and, you know, that shouldn't
15:28:19 17 be redacted. But the numbers, yeah, I think you should
15:28:27 18 redact those and hopefully that will be the end of that.

15:28:31 19 MR. JACKSON: Your Honor, I think that we -- I
15:28:34 20 don't recall if this specifically was teased out in the
15:28:37 21 communications back and forth, but I think consistent with
15:28:39 22 what we said previously, if there are those kind of
15:28:44 23 standing-related terms in the agreement, we would certainly
15:28:48 24 be willing to provide those. We're not -- we're not trying
15:28:51 25 to hide those.

15:28:52 1 THE COURT: What I'm saying is provide the whole
15:28:54 2 agreement, but you can redact out the numbers that seem to
15:29:02 3 be sensitive and relevant financial information.

15:29:04 4 MR. JACKSON: The commercial stuff, yes, Your
15:29:06 5 Honor.

15:29:06 6 THE COURT: All right. I think the only reason
15:29:09 7 I hesitate with the commercial stuff is it's all commercial.

15:29:13 8 MR. JACKSON: Well, in my mind, I was
15:29:15 9 separating --

15:29:16 10 THE COURT: So by commercial, if you mean
15:29:18 11 numbers, that's what we're talking about.

15:29:21 12 MR. JACKSON: Numbers and the structure of the
15:29:23 13 repayments. Assuming that there's, you know, any recovery,
15:29:28 14 that kind of thing. So we're talking about earlier the who
15:29:32 15 gets what and that sort of thing. I think all of that is
15:29:36 16 irrelevant.

15:29:37 17 THE COURT: So I'm not sure it's irrelevant.
15:29:41 18 You know, the -- but where there's a percentage or a number
15:29:56 19 relating to money, you can redact that and it will be up to
15:30:12 20 Mr. Davis to raise an issue if he thinks you've
15:30:15 21 over-redacted, okay?

15:30:17 22 MR. JACKSON: Okay, Your Honor. And as I said,
15:30:19 23 I haven't seen the agreement.

15:30:21 24 THE COURT: Understood. So you know, the thing
15:30:23 25 that's left is this question of the communication before

15:30:28 1 there was an agreement, and taking it that I suspect that
15:30:34 2 the communications were not too extensive, I'm going to
15:30:43 3 direct that you produce all of the ones that predate the
15:30:47 4 agreement. Again, you can redact things where people are
15:30:51 5 asking for a certain amount or offering a certain amount and
15:31:10 6 again, Mr. Davis will preserve the right to complain about
15:31:14 7 the redactions. But I -- I think it would be a lot easier
15:31:19 8 to deal with a concrete document where there was a few
15:31:23 9 things missing that you can just talk about this in general
15:31:28 10 terms. So I'm going to ask that you do that by March 13th.
15:31:45 11 And I'm going to leave the order the way it's written up by
15:31:52 12 Apple, but the transcript here will count as an order of the
15:32:00 13 Court too, and so the written order, which is brief, should
15:32:07 14 be read in the context of the various things that I've said
15:32:12 15 here. All right, Mr. Jackson?

15:32:13 16 MR. JACKSON: The transcript limits the written
15:32:16 17 text, Your Honor?

15:32:17 18 THE COURT: Yes.

15:32:18 19 MR. JACKSON: Okay. Thank you, Your Honor.

15:32:20 20 THE COURT: All right.

15:32:21 21 MR. DAVIS: Yes, Your Honor. Thank you.

15:32:22 22 THE COURT: Okay. So I'm going to sign this
15:32:25 23 February 12th. And so this says March 13th, but the things
15:32:40 24 that you have said you are going to produce by
15:32:42 25 February 28th, you should go ahead and do that date, okay?

15:32:46 1 MR. JACKSON: We will, Your Honor.

15:32:46 2 THE COURT: All right. Well, thank you for --
15:32:48 3 I'm going to -- all right. And so we'll keep one of these
15:32:55 4 Semitech demonstratives for the -- to put in the -- do you
15:33:02 5 have an electronic version of it?

15:33:04 6 MR. DAVIS: Yes, Your Honor.

15:33:05 7 THE COURT: Can you just file an electronic
15:33:08 8 version of it, because I think we're supposed to keep a
15:33:11 9 record of these demonstratives these days.

10 MR. DAVIS: I don't believe there's anything
15:33:15 11 confidential, but I'll double check.

15:33:15 12 THE COURT: Okay. Well, double check with the
15:33:16 13 other side, but otherwise see if you can't file it tomorrow,
15:33:18 14 okay?

15:33:19 15 MR. DAVIS: Yes, Your Honor.

15:33:20 16 THE COURT: All right. Thank you for your time
15:33:23 17 today.

15:33:23 18 COURT CLERK: All rise.

15:33:26 19 (Court adjourned at 3:33 p.m.)

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

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

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