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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

FEDERAL TRADE COMMISSION Plaintiff, v. QUALCOMM INCORPORATED, a Delaware corporation, Defendant.	Case No. 5:17-cv-00220-LHK-NMC **NON-PARTY APPLE INC. AND DEFENDANT QUALCOMM INCORPORATED'S JOINT STATUS REPORT** Courtroom: 7, 4th Floor Judge: Hon. Nathanael M. Cousins
IN RE QUALCOMM ANTITRUST LITIGATION	Case No. 5:17-md-02773-LHK-NMC

Pursuant to the Court's February 26, 2018 docket entry, Non-Party Apple Inc. ("Apple") and Defendant Qualcomm Incorporated ("Qualcomm") submit this Joint Status Report.

I. Apple's Document Production

A. *Apple's Position*

To date, Apple has produced more than 4.1 million documents totaling over 37 million pages. Apple's anticipated document production is complete, with the following exceptions:

(1) Apple is finalizing a production of documents it has downgraded from its privilege logs. Apple will produce any such documents from an Apple witness's custodial files in advance of his or her deposition.

(2) Apple is reviewing certain privilege log entries identified by Qualcomm as part of the meet and confer process, and may downgrade some of those documents from its privilege logs. Apple may also re-review other privilege log entries and determine that documents are non-privileged. If so, Apple will produce any such downgrades that are responsive and non-privileged on a rolling basis.

B. *Qualcomm's Position*

Apple's rolling "downgrades" from its privilege log have resulted in the production of documents exceedingly close in time to, or even after, the depositions of the witnesses in whose files the documents were found, including the documents produced from the files of Mr. Watrous and Ms. Mahe that Apple acknowledged at the March 7 hearing. Qualcomm has urged Apple to prioritize the production of documents from upcoming deponents, so that they are produced sufficiently in advance of the deposition.

II. Apple's Privilege Log

A. *Qualcomm's Position*

Improperly Withheld Documents. On March 2, Qualcomm sent to Apple a list of 728 entries from Apple's revised log that Qualcomm has reason to believe, based on the log, are not subject to a valid claim of privilege. On March 2, Qualcomm asked for Apple's availability to

meet and confer on the list of entries. Just today, after receiving Qualcomm's portion of this Status Report, Apple responded to Qualcomm's request to meet and confer. Qualcomm is also continuing to evaluate the propriety of Apple's decision to withhold documents pursuant to purported common interest agreements with Samsung, Intel and other commercial parties, and is otherwise assessing the entries on Apple's privilege log.

Clawbacks. Qualcomm and Apple have resolved the issue relating to the documents Apple requested to claw back on February 14. With the benefit of the Court's rulings on clawback issues at the March 7 hearing, Qualcomm is assessing whether there are other clawback-related disputes to be raised with Apple. If so, the parties will meet and confer.

Changed Responsiveness Determinations. As noted in the February 23 and March 2 Status Reports (ECF Nos. 590, 602), Apple has represented that it changed its responsiveness determinations for a certain volume of documents in the course of re-reviewing documents for privilege. On February 23, Qualcomm requested that Apple provide a list of all documents that it "downgraded" from its privilege log for which it also revised its responsiveness call. (ECF No. 602.) On March 2, Apple agreed to provide the list, which on March 7 was ordered by the Court (ECF No. 607). As of this Status Report, Apple still has not indicated by when it will produce the list.

B. *Apple's Position*

Privilege Disputes. Qualcomm has raised issues with respect to approximately 700 documents on Apple's privilege log. Apple is reviewing those entries and plans to meet and confer with Qualcomm early next week.

Non-Responsive Documents. In the course of re-reviewing privilege log entries, Apple has identified some entries that are not privileged but whose documents are also non-responsive. Apple is removing those entries from its logs, but because the documents are non-responsive, is not producing the downgraded documents. In the interests of transparency, Apple will provide Qualcomm with a list of the privilege log entries that it has determined to be non-responsive.

Dated: March 9, 2018

Respectfully submitted,

By: */s/ Edward H. Takashima*

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FILER'S ATTESTATION

I, Edward H. Takashima, am the ECF user whose identification and password are being used to file this Joint Discovery Statement. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that the signatories on this document have concurred in this filing.

/s/ Edward H. Takashima

Edward H. Takashima