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QUALCOMM INCORPORATED

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 March 30, 2018 Order (ECF 665), 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 conducting a re-review of 1,000 privilege log entries identified by Qualcomm, pursuant to the Court's March 30, 2018 Order (ECF 664). Apple will produce any downgraded non-privileged documents identified during that process no later than April 26, 2018.

(2) In its March 30, 2018 Joint Status Report (ECF 663), Apple noted it had identified a small number of documents that were previously logged as non-privileged and non-responsive, and stated that it would produce those documents within the next week. Apple produced those documents on April 6, 2018, but withheld two document families from production pending the resolution of third party notice/consent issues. Apple will produce those documents as soon as those notice/consent issues have been resolved.

(3) Apple may re-review privilege log entries and determine that documents are non-privileged. Apple may also re-review entries on its log of certain non-responsive documents and identify documents that are responsive and non-privileged. In both cases, Apple will produce downgrades that are responsive and non-privileged on a rolling basis.

On April 15, 2018, Qualcomm requested further information about Apple's log of certain non-responsive documents, and identified log entries it asserts are responsive. Apple is reviewing Qualcomm's requests, and will meet and confer with Qualcomm as soon as practicable.

B. *Qualcomm's Position*

On March 30, 2018, Apple provided Qualcomm with a log of over 188,000 entries reflecting documents that appeared on Apple's original privilege logs (dated December 29, 2017, January 5 and January 15)—approximately 40% of the entries on those logs—that Apple subsequently decided were non-responsive (the "Non-Responsive Log"). Many of the withheld documents on this Non-Responsive Log appear to be responsive to Qualcomm's requests. Based only on the face of the log, Qualcomm identified 20,720 entries for documents withheld by Apple as non-responsive that should be produced because they are responsive to Qualcomm's requests (or logged on Apple's privilege log, should Apple continue to assert that the document is privileged). These include documents expressly referring to Qualcomm, agreements between Apple and Qualcomm, or code names used for Apple and Qualcomm in the context of their relationship. The Non-Responsive Log also has over 6,400 entries with no subject-matter information, making it impossible for Qualcomm to assess the potential responsiveness of the logged documents. Apple has also not provided cross-reference information to the original privilege logs to enable Qualcomm to understand which entries on the Non-Responsive Log correspond to which entries in the original logs. Qualcomm is concerned about the extent to which Apple has deemed plainly relevant documents to be non-responsive and about Qualcomm's inability, four months after the initial deadline for Apple to complete its production and two weeks after the end of fact discovery, to follow the trail of Apple's changing responsiveness and privilege determinations. Qualcomm has requested a meet and confer with Apple to try and address its concerns without court intervention.

Qualcomm is continuing to investigate other issues relating to Apple's production, including its assertion of a common interest with certain commercial parties as a basis to withhold documents from production.

II. Apple's Privilege Log

Privilege Log Re-Review. Pursuant to the Court's March 30, 2018 Order (ECF 664), on April 10, 2018, Qualcomm sent to Apple for its re-review a list of 1,000 entries from Apple's revised privilege logs dated February 9, February 15 and February 19, 2018. Apple is conducting a re-review of those 1,000 privilege log entries. Apple will serve an amended privilege log for the documents subject to that review no later than April 24, 2018, and produce any de-privileged or redacted documents by April 26, 2018.

Dated: April 16, 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 Status Report. 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