

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:

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

4

-and-

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

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Counsel for the Defendant

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14:01:22 10

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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  
15:08:23 2  
15:08:39 3  
15:08:55 4  
15:09:03 5  
15:09:12 6  
15:09:18 7  
15:09:22 8  
15:09:32 9  
15:09:35 10  
15:09:45 11  
15:09:49 12  
15:10:06 13  
15:10:13 14  
15:10:17 15  
15:10:25 16  
15:10:30 17  
15:10:46 18  
15:10:52 19  
15:10:57 20  
15:11:05 21  
15:11:13 22  
15:11:20 23  
15:11:34 24  
15:11:43 25

the funders.

THE COURT: Okay. So litigation funding is more sensitive and it's also more remote from any damages analysis, because it's about the success at trial, it's not at -- I'll let you speak in a bit, Mr. Davis. It's not -- it's a step further removed than trying to sell the patents from the value of the patents. And unlike the patent broker thing, you know, in the past I've seen it, you know, basically the defendant wants to see how much financing the plaintiff has. And that's, I think, more for tactical reasons more than it actually has any relevance. So my inclination here is to say to the plaintiff that you need to identify -- and so I guess one other thing is, sometimes litigation funding, if it's not done correctly, also has an impact on standing. So that's part of the reason why often -- and I'm often thinking of permitting discovery into that. And so my inclination is to allow, because it's not briefed up here, is to basically sign the order with the understanding that the response may be a whole lot of privilege log. And in any event, contrary to my normal policy of not allowing partial redactions, allowing, if it is produced, for the plaintiff to redact the financial terms so that you have -- so that the defendant doesn't see how much funding the plaintiff actually has. But, as I said, 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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