

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

MIRROR WORLDS, LLC

Plaintiff

vs.

APPLE, INC.

Defendant

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CASE NO. 6:08 CV 88

ORDER

Before the Court is Apple’s Motion for a Finding of Inequitable Conduct and Good Cause to Re-Open the Record for a Bench Trial (Docket No. 432).

This Court’s order setting time limits was clear that trial times were to apply to all issues including those before the jury and to the Court (Docket No. 387). Inequitable conduct is but one of many issues to be heard and should receive no lesser or greater allocation of time than other issues. It is up to the parties’ counsel to allocate their time and resources within the time the Court allots for trial. Trial includes all issues, jury and non-jury, upon which a judgment could be based. In every patent case it has tried, it has been this Court’s practice to allow the parties to present inequitable conduct evidence, that is not otherwise relevant to jury issues, at the end of each trial day after the jury is discharged. This is for the convenience of the witnesses and so the Court may hear the evidence at the same time and in the context of the other jury related evidence presented at trial.

Defendant has no excuse for misconstruing the time allocations in this case. Defendant had local counsel who has litigated many cases before this Court and was well aware of this Court’s practices. However, it is equally clear that for whatever reason Defendant’s lead counsel was

confused on this issue. Accordingly, the Court is going to reopen the record for the very limited purpose of offering any relevant exhibits or testimony not offered at trial. This is not an opportunity for the parties to rehash, put in context, or argue their case. It is merely an extraordinary effort to complete the record so the Court will have all of the evidence before it when it considers the issue of inequitable conduct. Each side will be limited to one hour of additional new non-repetitive testimony, which is 1/12 th of the total time allotted for the trial of all other issues in the case. This testimony and exhibits will be heard on **Wednesday, December 8, 2010 at 1:30 p.m.** Any arguments on this issue will be heard as part of the hearing on post verdict motions on **Thursday, December 9, 2010 at 9:00 a.m.**

So ORDERED and SIGNED this 30th day of November, 2010.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**