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10 **ATTORNEYS FOR PLAINTIFF**  
11 **TOUCHSCREEN GESTURES LLC**

12 **UNITED STATES DISTRICT COURT**  
13 **NORTHERN DISTRICT OF CALIFORNIA**  
14 **SAN FRANCISCO**

15 TOUCHSCREEN GESTURES LLC,	)	Case No. 3:13-CV-02759-WHA
	)	
16 Plaintiff,	)	<b>FIRST AMENDED COMPLAINT</b>
	)	<b>FOR PATENT INFRINGEMENT</b>
17 vs.	)	
	)	Judge: William H. Alsup
18 APPLE, INC.	)	
	)	JURY TRIAL DEMANDED
19 Defendants.	)	

20 Plaintiff Touchscreen Gestures, LLC for its Complaint against Apple, Inc. (“Apple” or  
21 “Defendant”), demands a trial by jury and alleges as follows:  
22

23 **PARTIES**

- 24 1. Plaintiff Touchscreen Gestures, LLC is a Texas Limited Liability Company.
- 25 2. On information and belief, Defendant Apple is incorporation under the laws of  
26 California with its principal place of business at 1 Infinite Loop, Cupertino, CA 95014. This  
27

1 defendant is registered to do business in the State of Texas and has appointed CT Corporation  
2 Systems, 350 N. St. Paul Street, Suite 2900, Dallas, TX 75201, as its agent for service of process.  
3 On information and belief, Apple regularly conducts and transacts business in the United States,  
4 throughout the State of Texas, and within the Eastern District of Texas, either itself and/or through  
5 one or more subsidiaries, affiliates, business divisions, or business units and has committed acts of  
6 infringement within the meaning of 28 U.S.C. § 1400(b).  
7

8 **JURISDICTION AND VENUE**

9 3. This action arises under the Patent Laws of the United States, namely, 35 U.S.C. §§ 1  
10 et seq. This Court has exclusive subject matter jurisdiction over this action pursuant to 28 U.S.C. §§  
11 1331 and 1338(a).

12 4. Venue is proper in this district under 28 U.S.C. §§ 1391(b)(2) and (c) and/or 1400(b).  
13 On information and belief, Apple has transacted business in this district, and has committed acts of  
14 patent infringement in this district, by the making, using and/or selling of touch screen devices  
15 including those devices commonly referred to as “smartphones” and “tablets.”  
16

17 5. On information and belief, Apple is subject to this Court’s general and specific  
18 personal jurisdiction because: Apple has minimum contacts within the State of Texas and the Eastern  
19 District of Texas and, pursuant to due process and/or the Texas Long Arm Statute, Apple has  
20 purposefully availed itself of the privileges of conducting business in the State of Texas and in the  
21 Eastern District of Texas; Apple regularly conducts and solicits business within the State of Texas  
22 and within the Eastern District of Texas; and Touchscreen Gestures, LLC’s causes of action arise  
23 directly from Apple’s business contacts and other activities in the State of Texas and in the Eastern  
24 District of Texas.  
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**COUNT I**

**INFRINGEMENT OF U.S. PATENT NO. 7,184,031**

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3           6.        Touchscreen Gestures, LLC is the owner of all rights, title and interest to United  
4 States Patent Nos. 7,184,031 (“the ‘031 Patent”) entitled “Method and Controller for Identifying a  
5 Drag Gesture.” The ‘031 Patent was issued on February 27, 2007 after a full and fair examination  
6 by the United States Patent and Trademark Office. The application leading to the ‘031 Patent was  
7 filed on July 6, 2004. Attached as Exhibit “A” is a copy of the ‘031 Patent.  
8

9           7.        The ‘031 Patent is generally directed to novel, unique and non-obvious methods,  
10 controllers and gesture units for identifying a drag gesture on a touch device, such as smartphone or  
11 tablet.  
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13           8.        On information and belief, Apple has been and now is infringing the ‘031 Patent in  
14 the State of Texas, in this judicial district, and elsewhere in the United States by making, using,  
15 importing, selling or offering to sell touch devices that incorporate methods, controllers and gesture  
16 units according to the ‘031 Patent. On information and belief, examples of Apple products that  
17 infringe the ‘031 Patent include, but are not limited to, the “iPhone” smartphone and the “iPad”  
18 tablet which allow the identification of drag gestures via methods, controllers and gestures units that  
19 infringe claims of the ‘031 Patent. Apple is thus liable for infringement of the ‘031 Patent pursuant  
20 to 35 U.S.C. § 271.  
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22           9.        As a result of Apple’s infringement of the ‘031 Patent, Touchscreen Gestures, LLC  
23 has suffered monetary damages in an amount not yet determined, and will continue to suffer  
24 damages in the future unless Apple’s infringing activities are enjoined by this Court.  
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1 10. Unless a permanent injunction is issued enjoining Apple and its agent, servants,  
2 employees, representatives, affiliates, and all others acting on or in active concert therewith from  
3 infringing the ‘031 Patent, Touchscreen Gestures, LLC will be greatly and irreparably harmed.  
4

5 **COUNT II**  
**INFRINGEMENT OF U.S. PATENT NO. 7,180,506**  
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7 11. Touchscreen Gestures, LLC is the owner of all rights, title and interest to United  
8 States Patent Nos. 7,180,506 (“the ‘506 Patent”) entitled “Method for Identifying a Movement of  
9 Single Tap on a touch Device.” The ‘506 Patent was issued on February 20, 2007 after a full and  
10 fair examination by the United States Patent and Trademark Office. The application leading to the  
11 ‘506 Patent was filed on February 12, 2004. Attached as Exhibit “B” is a copy of the ‘506 Patent.

12 12. The ‘506 Patent is generally directed to novel, unique and non-obvious methods and  
13 controllers of identifying a movement of single tap which is a movement done with at least an object  
14 contacting a touch device, such as smartphone or tablet.  
15

16 13. On information and belief, Apple has been and now is infringing the ‘506 Patent in  
17 the State of Texas, in this judicial district, and elsewhere in the United States by making, using,  
18 importing, selling or offering to sell touch devices that incorporate methods, controllers and gesture  
19 units according to the ‘506 Patent. On information and belief, examples of Apple products that  
20 infringe the ‘506 Patent include, but are not limited to, the “iPhone” smartphone and the “iPad”  
21 tablet which allow the identification of a movement of single tap which is a movement done with at  
22 least an object contacting a touch device and which therefore infringe claims of the ‘506 Patent.  
23 Apple is thus liable for infringement of the ‘506 Patent pursuant to 35 U.S.C. § 271.  
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1 14. As a result of Apple’s infringement of the ‘506 Patent, Touchscreen Gestures, LLC  
2 has suffered monetary damages in an amount not yet determined, and will continue to suffer  
3 damages in the future unless Apple’s infringing activities are enjoined by this Court.

4 15. Unless a permanent injunction is issued enjoining Apple and its agent, servants,  
5 employees, representatives, affiliates, and all others acting on or in active concert therewith from  
6 infringing the ‘506 Patent, Touchscreen Gestures, LLC will be greatly and irreparably harmed.  
7

8 **COUNT III**  
9 **INFRINGEMENT OF U.S. PATENT NO. 7,190,356**

10 16. Touchscreen is the owner of all rights, title and interest to United States Patent Nos.  
11 7,190,356 (“the ‘356 Patent”) entitled “Method and Controller for Identifying Double Tap  
12 Gestures.” The ‘356 Patent was issued on March 13, 2007 after a full and fair examination by the  
13 United States Patent and Trademark Office. The application leading to the ‘356 Patent was filed on  
14 February 12, 2004. Attached as Exhibit “C” is a copy of the ‘356 Patent.  
15

16 17. The ‘356 Patent is generally directed to novel, unique and non-obvious methods and  
17 controllers of identifying double tap gestures on a touch device movement of single tap which is a  
18 movement done with at least an object contacting a touch device, such as smartphone or tablet.

19 18. On information and belief, Apple has been and now is infringing the ‘356 Patent in  
20 the State of Texas, in this judicial district, and elsewhere in the United States by making, using,  
21 importing, selling or offering to sell touch devices that incorporate methods and controllers  
22 according to the ‘356 Patent. On information and belief, examples of Apple products that infringe  
23 the ‘356 Patent include, but are not limited to, the “iPhone” smartphone and the “iPad” tablet which  
24 allow the identification of double tap gestures on a touch device and which therefore infringe claims  
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1 of the '356 Patent. Apple is thus liable for infringement of the '356 Patent pursuant to 35 U.S.C. §  
2 271.

3 19. As a result of Apple's infringement of the '356 Patent, Touchscreen Gestures, LLC  
4 has suffered monetary damages in an amount not yet determined, and will continue to suffer  
5 damages in the future unless Apple's infringing activities are enjoined by this Court.

6 20. Unless a permanent injunction is issued enjoining Apple and its agent, servants,  
7 employees, representatives, affiliates, and all others acting on or in active concert therewith from  
8 infringing the '356 Patent, Touchscreen Gestures, LLC will be greatly and irreparably harmed.

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10 **COUNT IV**

11 **INFRINGEMENT OF U.S. PATENT NO. 8,164,575**

12 21. Touchscreen Gestures, LLC is the owner of all rights, title and interest to United  
13 States Patent No. 8,164,575 ("the '575 Patent") entitled "Method for identifying a single tap, double  
14 taps and a drag and a controller for a touch device employing the method." The '575 Patent was  
15 issued on April 24, 2012 after a full and fair examination by the United States Patent and Trademark  
16 Office. The application leading to the '575 Patent was filed on June 20, 2008. Attached as Exhibit  
17 "D" is a copy of the '575 Patent.

18 22. The '575 Patent is generally directed to novel, unique and non-obvious methods and  
19 electronic devices of identifying single taps, double taps and drag gestures, such as those on a  
20 smartphone or tablet.

21 23. On information and belief, Apple has been and now is infringing the '575 Patent in  
22 the State of Texas, in this judicial district, and elsewhere in the United States by making, using,  
23 importing, selling or offering to sell touch devices that incorporate methods and electronic devices  
24 according to the '575 Patent. On information and belief, examples of Apple products that infringe  
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1 the '575 Patent include, but are not limited to, the "iPhone" line of smartphones and the "iPad" line  
2 of tablets which allow for identifying single taps, double taps and drag gestures, such as those on a  
3 smartphone or tablet and which therefore infringe claims of the '575 Patent. Apple is thus liable for  
4 infringement of the '575 Patent pursuant to 35 U.S.C. § 271.

5  
6 24. As a result of Apple's infringement of the '575 Patent, Touchscreen Gestures, LLC  
7 has suffered monetary damages in an amount not yet determined, and will continue to suffer  
8 damages in the future unless Apple's infringing activities are enjoined by this Court.

9 25. Unless a permanent injunction is issued enjoining Apple and its agent, servants,  
10 employees, representatives, affiliates, and all others acting on or in active concert therewith from  
11 infringing the '575 Patent, Touchscreen Gestures, LLC will be greatly and irreparably harmed.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Touchscreen Gestures, LLC respectfully requests that this Court enter:  
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15 A. A judgment in favor of Touchscreen Gestures, LLC that Apple has infringed the '031  
16 Patent, the '506 Patent, the '356 Patent, and the '575 Patent;

17 B. A permanent injunction enjoining Apple and its officers, directors, agents, servants,  
18 affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert  
19 therewith from infringing the '031 Patent, the '506 Patent, the '356 Patent, and the '575 Patent;

20 C. A judgment and order requiring Apple to pay Touchscreen Gestures, LLC its  
21 damages, costs, expenses, and prejudgment and post-judgment interest for Apple infringement of the  
22 '031 Patent, the '506 Patent, the '356 Patent, and the '575 Patent as provided under 35 U.S.C. § 284;

23 D. An award to Touchscreen Gestures, LLC for enhanced damages resulting from the  
24 knowing and deliberate nature of Apple's prohibited conduct with notice being made at least as early  
25 as the date of the filing of this Complaint, as provided under 35 U.S.C. § 284;  
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1 E. A judgment and order finding that this is an exceptional case within the meaning of  
2 35 U.S.C. § 285 and awarding to Touchscreen Gestures, LLC its reasonable attorneys' fees; and

3 F. Any and all other relief to which Touchscreen Gestures, LLC may show itself to be  
4 entitled.

5 **DEMAND FOR JURY TRIAL**

6 Touchscreen Gestures, LLC, under Rule 38 of the Federal Rules of Civil Procedure, requests  
7 a trial by jury of any issues so triable by right.

8 Dated: July 19, 2013

9 Respectfully submitted,

10 By: /s/ Winston O. Huff  
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20 **ATTORNEYS FOR PLAINTIFF**  
**TOUCHSCREEN GESTURES LLC**

21 **CERTIFICATE OF SERVICE**

22 The undersigned certifies that on the 19 day of July, 2013, the foregoing document was filed  
23 with the Clerk of the U. S. District Court for the Northern District of California, in compliance with  
24 Civil LR 5-1 and using the court's electronic case filing system (ECF), in compliance with Civ LR  
25 5-5.

26 /s/ Winston O. Huff  
27 Winston O. Huff