

JURISDICTION AND VENUE

3. This is a civil action for the infringement of United State Patent Number 7,016,084 ("the '084 Patent" or "the Patent-in-Suit"), under the Patent Laws of the United States 35 U.S.C. § 1 *et seq.*

4. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, including 35 U.S.C. § 271 *et seq.*

5. This Court has specific and general personal jurisdiction over Apple, which has conducted and continues to conduct business in the State of Texas and in this Judicial District. Apple directly sells, offers for sale, and/or advertises products and services in the State of Texas and in this Judicial District. Apple has committed acts of infringement in the State of Texas and in this Judicial District, and elsewhere in the United States. Apple also derives substantial revenue from goods and services provided to individuals in Texas and in this Judicial District.

6. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§ 1391 and 1400(b).

THE PATENT-IN-SUIT

7. On March 21, 2006, the '084 Patent entitled "Method and Apparatus for Linking Designated Portions of a Received Document Image With an Electronic Address," was duly and lawfully issued by the United States Patent and Trademark Office ("USPTO"). The '084 Patent relates to, among other things, the retrieval and display of audio, video, and executable content on webpages. NYC IP is the owner of the '084 Patent and has all rights to enforce the '084 Patent. A copy of the '084 Patent is attached as Exhibit A to this Complaint.

COUNT ONE

8. NYC IP incorporates by references each of the foregoing paragraphs of this Complaint as though fully set forth herein.

9. Apple makes, uses, or sells computers, laptops, smartphones, and tablets, including, but not limited to, the Macbook, the iPhone, the iPad, and similar devices.

10. Apple has directly infringed, and continues to directly infringe, at least claim 4 of the '084 Patent under 35 U.S.C. § 271, literally and/or under the doctrine of equivalents. Defendant's infringing acts include, but are not limited to: making, using, selling, and offering to sell its computers, laptops, smartphones, and tablets. These Apple products, among other infringing features, provide the capability to access and display audio, video, or executable content embedded on a webpage, either via a browser or other application. For example, an infringing Macbook or iPhone accesses video data from the internet via an Apple application such as the Safari browser. These infringing products use standards, such as HTML5, MP3, MP4, and H.264, to access and display such audio, video, and executable content within the context of a program that displays documents. In addition, Apple has made and used the claimed systems and methods during the development of the accused products.

11. Apple has indirectly infringed at least claim 1 of the '084 Patent, through induced infringement under 35 U.S.C. § 271. Apple was notified of its infringement of the '084 Patent in November, 2011. Nevertheless, Apple continued its acts of indirect infringement by continuing to actively induce consumers to practice the method claimed by the '084 Patent and use the apparatus claimed therein. Apple instructs consumers to display audio, video, or executable content embedded on webpages using its computer, laptops, smartphones, and tablets, within the scope of the '084 Patent. For example, consumers use an infringing Macbook or iPhone to

access video data from the internet via an Apple application such as the Safari browser. These infringing products use standards, such as HTML5, MP3, MP4, and H.264, to access and display such audio, video, and executable content within the context of a program that displays documents.

12. With knowledge of the '084 Patent, Apple has indirectly infringed the '084 Patent by inducing the direct infringement by consumers, by enabling, instructing, and encouraging consumers to make and use the infringing apparatus and method described in at least claims 1 and 4 of the '084 Patent, while aware that their use is infringing.

13. Apple's infringement of the '084 Patent is willful. Apple was notified by of its infringement of the '084 Patent in November, 2011 and again in June, 2013.

14. Apple's use of the technology claimed in the '084 Patent is without license or authorization from NYC IP.

15. NYC IP has been damaged by Apple's infringement of the '084 Patent.

PRAYER FOR RELIEF

WHEREFORE, NYC IP, Inc. prays for entry of judgment as follows:

- a) adjudging that the Defendant has infringed one or more of the claims of the Patent-in-Suit, either literally or under the doctrine of equivalents;
- b) awarding NYC IP all damages to which he is entitled under 35 U.S.C. § 284 for Apple's past infringement, and ordering a full accounting of same;
- c) awarding NYC IP treble damages based on the willfulness of Apple's infringement, pursuant to 35 U.S.C. § 284, second paragraph;
- d) awarding NYC IP pre-judgment and post-judgment interest on its damages;

- e) awarding costs and attorney's fees to NYC IP, and finding that this case is exceptional, pursuant to 35 U.S.C. § 285; and
- f) awarding NYC IP such further and additional relief as the Court deem as just and proper under the circumstances.

DEMAND FOR JURY TRIAL

NYC IP, Inc. hereby demands a trial by jury on all claims and issues so triable.

Dated: November 27, 2013

Respectfully submitted,

/s/ Frank M. Washko

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