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

PATENT HARBOR, LLC,	§	
	§	
Plaintiff,	§	CIVIL ACTION NO.
	§	_____
v.	§	
	§	**JURY TRIAL DEMANDED**
APPLE INC.,	§	
	§	
Defendant.	§	

ORIGINAL COMPLAINT

This is an action for patent infringement in which Patent Harbor, LLC, ("Patent Harbor") makes the following allegations against Apple Inc. ("Defendant" or "Apple").

PARTIES

1. Patent Harbor is a limited liability company organized under the laws of the State of Texas. Patent Harbor maintains its principal place of business at 4455 Camp Bowie Blvd., Suite 114, Fort Worth, Texas 76107.

2. Upon information and belief, Defendant Apple Inc. is, and at all relevant times mentioned herein was, a corporation organized and existing under the laws of the State of California with a principal place of business at 1 Infinite Loop, Cupertino, CA 95014. Apple manufactures for sale and/or sells computers to consumers in the United States and, more particularly, in the Eastern District of Texas. Apple may be served with process by serving its registered agent, C T Corporation System located at 1999 Bryan Street, Suite 900, Dallas, TX 75201.

JURISDICTION AND VENUE

3. This is an action for violation of the patent laws of the United States, Title 35, United States Code, more particularly, 35 U.S.C. §§ 271 *et seq*.

4. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over the Defendant. Defendant has conducted and does conduct business within the State of Texas. Defendant, directly or through intermediaries (including distributors, retailers, and others), ships, distributes, offers for sale, sells, and advertises (including the provision of an interactive web page) its products in the United States, the State of Texas, and the Eastern District of Texas. Upon information and belief, Defendant has purposefully and voluntarily placed one or more of its infringing products, as described below, into the stream of commerce with the expectation that they will be purchased by consumers in the Eastern District of Texas. Upon information and belief, these infringing products have been and continue to be purchased by consumers in the Eastern District of Texas. Defendant has committed the tort of patent infringement within the State of Texas and, more particularly, within the Eastern District of Texas.

6. This Court has managed multiple cases related to the patent-in-suit through final claim construction, and, with respect to Civil Action No. 6:10-cv-361-LED-JDL, up through jury trial, which concluded with a verdict finding validity and infringement of the patent-in-suit on December 17, 2012.

7. Venue is proper in the Eastern District of Texas under 28 U.S.C. §§ 1391 and 1400(b).

COUNT 1: INFRINGEMENT OF U.S. PATENT NO. 5,684,514

8. Patent Harbor refers to and incorporates all preceding paragraphs as though fully set forth herein.

9. United States Patent No. 5,684,514 ("the '514 Patent"), entitled "Apparatus and Method for Assembling Content Addressable Video" was duly and legally issued by the United States Patent and Trademark Office on November 4, 1997, after full and fair examination. Patent Harbor is the assignee of all rights, title, and interest in and to the '514 Patent and possesses all rights of recovery under the '514 Patent, including the right to recover damages for past infringements. A true and correct copy of the '514 Patent is attached as Exhibit A.

10. Upon information and belief, Apple manufactures, uses, sells, offers to sell and/or distributes computers, including, but not limited to, the MacBook Air, MacBook Pro, iMac, Mac Pro and Mac mini (collectively "Apple Computers"), and its iMovie application. The iMovie application allows a user of the computer to take pre-recorded video and create a title or chapter list (similar to the scene selection menu provided on a commercial DVD/BD disc), where the title or chapter menu has a description (pictorial or written) of the video that will be accessed if the viewing user selects a particular title or chapter from the scene selection menu. The Apple Computers with the iMovie software infringe claim 1 of the '514 Patent. Claim 1 has been construed by the Court as set forth in Exhibit B.

11. Apple has actual notice of the '514 Patent at least as early as the filing of this Original Complaint.

12. Upon information and belief, Apple is infringing claim 1 of the '514 Patent under 35 U.S.C. § 271 by performing, without authority, one or more of the following acts: making,

using, importing, offering to sell, and selling within the United States the patented invention of one or more claims of the ‘514 Patent.

13. Patent Harbor has been damaged as a result of Apple’s infringing conduct. Apple is, thus, liable to Patent Harbor in an amount that adequately compensates Patent Harbor for its infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 § U.S.C. 284.

14. Patent Harbor is in compliance with the requirements of 35 U.S.C. § 287, and is entitled to past damages. From the date of six years before this suit was filed up to April 4, 2008, there were no authorized sales of commercial products embodying the claims of the ‘514 Patent. As of April 4, 2008, there was a licensee, but that licensee had an obligation to mark. As of May 3, 2011, Patent Harbor entered into a license with a third party that sold DVD Recorders that Patent Harbor accused of infringing claim 1 of the ‘514 Patent, and that license did not contain an obligation to mark accused products with the ‘514 Patent number.

15. As a result of Apple’s acts of infringement, Patent Harbor has suffered and will continue to suffer damages in an amount to be proved at trial.

PRAYER FOR RELIEF

Patent Harbor prays for the following relief:

A. A judgment that Apple has directly infringed the ‘514 Patent as alleged herein;

B. A judgment and order requiring Apple to pay Patent Harbor compensatory damages in an amount no less than a reasonable royalty under 35 U.S.C. § 284.

C. A judgment and order requiring Apple to pay Patent Harbor pre-judgment and post-judgment interest on the damages awarded;

D. A judgment and order that Apple pay Patent Harbor an on-going royalty for future acts of infringement if appropriate, at a rate determined by the jury or the Court; and

E. Any and all other relief as the Court deems just and equitable.

DEMAND FOR JURY TRIAL

Patent Harbor, LLC hereby demands that all issues be determined by a jury.

Respectfully submitted,

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