

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

SimpleAir, Inc.,

Plaintiff,

vs.

Amazon.com, Inc.,

Defendant.

Civil Action No.

Jury Demanded

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff SimpleAir, Inc. (“SimpleAir”) files suit against Defendant Amazon.com, Inc. (“Amazon”) and on information and belief alleges as follows:

Introduction

1. Plaintiff SimpleAir owns the inventions described and claimed in U.S. Patent Nos. 7,035,914; 8,090,803; 8,572,279; 8,601,154; and 8,639,838 (each entitled “System and Method for Transmission of Data”). Defendant Amazon has infringed these patents in making and using the methods and systems claimed by the foregoing patents by developing, offering, operating, using, and putting into service the Amazon Device Messaging (ADM) and the Amazon Simple Notification Service (SNS) services and systems.

2. SimpleAir seeks damages for patent infringement and an injunction preventing Amazon from further direct infringement of the patent.

Jurisdiction and Venue

3. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§271 and 281, *et seq.* The Court has original jurisdiction over this patent infringement action under 28 U.S.C. §1338(a).

4. Venue is proper in this Court because Amazon is responsible for acts of infringement occurring in the Eastern District of Texas as alleged in this Complaint, and has delivered or caused to be delivered infringing services and software in the Eastern District of Texas. In addition, this Court has substantial familiarity with the asserted patents. For example, the Court construed the asserted ‘914 patent in *SimpleAir, Inc. v. Microsoft Corporation, et al.*, 2:11-cv-416 JRG (E.D. Tex.) and presided over pretrial motion practice and two trials involving the patent. The Court is also currently presiding over a suit involving the asserted ‘279 patent, *SimpleAir, Inc. v. Google Inc.*, 2:13-cv-937 JRG (E.D. Tex.), and the asserted ‘154 patent, *SimpleAir, Inc. v. Google Inc.*, 2:14-cv-111 JRG (E.D. Tex.).

Plaintiff SimpleAir, Inc.

5. Plaintiff SimpleAir, Inc. is a Texas corporation. SimpleAir is an inventor-owned technology licensing company with interests and intellectual property in the wireless content delivery, mobile application, and push notification market spaces. SimpleAir’s patent portfolio is licensed by many leading technology companies.

The Asserted Patents

6. SimpleAir is the owner of all right, title, and interest in the asserted patents, including all rights to pursue and collect damages for past infringements of the patents, which are identified in the table below and attached as exhibits to this Complaint.

Patent	Exhibit
7,035,914	1
8,090,803	2
8,572,279	3
8,601,154	4
8,639,838	5

Defendant Amazon

7. Defendant Amazon is a Delaware corporation with a principal place of business in Seattle, Washington and other offices and facilities of relevance located throughout the country.

First Claim for Patent Infringement ('914 patent)

8. Plaintiff incorporates by reference each of the allegations in paragraphs 1-7 above and further alleges as follows.

9. On April 25, 2006, the United States Patent and Trademark Office issued U.S. Patent No. 7,035,914 (the '914 patent), entitled "System and Method for Transmission of Data." On February 8, 2013, the U.S. Patent Office issued an Ex Parte Reexamination Certificate, confirming the validity of all reexamined claims in their original form.

10. Plaintiff SimpleAir, Inc. is the owner of the '914 patent with full rights to pursue recovery of royalties or damages for infringement of the patent, including full rights to recover past and future damages.

11. Each claim of the '914 patent is valid and enforceable.

12. Defendant Amazon has directly infringed the claims of the '914 patent by operating, providing, and using the Amazon Device Messaging (ADM) service to generate, process, and deliver content, notifications, and updates to mobile computing devices, including the Kindle Fire (2nd generation), Kindle Fire HD, Kindle Fire HDX, and Fire TV media player, without permission or license from SimpleAir. Amazon will continue to infringe and to expand its infringement (for example, in connection with its forthcoming release of smartphones running the Fire OS or another operating system developed or modified by Amazon) unless it is enjoined from doing so.

13. Plaintiff SimpleAir has been damaged by Amazon's infringement of the '914 patent and will suffer additional irreparable damage and impairment of the value of its patent

rights unless Amazon is enjoined from continuing to infringe.

14. Amazon has likely had notice of the '914 patent for a number of years prior to the filing of this lawsuit and furthermore is likely to be aware of its infringement of the '914 patent. SimpleAir reserves the right to seek discovery regarding Amazon's pre-filing notice of the '914 patent, and any investigation or analysis Amazon undertook to determine whether it was infringing the patent; SimpleAir further reserves the right to amend this Complaint to assert a claim for willful infringement and to seek a declaration that this is an exceptional case if appropriate in light of such discovery.

15. Plaintiff SimpleAir demands trial by jury of all issues relating to this claim.

Second Claim for Patent Infringement ('803 patent)

16. Plaintiff incorporates by reference each of the allegations in paragraphs 1-7 above and further alleges as follows.

17. On January 3, 2012, the United States Patent and Trademark Office issued U.S. Patent No. 8,090,803 (the '803 patent), entitled "System and Method for Transmission of Data."

18. Plaintiff SimpleAir, Inc. is the owner of the '803 patent with full rights to pursue recovery of royalties or damages for infringement of the patent, including full rights to recover past and future damages.

19. Each claim of the '803 patent is valid and enforceable.

20. Defendant Amazon has directly infringed the claims of the '803 patent by operating, providing, and using the Amazon Device Messaging (ADM) service to generate, process, and deliver content, notifications, and updates to mobile computing devices, including the Kindle Fire (2nd generation), Fire HD, Kindle Fire HDX, and Fire TV media player, without permission or license from SimpleAir. Amazon will continue to infringe and to expand its infringement (for example, in connection with its forthcoming release of smartphones running

the Fire OS or another operating system developed or modified by Amazon) unless it is enjoined from doing so.

21. Plaintiff SimpleAir has been damaged by Amazon's infringement of the '803 patent and will suffer additional irreparable damage and impairment of the value of its patent rights unless Amazon is enjoined from continuing to infringe.

22. Plaintiff SimpleAir demands trial by jury of all issues relating to this claim.

Third Claim for Patent Infringement ('279 patent)

23. Plaintiff incorporates by reference each of the allegations in paragraphs 1-7 above and further alleges as follows.

24. On October 29, 2013, the United States Patent and Trademark Office issued U.S. Patent No. 8,572,279 (the '279 patent), entitled "System and Method for Transmission of Data."

25. Plaintiff SimpleAir, Inc. is the owner of the '279 patent with full rights to pursue recovery of royalties or damages for infringement of the patent, including full rights to recover past and future damages.

26. Each claim of the '279 patent is valid and enforceable.

27. Defendant Amazon has directly infringed the claims of the '279 patent by making, using, operating, providing, and putting into service the Amazon Device Messaging (ADM) service and system and the Amazon Simple Notification Service (SNS) service and system, which are used to generate, process, and deliver content, notifications, and updates to mobile computing devices, including the Kindle Fire (2nd generation), Kindle Fire HD, Kindle Fire HDX, and Fire TV media player, without permission or license from SimpleAir. Amazon will continue to infringe and to expand its infringement (for example, in connection with its forthcoming release of smartphones running the Fire OS or another operating system developed or modified by Amazon) unless it is enjoined from doing so.

28. Plaintiff SimpleAir has been damaged by Amazon's infringement of the '279 patent and will suffer additional irreparable damage and impairment of the value of its patent rights unless Amazon is enjoined from continuing to infringe.

29. Plaintiff SimpleAir demands trial by jury of all issues relating to this claim.

Fourth Claim for Patent Infringement ('154 patent)

30. Plaintiff incorporates by reference each of the allegations in paragraphs 1-7 above and further alleges as follows.

31. On December 3, 2013, the United States Patent and Trademark Office issued U.S. Patent No. 8,601,154 (the '154 patent), entitled "System and Method for Transmission of Data."

32. Plaintiff SimpleAir, Inc. is the owner of the '154 patent with full rights to pursue recovery of royalties or damages for infringement of the patent, including full rights to recover past and future damages.

33. Each claim of the '154 patent is valid and enforceable.

34. Defendant Amazon has directly infringed the claims of the '154 patent by making, using, operating, and putting into service the Amazon Local mobile application service and server and other first party push-enabled mobile applications as used in connection with push notification platforms, including the Amazon Device Messaging (ADM) service, to generate, process, and deliver content, notifications, and updates to mobile computing devices, including the Kindle Fire (2nd generation), Kindle Fire HD, Kindle Fire HDX, without permission or license from SimpleAir. Amazon will continue to infringe and to expand its infringement (for example, in connection with its forthcoming release of smartphones running the Fire OS or another operating system developed or modified by Amazon) unless it is enjoined from doing so.

35. Plaintiff SimpleAir has been damaged by Amazon's infringement of the '154 patent and will suffer additional irreparable damage and impairment of the value of its patent

rights unless Amazon is enjoined from continuing to infringe.

36. Plaintiff SimpleAir demands trial by jury of all issues relating to this claim.

Fifth Claim for Patent Infringement ('838 patent)

37. Plaintiff incorporates by reference each of the allegations in paragraphs 1-7 above and further alleges as follows.

38. On January 28, 2014, the United States Patent and Trademark Office issued U.S. Patent No. 8,639,838 (the '838 patent), entitled "System and Method for Transmission of Data."

39. Plaintiff SimpleAir, Inc. is the owner of the '838 patent with full rights to pursue recovery of royalties or damages for infringement of the patent, including full rights to recover past and future damages.

40. Each claim of the '838 patent is valid and enforceable.

41. Defendant Amazon has directly infringed the claims of the '838 patent by making, using, operating, providing, and putting into service the Amazon Device Messaging (ADM) service and system and the Amazon Simple Notification Service (SNS) service and system, which are used to generate, process, and deliver content, notifications, and updates to mobile computing devices, including the Kindle Fire (2nd generation), Kindle Fire HD, Kindle Fire HDX, and Fire TV media player, without permission or license from SimpleAir. Amazon will continue to infringe and to expand its infringement (for example, in connection with its forthcoming release of smartphones running the Fire OS or another operating system developed or modified by Amazon) unless it is enjoined from doing so.

42. Plaintiff SimpleAir has been damaged by Amazon's infringement of the '838 patent and will suffer additional irreparable damage and impairment of the value of its patent rights unless Amazon is enjoined from continuing to infringe.

43. Plaintiff SimpleAir demands trial by jury of all issues relating to this claim.

WHEREFORE, Plaintiff prays for judgment as follows:

- A. A decree permanently enjoining Defendant Amazon, its officers, directors, employees, agents, and all persons in active concert with them, from infringing the asserted patents;
- B. Compensatory damages for Defendant Amazon's infringement of the asserted patents;
- C. Treble the compensatory damages as a consequence of any willful infringement by Amazon that is discovered and proven;
- D. Costs of suit and attorneys' fees as a consequence of any finding that this case is exceptional due to any willful infringement or litigation misconduct by Amazon that is discovered and proven;
- E. Pre-judgment interest; and
- G. For such other relief as justice requires.

Date: June 10, 2014

Respectfully submitted,

By: /s/ Jeff Eichmann

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