

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

**ERICSSON INC. and  
TELEFONAKTIEBOLAGET LM  
ERICSSON,**

**Plaintiffs,**

**v.**

**APPLE INC.,**

**Defendant.**

**CIVIL ACTION NO. 2:15-cv-293**

**JURY TRIAL DEMANDED**

**ORIGINAL COMPLAINT**

Plaintiffs Ericsson Inc. and Telefonaktiebolaget LM Ericsson (singularly or collectively, “Ericsson”) file this Original Complaint for Patent Infringement against Apple Inc. (“Apple”) and allege as follows:

**NATURE OF THE ACTION**

1. Apple infringes many of Ericsson’s patents through the manufacture and sale of its iPhone, iPad, iPod; Apple Watch; Apple’s Mac computer products; Apple’s digital media players such as Apple TV, and other Apple products. Apple’s products infringe Ericsson’s patented innovations that relate to many different aspects of Apple’s products, including the communication connections (including at least cellular, WiFi, and Bluetooth), the touch screen, and the battery. As a whole, Ericsson’s patented inventions enable Apple to sell smaller, more efficient, more capable, and more appealing products.

2. The patents at issue in this lawsuit relate to Ericsson’s innovations in all facets of electronic devices, including the communication connections (including at least cellular, WiFi, and Bluetooth), the touch screen, and the battery. Without communication connections and

Ericsson's inventions incorporated therein, electronic devices would not be able to provide the constant stream of information and connectivity that we are accustomed to today. Without touch screens and Ericsson's inventions incorporated therein, we would not be able to interact with our electronic devices like we have become accustomed to. And without batteries and Ericsson's inventions incorporated therein, we would not be able to use our electronic devices for as long, with as much ease, or with as much certainty as we demand.

### **THE PARTIES**

3. Since 1876, Ericsson has pioneered communications technology in pursuit of its mission to connect everyone, wherever they may be. The work of more than twenty-five thousand Ericsson research and development ("R&D") employees produced innovations fundamental to how phones, smartphones, and mobile devices connect seamlessly using cellular networks worldwide and offer a diverse and easy-to-use range of features and applications. As a result of its extensive research and development efforts, Ericsson has been awarded more than thirty-five thousand patents worldwide.

4. Ericsson is widely viewed as a leading innovator in the field of cellular communications. For more than three decades, Ericsson has pioneered development of the modern cellular network. Every major mobile network operator in the world buys solutions or services from Ericsson, which manages networks serving more than one billion subscribers globally. Forty percent of all mobile calls are made through Ericsson systems. Ericsson's equipment is found in more than 180 countries.

5. Ericsson also is a world-leading innovator of wireless and wired communications technologies as a result of its decades of investment in R&D. Ericsson's inventions enable the communications capability of smartphones and other wireless devices around the world. Access

to people and information is paramount in this fast-paced, information-driven environment, and Ericsson's innovations have helped shape how people gain access by enabling technologies such as Wi-Fi, Bluetooth, 2G, 3G, and 4G LTE. Ericsson also has devoted R&D resources in innovating wired communications that enable faster and easier methods of connecting people.

6. The proliferation of smartphones demonstrates the importance of Ericsson's communication platform innovations. The iPhone is but one example of many beneficiaries of Ericsson's fundamental technologies. With more than two billion users of mobile telephony in the world, smartphones and other mobile devices with Ericsson's communication platform allow people to connect, increasing efficiency and improving users' experiences.

7. Ericsson has a long history of technical innovations, including the patents at issue in this lawsuit. Some of Ericsson's many accomplishments include:

- in 1878, Ericsson sold its first telephone;
- in 1977, Ericsson introduced the world's first digital telephone exchange;
- in 1981, Ericsson introduced its first mobile telephone system, NMT;
- in 1991, Ericsson launched 2G phones on the world's first 2G network;
- in 1994, Ericsson invented Bluetooth;
- in 2001, Ericsson made the world's first 3G call for Vodafone in the UK; and
- in 2009, Ericsson started the world's first 4G network and made the first 4G call.

8. Ericsson's innovation continues. Ericsson envisions a connected future, with more than three billion users and more than fifty billion connected devices, all of which will require better networks and greater capacity. Ericsson's culture of innovations is reflected in its investment of over 15% of budget in R&D annually, supporting its twenty-five thousand employees striving to create a more interconnected world. Protection of intellectual property is necessary to address those free riding on Ericsson's patented inventions, allowing Ericsson to continue innovating its remarkable technologies.

9. Plaintiff Ericsson Inc. is a Delaware corporation with its principal place of business at 6300 Legacy Drive, Plano, Texas 75024.

10. Plaintiff Telefonaktiebolaget LM Ericsson is a corporation organized under the laws of the Kingdom of Sweden with its principal place of business at Torshamnsgatan 21, Kista, 164 83, Stockholm, Sweden.

11. Defendant Apple is a California corporation, with its principal place of business at 1 Infinite Loop, M/S 38-3TX, Cupertino, California 95014. Apple designs, manufactures, uses, imports into the United States, sells, and/or offers for sale in the United States smartphones, tablets, and other mobile computing devices that operate over various cellular standards, including 2G, 3G, and 4G. Apple further offers other wireless communication devices, computers, tablet computers, digital media players, and headphones. Apple's devices are marketed, offered for sale, and/or sold throughout the United States, including within this District.

#### **JURISDICTION AND VENUE**

12. This is a civil action for patent infringement arising under the patent laws of the United States, Title 35, United States Code, including 35 U.S.C. §§ 271 and 281-285. Jurisdiction is conferred on this Court pursuant to 28 U.S.C. §§ 1331 and 1338(a). Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400(b).

13. This Court has personal jurisdiction over Apple. Apple has continuous and systematic business contacts with the State of Texas. Apple, directly or through subsidiaries or intermediaries (including distributors, retailers, and others), conducts its business extensively throughout Texas, by shipping, distributing, offering for sale, selling, and advertising (including the provision of an interactive web page) its products and/or services in the State of Texas and the Eastern District of Texas. Apple, directly and through subsidiaries or intermediaries

(including distributors, retailers, and others), has purposefully and voluntarily placed one or more of its infringing products and/or services into the stream of commerce with the intention and expectation that they will be purchased and used by consumers in the Eastern District of Texas. These infringing products and/or services have been and continue to be purchased and used by consumers in the Eastern District of Texas. Apple has committed acts of patent infringement within the State of Texas and, more particularly, within the Eastern District of Texas. Apple has also directed communications in connection with its negotiations with Ericsson into the Eastern District of Texas. Jurisdiction over Apple in this matter is also proper inasmuch as Apple has voluntarily submitted itself to the jurisdiction of the courts by commencing litigations within the State of Texas, by registering with the Texas Secretary of State's Office to do business in the State of Texas, and by appointing a registered agent.

#### **THE ERICSSON PATENTS**

14. On October 14, 2003, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 6,633,550 ("the '550 Patent"), entitled "Radio Transceiver on a Chip," to Karl Håkan Torbjörn Johansson Gårdenfors, Sven Mattisson, and Jacobus Cornelis Haartsen. Ericsson owns all rights to the '550 Patent necessary to bring this action. A true and correct copy of the '550 Patent is attached hereto as Exhibit 1 and incorporated herein by reference.

15. On December 5, 2000, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 6,157,620 ("the '620 Patent"), entitled "Enhanced Radio Telephone for Use In Internet Telephony," to Anders Danne and John-Olof Bauner. Ericsson owns all rights to the '620 Patent necessary to bring this action. A true and correct copy of the '620 Patent is attached hereto as Exhibit 2 and incorporated herein by reference.

16. On February 22, 2000, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 6,029,052 ("the '052 Patent"), entitled "Multiple-Mode Direct

Conversion Receiver,” to Martin Isberg, Bjorn Lindquist, Peter Jakobsson, Jan Celander, Kjell Gustafsson, Lars-Peter Kunkel, Torsten Carlsson, and Jacob Mannerstråle. Ericsson owns all rights to the ’052 Patent necessary to bring this action. A true and correct copy of the ’052 Patent is attached hereto as Exhibit 3 and incorporated herein by reference.

17. On August 19, 2014, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 8,812,059 (“the ’059 Patent”), entitled “Radiotelephones Having Contact-Sensitive User Interfaces and Methods of Operating Same,” John Hayes and Curtis Wayne Thornton. Ericsson owns all rights to the ’059 Patent necessary to bring this action. A true and correct copy of the ’059 Patent is attached hereto as Exhibit 4 and incorporated herein by reference.

18. On September 18, 2001, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 6,291,966 (“the ’966 Patent”), entitled “Method and an Apparatus For Storing and Communicating Battery Information,” to Heino Wendelrup, Michael Kellerman, Johan Mercke, Kristoffer Ptasinski, Jan Rubbmark, Jonas Bengtsson, and Charles Forsberg. Ericsson owns all rights to the ’966 Patent necessary to bring this action. A true and correct copy of the ’966 Patent is attached hereto as Exhibit 5 and incorporated herein by reference.

19. On September 19, 2000, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 6,122,263 (“the ’263 Patent”), entitled “Internet Access For Cellular Networks,” to Steinar Dahlin, Frank Reichert, and Ina Widegren. Ericsson owns all rights to the ’263 Patent necessary to bring this action. A true and correct copy of the ’263 Patent is attached hereto as Exhibit 6 and incorporated herein by reference.

20. The ’550, ’620, ’052, ’059, ’966, and ’263 Patents are collectively referred to as the Ericsson Patents-in-Suit.

21. Ericsson is the sole and exclusive owner of all rights, title, and interest to the Ericsson Patents-in-Suit necessary to bring this action, including the right to recover past and future damages. Ericsson has owned all rights to the Ericsson Patents-in-Suit necessary to bring this action throughout the period of Apple's infringement and still owns those rights to the Ericsson Patents-in-Suit. Apple is not currently licensed to practice the Ericsson Patents-in-Suit.

22. The Ericsson Patents-in-Suit are valid and enforceable.

23. Apple has imported into the United States, manufactured, used, marketed, offered for sale, and/or sold in the United States, smartphones, tablets, and other mobile communication devices, computers, digital media players, and accessories thereof that infringe the Ericsson Patents-in-Suit, or induce or contribute to the infringement of the Ericsson Patents-in-Suit.

24. Apple's accused devices ("the Apple Accused Products") which infringe one or more claims of the Ericsson Patents-in-Suit include, but are not limited to, certain electronic devices, including wireless communication devices, computers, tablet computers, accessories, and digital media players. The Apple Accused Products include but are not limited to Apple's iPhone, iPad, and iPod; Apple Watch; Apple's Mac computer products; and Apple's digital media players such as Apple TV

25. Apple has been placed on actual notice of at least some of the Ericsson Patents-in-Suit. At a minimum, in accordance with 35 U.S.C. § 287, Apple has had knowledge of the Ericsson Patents-in-Suit at least as early as the filing of this Original Complaint and/or the date this Original Complaint was served upon Apple. Further, Apple has participated in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the Ericsson Patents-in-Suit, and upon information and belief, Apple had knowledge of the Ericsson Patents-in-Suit based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may

have performed. Despite such notice, Apple continues to make, use, import into, market, offer for sale, and/or sell in the United States products that infringe the Ericsson Patents-in-Suit.

**GENERAL ALLEGATIONS**

26. Apple has directly and indirectly infringed and continues to directly and indirectly infringe each of the Ericsson Patents-in-Suit by engaging in acts constituting infringement under 35 U.S.C. § 271(a), (b), and/or (c), including but not necessarily limited to one or more of making, using, selling and offering to sell, in this District and elsewhere in the United States, and importing into the United States, the Apple Accused Products.

27. Apple is doing business in the United States and, more particularly, in the Eastern District of Texas by making, using, selling, importing, and/or offering for sale the Apple Accused Products that infringe the patent claims involved in this action or by transacting other business in this District.

28. Apple's acts of infringement have caused damage to Ericsson. Ericsson is entitled to recover from Apple the damages sustained by Ericsson as a result of Apple's wrongful acts in an amount subject to proof at trial. In addition, the infringing acts and practices of Apple have caused, are causing, and, unless such acts and practices are enjoined by the Court, will continue to cause immediate and irreparable harm to Ericsson for which there is no adequate remedy at law, and for which Ericsson is entitled to injunctive relief under 35 U.S.C. § 283.

**COUNT I.**

**CLAIM FOR PATENT INFRINGEMENT OF THE '550 PATENT**

29. Apple infringes, contributes to the infringement of, and/or induces infringement of the '550 Patent by making, using, selling, offering for sale, and/or importing into the United States products and/or methods covered by one or more claims of the '550 Patent including, but not limited to, at least the Apple Accused Products. The accused devices that infringe one or

more claims of the '550 Patent include, but are not limited to, at least the Apple Accused Products. Further discovery may reveal additional infringing products.

30. The Apple Accused Products infringe one or more claims of the '550 Patent. Apple makes, uses, sells, offers for sale, and/or imports, in this District and elsewhere in the United States these devices and thus directly infringes the '550 Patent.

31. Apple indirectly infringes the '550 Patent, as provided in 35 U.S.C. § 271(b), by inducing infringement by others, such as manufacturers, resellers, developers, customers, and end-users, in this District and elsewhere in the United States. For example, manufacturers, resellers, developers, customers, and end-users of the Apple Accused Products directly infringe by making, using, selling, offering to sell, and/or importing the inventions claimed in the '550 Patent. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '550 Patent, and upon information and belief, Apple had knowledge of the '550 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '550 patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

32. Apple's affirmative acts of: manufacturing, selling, distributing, and/or otherwise making available the Apple Accused Products; causing others to manufacture, sell, distribute, and/or make available the Apple Accused Products; and/or providing instructions, documentation, and/or other information regarding using the Apple Accused Products in the way Apple intends, including in-store technical support, online technical support, product manuals, online documentation, developer information, API documentation, and other information about the Apple Accused Products, induce Apple's manufacturers, resellers, developers, customers, and/or end-users to make, use, sell, and/or offer to sell the Apple Accused Products in the way

that Apple intends, in order to directly infringe the '550 Patent. Apple has performed and continues to perform these affirmative acts with knowledge of the '550 Patent and with knowledge or willful blindness that the induced acts directly infringe the '550 Patent.

33. Apple also indirectly infringes the '550 Patent, as provided by 35 U.S.C. § 271(c), by contributing to direct infringement committed by others, such as manufacturers, resellers, developers, customers, and/or end-users, in this District and elsewhere in the United States. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '550 Patent, and upon information and belief, Apple had knowledge of the '550 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '550 patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

34. Apple's affirmative acts of selling and offering to sell, in this District and elsewhere in the United States, the Apple Accused Products and causing the Apple Accused Products to be manufactured, used, sold, and offered for sale contribute to Apple's manufacturers, resellers, developers, customers and/or end-users making, using, selling, and/or offering to sell the Apple Accused Products, such that the '550 Patent is directly infringed. The hardware and/or software that implements the invention of the '550 Patent within the Apple Accused Products are material to the invention of the '550 Patent, are not staple articles or commodities of commerce, have no substantial non-infringing uses, and are known by Apple to be especially made or especially adapted for use in infringement of the '550 Patent.

35. Apple's infringement of the '550 Patent has been and continues to be willful. Upon information and belief, Apple knew or should have known that it directly infringed and was causing others to directly infringe the '550 Patent. Apple has been involved in discussions

with Ericsson regarding Ericsson's patent portfolio, which includes the '550 Patent, and upon information and belief, Apple had knowledge of the '550 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '550 patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

36. Apple's continued infringement of the '550 Patent has damaged and will continue to damage Ericsson.

## **COUNT II.**

### **CLAIM FOR PATENT INFRINGEMENT OF THE '620 PATENT**

37. Apple infringes, contributes to the infringement of, and/or induces infringement of the '620 Patent by making, using, selling, offering for sale, and/or importing into the United States products and/or methods covered by one or more claims of the '620 Patent including, but not limited to, at least the Apple Accused Products. The accused devices that infringe one or more claims of the '620 Patent include, but are not limited to, at least the Apple Accused Products. Further discovery may reveal additional infringing products.

38. The Apple Accused Products infringe one or more claims of the '620 Patent. Apple makes, uses, sells, offers for sale, and/or imports, in this District and elsewhere in the United States these devices and thus directly infringes the '620 Patent.

39. Apple indirectly infringes the '620 Patent, as provided in 35 U.S.C. § 271(b), by inducing infringement by others, such as manufacturers, resellers, developers, customers, and end-users, in this District and elsewhere in the United States. For example, manufacturers, resellers, developers, customers, and end-users of the Apple Accused Products directly infringe by making, using, selling, offering to sell, and/or importing the inventions claimed in the '620 Patent. Apple has been involved in discussions with Ericsson regarding Ericsson's patent

portfolio, which includes the '620 Patent, and upon information and belief, Apple had knowledge of the '620 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '620 patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

40. Apple's affirmative acts of: manufacturing, selling, distributing, and/or otherwise making available the Apple Accused Products; causing others to manufacture, sell, distribute, and/or make available the Apple Accused Products; and/or providing instructions, documentation, and/or other information regarding using the Apple Accused Products in the way Apple intends, including in-store technical support, online technical support, product manuals, online documentation, developer information, API documentation, and other information about the Apple Accused Products, induce Apple's manufacturers, resellers, developers, customers, and/or end-users to make, use, sell, and/or offer to sell the Apple Accused Products in the way that Apple intends, in order to directly infringe the '620 Patent. Apple has performed and continues to perform these affirmative acts with knowledge of the '620 Patent and with knowledge or willful blindness that the induced acts directly infringe the '620 Patent.

41. Apple also indirectly infringes the '620 Patent, as provided by 35 U.S.C. § 271(c), by contributing to direct infringement committed by others, such as manufacturers, resellers, developers, customers, and/or end-users, in this District and elsewhere in the United States. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '620 Patent, and upon information and belief, Apple had knowledge of the '620 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '620 patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

42. Apple's affirmative acts of selling and offering to sell, in this District and elsewhere in the United States, the Apple Accused Products and causing the Apple Accused Products to be manufactured, used, sold, and offered for sale contribute to Apple's manufacturers, resellers, developers, customers and/or end-users making, using, selling, and/or offering to sell the Apple Accused Products, such that the '620 Patent is directly infringed. The hardware and/or software that implements the invention of the '620 Patent within the Apple Accused Products are material to the invention of the '620 Patent, are not staple articles or commodities of commerce, have no substantial non-infringing uses, and are known by Apple to be especially made or especially adapted for use in infringement of the '620 Patent.

43. Apple's infringement of the '620 Patent has been and continues to be willful. Upon information and belief, Apple knew or should have known that it directly infringed and was causing others to directly infringe the '620 Patent. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '620 Patent, and upon information and belief, Apple had knowledge of the '620 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '620 patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

44. Apple's continued infringement of the '620 Patent has damaged and will continue to damage Ericsson.

### **COUNT III.**

#### **CLAIM FOR PATENT INFRINGEMENT OF THE '052 PATENT**

45. Apple infringes, contributes to the infringement of, and/or induces infringement of the '052 Patent by making, using, selling, offering for sale, and/or importing into the United States products and/or methods covered by one or more claims of the '052 Patent including, but

not limited to, at least the Apple Accused Products. The accused devices that infringe one or more claims of the '052 Patent include, but are not limited to, at least the Apple Accused Products. Further discovery may reveal additional infringing products.

46. The Apple Accused Products infringe one or more claims of the '052 Patent. Apple makes, uses, sells, offers for sale, and/or imports, in this District and elsewhere in the United States these devices and thus directly infringes the '052 Patent.

47. Apple indirectly infringes the '052 Patent, as provided in 35 U.S.C. § 271(b), by inducing infringement by others, such as manufacturers, resellers, developers, customers, and end-users, in this District and elsewhere in the United States. For example, manufacturers, resellers, developers, customers, and end-users of the Apple Accused Products directly infringe by making, using, selling, offering to sell, and/or importing the inventions claimed in the '052 Patent. Apple has had knowledge and notice of the '052 Patent at least as of June 21, 2012, by virtue of Ericsson presenting the '052 patent to Apple during the parties' negotiations. Apple has also been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '052 Patent, and upon information and belief, Apple had knowledge of the '052 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '052 patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

48. Apple's affirmative acts of: manufacturing, selling, distributing, and/or otherwise making available the Apple Accused Products; causing others to manufacture, sell, distribute, and/or make available the Apple Accused Products; and/or providing instructions, documentation, and/or other information regarding using the Apple Accused Products in the way Apple intends, including in-store technical support, online technical support, product manuals,

online documentation, developer information, API documentation, and other information about the Apple Accused Products, induce Apple's manufacturers, resellers, developers, customers, and/or end-users to make, use, sell, and/or offer to sell the Apple Accused Products in the way that Apple intends, in order to directly infringe the '052 Patent. Apple has performed and continues to perform these affirmative acts with knowledge of the '052 Patent and with knowledge or willful blindness that the induced acts directly infringe the '052 Patent.

49. Apple also indirectly infringes the '052 Patent, as provided by 35 U.S.C. § 271(c), by contributing to direct infringement committed by others, such as manufacturers, resellers, developers, customers, and/or end-users, in this District and elsewhere in the United States. Apple has had knowledge and notice of the '052 Patent at least as of June 21, 2012, by virtue of Ericsson presenting the '052 patent to Apple during the parties' negotiations. Apple also has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '052 Patent, and upon information and belief, Apple had knowledge of the '052 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '052 patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

50. Apple's affirmative acts of selling and offering to sell, in this District and elsewhere in the United States, the Apple Accused Products and causing the Apple Accused Products to be manufactured, used, sold, and offered for sale contribute to Apple's manufacturers, resellers, developers, customers and/or end-users making, using, selling, and/or offering to sell the Apple Accused Products, such that the '052 Patent is directly infringed. The hardware and/or software that implements the invention of the '052 Patent within the Apple Accused Products are material to the invention of the '052 Patent, are not staple articles or

commodities of commerce, have no substantial non-infringing uses, and are known by Apple to be especially made or especially adapted for use in infringement of the '052 Patent.

51. Apple's infringement of the '052 Patent has been and continues to be willful. Upon information and belief, Apple knew or should have known that it directly infringed and was causing others to directly infringe the '052 Patent. Apple has had knowledge and notice of the '052 Patent at least as of June 21, 2012, by virtue of Ericsson presenting the '052 patent to Apple during the parties' negotiations. Apple has also been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '052 Patent, and upon information and belief, Apple had knowledge of the '052 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '052 patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

52. Apple's continued infringement of the '052 Patent has damaged and will continue to damage Ericsson.

#### **COUNT IV.**

##### **CLAIM FOR PATENT INFRINGEMENT OF THE '059 PATENT**

53. Apple infringes, contributes to the infringement of, and/or induces infringement of the '059 Patent by making, using, selling, offering for sale, and/or importing into the United States products and/or methods covered by one or more claims of the '059 Patent including, but not limited to, at least the Apple Accused Products. The accused devices that infringe one or more claims of the '059 Patent include, but are not limited to, at least the Apple Accused Products. Further discovery may reveal additional infringing products.

54. The Apple Accused Products infringe one or more claims of the '059 Patent. Apple makes, uses, sells, offers for sale, and/or imports, in this District and elsewhere in the United States these devices and thus directly infringes the '059 Patent.

55. Apple indirectly infringes the '059 Patent, as provided in 35 U.S.C. § 271(b), by inducing infringement by others, such as manufacturers, resellers, developers, customers, and end-users, in this District and elsewhere in the United States. For example, manufacturers, resellers, developers, customers, and end-users of the Apple Accused Products directly infringe by making, using, selling, offering to sell, and/or importing the inventions claimed in the '059 Patent. Apple has had knowledge and notice of the '059 Patent at least as of June 21, 2012, by virtue of Ericsson presenting U.S. Patent 6,131,047, which is related to the '059 patent, to Apple during the parties' negotiations. Apple has also been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '059 Patent, and upon information and belief, Apple had knowledge of the '059 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '059 patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

56. Apple's affirmative acts of: manufacturing, selling, distributing, and/or otherwise making available the Apple Accused Products; causing others to manufacture, sell, distribute, and/or make available the Apple Accused Products; and/or providing instructions, documentation, and/or other information regarding using the Apple Accused Products in the way Apple intends, including in-store technical support, online technical support, product manuals, online documentation, developer information, API documentation, and other information about the Apple Accused Products, induce Apple's manufacturers, resellers, developers, customers,

and/or end-users to make, use, sell, and/or offer to sell the Apple Accused Products in the way that Apple intends, in order to directly infringe the '059 Patent. Apple has performed and continues to perform these affirmative acts with knowledge of the '059 Patent and with knowledge or willful blindness that the induced acts directly infringe the '059 Patent.

57. Apple also indirectly infringes the '059 Patent, as provided by 35 U.S.C. § 271(c), by contributing to direct infringement committed by others, such as manufacturers, resellers, developers, customers, and/or end-users, in this District and elsewhere in the United States. Apple has had knowledge and notice of the '059 Patent at least as of June 21, 2012, by virtue of Ericsson presenting U.S. Patent 6,131,047, which is related to the '059 patent, to Apple during the parties' negotiations. Apple also has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '059 Patent, and upon information and belief, Apple had knowledge of the '059 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '059 patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

58. Apple's affirmative acts of selling and offering to sell, in this District and elsewhere in the United States, the Apple Accused Products and causing the Apple Accused Products to be manufactured, used, sold, and offered for sale contribute to Apple's manufacturers, resellers, developers, customers and/or end-users making, using, selling, and/or offering to sell the Apple Accused Products, such that the '059 Patent is directly infringed. The hardware and/or software that implements the invention of the '059 Patent within the Apple Accused Products are material to the invention of the '059 Patent, are not staple articles or

commodities of commerce, have no substantial non-infringing uses, and are known by Apple to be especially made or especially adapted for use in infringement of the '059 Patent.

59. Apple's infringement of the '059 Patent has been and continues to be willful. Upon information and belief, Apple knew or should have known that it directly infringed and was causing others to directly infringe the '059 Patent. Apple has had knowledge and notice of the '059 Patent at least as of June 21, 2012, by virtue of Ericsson presenting U.S. Patent 6,131,047, which is related to the '059 patent, to Apple during the parties' negotiations. Apple has also been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '059 Patent, and upon information and belief, Apple had knowledge of the '059 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '059 patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

60. Apple's continued infringement of the '059 Patent has damaged and will continue to damage Ericsson.

#### **COUNT V.**

#### **CLAIM FOR PATENT INFRINGEMENT OF THE '966 PATENT**

61. Apple infringes, contributes to the infringement of, and/or induces infringement of the '966 Patent by making, using, selling, offering for sale, and/or importing into the United States products and/or methods covered by one or more claims of the '966 Patent including, but not limited to, at least the Apple Accused Products. The accused devices that infringe one or more claims of the '966 Patent include, but are not limited to, at least the Apple Accused Products. Further discovery may reveal additional infringing products.

62. The Apple Accused Products infringe one or more claims of the '966 Patent. Apple makes, uses, sells, offers for sale, and/or imports, in this District and elsewhere in the United States these devices and thus directly infringes the '966 Patent.

63. Apple indirectly infringes the '966 Patent, as provided in 35 U.S.C. § 271(b), by inducing infringement by others, such as manufacturers, resellers, developers, customers, and end-users, in this District and elsewhere in the United States. For example, manufacturers, resellers, developers, customers, and end-users of the Apple Accused Products directly infringe by making, using, selling, offering to sell, and/or importing the inventions claimed in the '966 Patent. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '966 Patent, and upon information and belief, Apple had knowledge of the '966 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '966 patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

64. Apple's affirmative acts of: manufacturing, selling, distributing, and/or otherwise making available the Apple Accused Products; causing others to manufacture, sell, distribute, and/or make available the Apple Accused Products; and/or providing instructions, documentation, and/or other information regarding using the Apple Accused Products in the way Apple intends, including in-store technical support, online technical support, product manuals, online documentation, developer information, API documentation, and other information about the Apple Accused Products, induce Apple's manufacturers, resellers, developers, customers, and/or end-users to make, use, sell, and/or offer to sell the Apple Accused Products in the way that Apple intends, in order to directly infringe the '966 Patent. Apple has performed and

continues to perform these affirmative acts with knowledge of the '966 Patent and with knowledge or willful blindness that the induced acts directly infringe the '966 Patent.

65. Apple also indirectly infringes the '966 Patent, as provided by 35 U.S.C. § 271(c), by contributing to direct infringement committed by others, such as manufacturers, resellers, developers, customers, and/or end-users, in this District and elsewhere in the United States. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '966 Patent, and upon information and belief, Apple had knowledge of the '966 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '966 patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

66. Apple's affirmative acts of selling and offering to sell, in this District and elsewhere in the United States, the Apple Accused Products and causing the Apple Accused Products to be manufactured, used, sold, and offered for sale contribute to Apple's manufacturers, resellers, developers, customers and/or end-users making, using, selling, and/or offering to sell the Apple Accused Products, such that the '966 Patent is directly infringed. The hardware and/or software that implements the invention of the '966 Patent within the Apple Accused Products are material to the invention of the '966 Patent, are not staple articles or commodities of commerce, have no substantial non-infringing uses, and are known by Apple to be especially made or especially adapted for use in infringement of the '966 Patent.

67. Apple's infringement of the '966 Patent has been and continues to be willful. Upon information and belief, Apple knew or should have known that it directly infringed and was causing others to directly infringe the '966 Patent. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '966 Patent, and upon

information and belief, Apple had knowledge of the '966 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '966 patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

68. Apple's continued infringement of the '966 Patent has damaged and will continue to damage Ericsson.

## COUNT VI.

### **CLAIM FOR PATENT INFRINGEMENT OF THE '263 PATENT**

69. Apple infringes, contributes to the infringement of, and/or induces infringement of the '263 Patent by making, using, selling, offering for sale, and/or importing into the United States products and/or methods covered by one or more claims of the '263 Patent including, but not limited to, at least the Apple Accused Products. The accused devices that infringe one or more claims of the '263 Patent include, but are not limited to, at least the Apple Accused Products. Further discovery may reveal additional infringing products.

70. The Apple Accused Products infringe one or more claims of the '263 Patent. Apple makes, uses, sells, offers for sale, and/or imports, in this District and elsewhere in the United States these devices and thus directly infringes the '263 Patent.

71. Apple indirectly infringes the '263 Patent, as provided in 35 U.S.C. § 271(b), by inducing infringement by others, such as manufacturers, resellers, developers, customers, and end-users, in this District and elsewhere in the United States. For example, manufacturers, resellers, developers, customers, and end-users of the Apple Accused Products directly infringe by making, using, selling, offering to sell, and/or importing the inventions claimed in the '263 Patent. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '263 Patent, and upon information and belief, Apple had knowledge

of the '263 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '263 patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

72. Apple's affirmative acts of: manufacturing, selling, distributing, and/or otherwise making available the Apple Accused Products; causing others to manufacture, sell, distribute, and/or make available the Apple Accused Products; and/or providing instructions, documentation, and/or other information regarding using the Apple Accused Products in the way Apple intends, including in-store technical support, online technical support, product manuals, online documentation, developer information, API documentation, and other information about the Apple Accused Products, induce Apple's manufacturers, resellers, developers, customers, and/or end-users to make, use, sell, and/or offer to sell the Apple Accused Products in the way that Apple intends, in order to directly infringe the '263 Patent. Apple has performed and continues to perform these affirmative acts with knowledge of the '263 Patent and with knowledge or willful blindness that the induced acts directly infringe the '263 Patent.

73. Apple also indirectly infringes the '263 Patent, as provided by 35 U.S.C. § 271(c), by contributing to direct infringement committed by others, such as manufacturers, resellers, developers, customers, and/or end-users, in this District and elsewhere in the United States. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '263 Patent, and upon information and belief, Apple had knowledge of the '263 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '263 patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

74. Apple's affirmative acts of selling and offering to sell, in this District and elsewhere in the United States, the Apple Accused Products and causing the Apple Accused Products to be manufactured, used, sold, and offered for sale contribute to Apple's manufacturers, resellers, developers, customers and/or end-users making, using, selling, and/or offering to sell the Apple Accused Products, such that the '263 Patent is directly infringed. The hardware and/or software that implements the invention of the '263 Patent within the Apple Accused Products are material to the invention of the '263 Patent, are not staple articles or commodities of commerce, have no substantial non-infringing uses, and are known by Apple to be especially made or especially adapted for use in infringement of the '263 Patent.

75. Apple's infringement of the '263 Patent has been and continues to be willful. Upon information and belief, Apple knew or should have known that it directly infringed and was causing others to directly infringe the '263 Patent. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '263 Patent, and upon information and belief, Apple had knowledge of the '263 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '263 patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

76. Apple's continued infringement of the '263 Patent has damaged and will continue to damage Ericsson.

### **DAMAGES**

77. As a result of Apple's acts of infringement, Ericsson has suffered actual and consequential damages; however, Ericsson does not yet know the full extent of the infringement and its extent cannot be ascertained except through discovery and special accounting. To the fullest extent permitted by law, Ericsson seeks recovery of damages at least for reasonable

royalties, unjust enrichment, and benefits received by Apple as a result of using the misappropriated technology. Ericsson further seeks any other damages to which Ericsson is entitled under law or in equity.

**ATTORNEYS' FEES**

78. Ericsson is entitled to recover reasonable and necessary attorneys' fees under applicable law.

**DEMAND FOR JURY TRIAL**

Ericsson hereby demands a trial by jury on its claims for patent infringement.

**PRAYER FOR RELIEF**

WHEREFORE, Ericsson respectfully requests that this Court enter judgment in its favor and grant the following relief:

- A. Adjudge that Apple infringes the Ericsson Patents-in-Suit;
- B. Adjudge that Apple's infringement of the Ericsson Patents-in-Suit was willful, and that Apple's continued infringement of these patents is willful;
- C. Award Ericsson damages in an amount adequate to compensate Ericsson for Apple's infringement of the Ericsson Patents-in-Suit, but in no event less than a reasonable royalty under 35 U.S.C. § 284;
- D. Award enhanced damages pursuant to 35 U.S.C. § 284;
- E. Award Ericsson pre-judgment and post-judgment interest to the full extent allowed under the law, as well as its costs;
- F. Enter an injunction enjoining Apple, and all others in active concert with Apple, from further infringement of the Ericsson Patents-in-Suit;
- G. In lieu of an injunction, award a mandatory future royalty payable on each future product sold by Apple that is found to infringe one or more of the patents asserted

herein, and on all future products which are not colorably different from products found to infringe;

- H. Enter an order finding that this is an exceptional case and awarding Ericsson its reasonable attorneys' fees pursuant to 35 U.S.C. § 285;
- I. Order an accounting of damages;
- J. Award Ericsson its costs of suit; and
- K. Award such other relief as the Court may deem appropriate and just under the circumstances.

Dated: February 26, 2015

Respectfully submitted,

**MCKOOL SMITH, P.C.**

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