

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

Dot 23 Technologies, LLC,

Plaintiff,

V.

Apple, Inc.,

Defendant.

C.A. No: 6:16-cv-24

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Dot 23 Technologies, LLC (“Dot 23”), by and through its undersigned counsel,
for its Complaint for patent infringement against defendant Apple, Inc. (“Apple”), hereby states:

THE PARTIES

1. Plaintiff Dot 23 Technologies, LLC is a Texas company with its principal place of business 2150 South Central Expressway, Suite 200, McKinney, TX 75070.
2. Defendant Apple is a California corporation with its principal place of business at 1 Infinite Loop, Cupertino, California 95014.

JURISDICTION AND VENUE

3. This is a civil action for the infringement of United States Patent Numbers 6,917,802; 7,245,903; and 6,405,029 ("the '802 Patent," "the '903 Patent," "the '029 Patent," or "the Patents-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 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 PATENTS-IN-SUIT

7. On July 12, 2005, the '802 Patent entitled "Mobile Keyless Telephone Instruments and Wireless Telecommunications System Having Voice Dialing and Voice Programming Capabilities," was duly and lawfully issued by the United States Patent and Trademark Office ("USPTO").

8. On July 17, 2007, the '903 Patent entitled "Wireless Telephone System with Programming and Information Service," was duly and lawfully issued by the United States Patent and Trademark Office ("USPTO").

9. On June 11, 2002, the '029 Patent entitled "Wireless Prepaid Telephone System with Dispensable Instruments," was duly and lawfully issued by the United States Patent and Trademark Office ("USPTO").

10. The Patents-in-Suit relate to, among other things, voice control of wireless telephones. Dot 23 is the owner of the Patents-in-Suit and has all rights to enforce them.

11. A copy of the '802 Patent is attached as Exhibit A to this Complaint.

12. A copy of the '903 Patent is attached as Exhibit B to this Complaint.

13. A copy of the '029 Patent is attached as Exhibit C to this Complaint.

COUNT ONE

14. Dot 23 incorporates by references each of the foregoing paragraphs of this Complaint as though fully set forth herein.

15. Apple makes, uses, or sells a variety of electronic devices, including smartphones and tablets.

16. Apple has directly infringed, and continues to directly infringe, at least one claim of the '802 Patent under 35 U.S.C. § 271, literally and/or under the doctrine of equivalents. Discovery is ongoing, and the claims have not yet been construed, but at this preliminary stage, Apple infringes, and continues to infringe, at least claims 1, 6, 10, 15, 18, 21, 29, 32, and 36 of the '802 Patent, 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 electronic devices and software.

17. These Apple products, among other infringing features, provide the capability to allow a user to use voice recognition to program the operation of the smartphone voice recognition and voice dialing system of an Apple phone using Siri software. A non-limiting list of these products, at this preliminary stage, include the iPhone 4 and its variants, the iPhone 5 and its variants, the iPhone 6 and its variants, and the Siri voice recognition software.

18. As one example, Apple currently makes, uses, and sells the Apple iPhone 6, which includes Siri. These products infringe at least one claim of the '802 Patent, at least by providing the capability to use voice recognition to program the operation of the voice recognition and voice dialing aspects of an iPhone 6 with Siri.

19. Apple has indirectly infringed at least one claim of the '802 Patent, through induced infringement under 35 U.S.C. § 271. Apple is notified of its infringement of the '802 Patent as of the filing of this complaint. Nevertheless, Apple continues its acts of indirect infringement by continuing to actively induce consumers to practice the invention claimed in the '802 Patent. Apple instructs consumers to use Apple iPhones with Siri, within the scope of the '802 Patent. For example, consumers are induced to use their iPhone 6 with Siri to use voice recognition to program the operation of the voice recognition and voice dialing aspects of an iPhone 6.

20. With knowledge of the '802 Patent, Apple has indirectly infringed the '802 Patent by inducing the direct infringement by consumers, by enabling, instructing, and encouraging consumers to make and use the infringing apparatus described in at least one claim of the '802 Patent, while aware that their use is infringing.

21. Apple's use of the technology claimed in the '802 Patent is without license or authorization from Dot 23.

22. Dot 23 has been damaged by Apple's infringement of the '802 Patent.

COUNT TWO

23. Dot 23 incorporates by references each of the foregoing paragraphs of this Complaint as though fully set forth herein.

24. Apple makes, uses, or sells a variety of electronic devices, including smartphones and tablets.

25. Apple has directly infringed, and continues to directly infringe, at least one claim of the '903 Patent under 35 U.S.C. § 271, literally and/or under the doctrine of equivalents. Discovery is ongoing, and the claims have not yet been construed, but at this preliminary stage, Apple infringes, and continues to infringe, at least claims 1, 2, 3, 6, 8, 9, 10, 12, 13, 14, and 15 of the '903 Patent, 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 electronic devices and software.

26. These Apple products, among other infringing features, provide the capability to use voice recognition on a smartphone to search for geographic-related data. A non-limiting list of these products, at this preliminary stage, include the iPhone 4 and its variants, the iPhone 5 and

its variants, the iPhone 6 and its variants, and the Siri voice recognition software, along with the browser installed on the smartphone.

27. As one example, Apple currently makes, uses, and sells the Apple iPhone 6, with Siri and its browser installed. These products infringe at least one claim of the '903 Patent, at least by providing the capability to search for geographic-related data using the iPhone 6, with Siri and its browser installed.

28. Apple has indirectly infringed at least one claim of the '903 Patent, through induced infringement under 35 U.S.C. § 271. Apple is notified of its infringement of the '903 Patent as of the filing of this complaint. Nevertheless, Apple continues its acts of indirect infringement by continuing to actively induce consumers to practice the invention claimed in the '903 Patent. Apple instructs consumers to use Apple iPhones with Siri, within the scope of the '903 Patent. For example, consumers are induced to use their iPhone 6 with Siri to search for geographic-related data on the iPhone's browser.

29. With knowledge of the '903 Patent, Apple has indirectly infringed the '903 Patent by inducing the direct infringement by consumers, by enabling, instructing, and encouraging consumers to make and use the infringing apparatus described in at least one claim of the '903 Patent, while aware that their use is infringing.

30. Apple's use of the technology claimed in the '903 Patent is without license or authorization from Dot 23.

31. Dot 23 has been damaged by Apple's infringement of the '903 Patent.

COUNT THREE

32. Dot 23 incorporates by references each of the foregoing paragraphs of this Complaint as though fully set forth herein.

33. Apple makes, uses, or sells a variety of electronic devices, including smartphones and tablets.

34. Apple has directly infringed, and continues to directly infringe, at least one claim of the '029 Patent under 35 U.S.C. § 271, literally and/or under the doctrine of equivalents. Discovery is ongoing, and the claims have not yet been construed, but at this preliminary stage, Apple infringes, and continues to infringe, at least claims 8, 9, 17, 19, 26, 27, 28, 29, 31, 35, 37, 40, 45, 46, 47, and 49 of the '029 Patent, 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 electronic devices and software.

35. These Apple products, among other infringing features, provide the capability to use voice dialing on a smartphone, based on cues from the iPhone. A non-limiting list of these products, at this preliminary stage, include the iPhone 4 and its variants, the iPhone 5 and its variants, the iPhone 6 and its variants, and the Siri voice recognition software.

36. As one example, Apple currently makes, uses, and sells the Apple iPhone 6, which includes Siri. These products infringe at least one claim of the '029 Patent, at least by providing the capability to use voice dialing on a smartphone, based on cues from the iPhone.

37. Apple has indirectly infringed at least one claim of the '029 Patent, through induced infringement under 35 U.S.C. § 271. Apple is notified of its infringement of the '029 Patent as of the filing of this complaint. Nevertheless, Apple continues its acts of indirect infringement by continuing to actively induce consumers to practice the invention claimed in the '029 Patent.

Apple instructs consumers to use Apple devices with Siri, within the scope of the '029 Patent. For example, consumers are induced to use their iPhone 6 with Siri to use voice dialing on a smartphone, based on cues from the iPhone.

38. With knowledge of the '029 Patent, Apple has indirectly infringed the '029 Patent by inducing the direct infringement by consumers, by enabling, instructing, and encouraging consumers to make and use the infringing apparatus described in at least one claim of the '029 Patent, while aware that their use is infringing.

39. Apple's use of the technology claimed in the '029 Patent is without license or authorization from Dot 23.

40. Dot 23 has been damaged by Apple's infringement of the '029 Patent.

PRAYER FOR RELIEF

WHEREFORE, Dot 23 Technologies, LLC prays for entry of judgment as follows:

- a) Enter judgment for Dot 23 on this complaint and adjudging that Apple has infringed one or more of the claims of the Patents-in-Suit, either literally or under the doctrine of equivalents;
- b) Award Dot 23 all damages to which it is entitled under 35 U.S.C. § 284 resulting from Apple's infringement, and ordering a full accounting of all damages adequate to compensate Dot 23 for the infringement of its patent rights;
- c) Award Dot 23 pre-judgment and post-judgment interest on its damages at the maximum rate permitted by law;
- d) Award costs and attorney's fees to Dot 23, and finding that this case is exceptional, pursuant to 35 U.S.C. § 285; and

e) Grant Dot 23 such further and additional relief as the Court deem as just and proper under the circumstances.

DEMAND FOR JURY TRIAL

Dot 23 hereby demands a trial by jury on all claims and issues so triable.

Dated: January 20, 2015

Respectfully submitted,

/s/ Frank M. Washko

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