

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

Seatoun Media, LLC,

Plaintiff,

V.

Apple, Inc.,

Defendant.

C.A. No: 6:17-cv-22

JURY TRIAL DEMANDED

AMENDED COMPLAINT FOR PATENT INFRINGEMENT

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

THE PARTIES

1. Plaintiff Seatoun Media, LLC is a Texas company with its principal place of business at 4516 Fremont Lane, Plano, Texas 75093.
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 Number 6,356,626 ("the '626 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 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 12, 2002, the '626 Patent entitled "Point to Point Voice Message Processor, Method and Recording/Playback Device," was duly and lawfully issued by the United States Patent and Trademark Office ("USPTO").

8. The Patent -in-Suit relates to, among other things, voice messaging and playback. Seatoun is the owner of the Patent-in-Suit and has all rights to enforce it.

9. A copy of the '626 Patent is attached as Exhibit A to this Complaint.

COUNT ONE

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

11. Apple makes, uses, or sells a variety of electronic devices, including smartphones.

12. Apple has directly infringed, and continues to directly infringe, at least one claim of the '626 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, claims 1 through 19 of the '626 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.

13. These Apple products, among other infringing features, provide the capability to allow a user to record and/or play back voice messages through a communication link connection of an Apple phone using Messaging or iMessage 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, the iPhone 7 and its variants, and the Messaging and/or iMessage software.

14. As one example, Apple currently makes, uses, and sells the Apple iPhone 6 and iMessage. These products infringe at least one claim of the '626 Patent, at least by providing the capability to record and play voice messages through a communications link.

15. Apple has indirectly infringed at least one claim of the '626 Patent, through induced infringement under 35 U.S.C. § 271. Apple was notified of its infringement of the '626 Patent as on October 16, 2016. Nevertheless, Apple continues its acts of indirect infringement by continuing to actively induce consumers to practice the invention claimed in the '626 Patent. Apple instructs consumers to use Apple iPhones with iMessage, within the scope of the '626 Patent. For example, consumers are induced to use their iPhone 6 with iMessage to record and play voice messages through a communications link.

16. With knowledge of the '626 Patent, Apple has indirectly infringed the '626 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 '626 Patent, while aware that their use is infringing.

17. Apple's use of the technology claimed in the '626 Patent is without license or authorization from Seatoun.

18. Seatoun has been damaged by Apple's infringement of the '626 Patent.

19. Apple was notified of its infringement of the '626 Patent as on October 16, 2016, and its ongoing infringement is wilfull.

PRAYER FOR RELIEF

WHEREFORE, Seatoun Media, LLC prays for entry of judgment as follows:

- a) Enter judgment for Seatoun on this complaint and adjudging that Apple has willfully infringed one or more of the claims of the Patent-in-Suit, either literally or under the doctrine of equivalents;
- b) Award Seatoun 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 Seatoun for the infringement of its patent rights;
- c) Award Seatoun pre-judgment and post-judgment interest on its damages at the maximum rate permitted by law;
- d) Award costs and attorney's fees to Seatoun, and finding that this case is exceptional, pursuant to 35 U.S.C. § 285; and
- e) Grant Seatoun such further and additional relief as the Court deem as just and proper under the circumstances.

DEMAND FOR JURY TRIAL

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

Dated: January 23, 2017

Respectfully submitted,

/s/ Frank M. Washko

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Counsel for Plaintiff Seatoun Media, LLC

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a) on January 23, 2017. As such, this document was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A).

/s/ Frank M. Washko
Frank M. Washko