**ALVERSON, TAYLOR, MORTENSEN & SANDERS**
KURT R. BONDS, ESQ.
Nevada Bar No. 6228
ADAM R. KNECHT, ESQ.
Nevada Bar No. 13166
6605 Grand Montecito Parkway
Suite 200
Las Vegas, Nevada 89149
(702) 384-7000
efile@alversontaylor.com

*Attorneys for Plaintiff*
*VoIP-Pal.com, Inc.*

Of Counsel:

**MALEK MOSS PLLC**
KEVIN N. MALEK, ESQ.
340 Madison Avenue, FL 19
New York, New York 10173
(212) 812-1491
kevin.malek@malekmoss.com



**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

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|---|---|
| VOIP-PAL.COM, INC., a Nevada corporation,<br><br>Plaintiff,<br>v.<br><br>APPLE, INC.; a California corporation,<br><br>Defendant. | CASE NO.:<br><br><br><br>**JURY TRIAL DEMANDED** |

**COMPLAINT**

Plaintiff VoIP-Pal.com, Inc. ("VoIP-Pal"), for its Complaint against Defendant Apple, Inc. ("Apple") hereby alleges as follows:

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(702) 384-7000

## PARTIES

1. Plaintiff VoIP-Pal is a Nevada corporation with its principal place of business located at 10900 NE 4th Street, Suite 2300, Bellevue, Washington 98004.

2. Defendant Apple is a California corporation with its principal place of business at 1 Infinite Loop, Cupertino, California 95014. On information and belief, Apple regularly conducts and transacts business in the District of Nevada and throughout the United States, and, as set forth below, has committed and continues to commit, tortious acts of patent infringement within the District of Nevada.

## NATURE OF THE ACTION

3. This is a civil action for infringement of United States Patent No. 9,537,762 (the "'762 Patent"), United States Patent No. 9,813,330 (the "'330 Patent"), United States Patent No. 9,826,002 (the "'002 Patent"), and United States Patent No. 9,948,549 (the "'549 Patent," and together with the '762 Patent, the '330 Patent and the '002 Patent, the "Patents-in-Suit") under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq*.

## JURISDICTION AND VENUE

4. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Apple because, among other things, Apple has committed, aided, abetted, contributed to, and/or participated in the commission of patent infringement in this judicial district and elsewhere that led to foreseeable harm and injury to VoIP-Pal.

6. This Court also has personal jurisdiction over Apple because, among other things, Apple has established minimum contacts within the forum such that the exercise of jurisdiction over Apple will not offend traditional notions of fair play and substantial justice. Moreover,

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Apple has placed products and provided services that practice the claimed inventions of the Patents-in-Suit into the stream of commerce with the reasonable expectation and/or knowledge that purchasers and users of such products and services were located within this District. Apple has sold, advertised, marketed, distributed and made available products and services in this District that practice the claimed inventions of the Patents-in-Suit.

7. Venue is proper in this district pursuant to 28 U.S.C. § 1400(b).

**BACKGROUND OF THE TECHNOLOGY AND THE PATENTS-IN-SUIT**

8. United States Patent No. 9,537,762 (the "'762 Patent") entitled "Producing Routing Messages For Voice Over IP Communications" was duly and legally issued by the United States Patent and Trademark Office on January 3, 2017. A copy of the '762 Patent is attached hereto as Exhibit 1.

9. United States Patent No. 9,813,330 (the "'330 Patent") entitled "Producing Routing Messages For Voice Over IP Communications" was duly and legally issued by the United States Patent and Trademark Office on November 7, 2017. A copy of the '330 Patent is attached hereto as Exhibit 2.

10. United States Patent No. 9,826,002 (the "'002 Patent") entitled "Producing Routing Messages For Voice Over IP Communications" was duly and legally issued by the United States Patent and Trademark Office November 21, 2017. A copy of the '762 Patent is attached hereto as Exhibit 3.

11. United States Patent No. 9,948,549 (the "'549 Patent") entitled "Producing Routing Messages For Voice Over IP Communications" was duly and legally issued by the United States Patent and Trademark Office on April 17, 2008. A copy of the '549 Patent is attached hereto as Exhibit 4.

12. The '762 Patent, '330 Patent, '002 Patent and '549 Patent are collectively referred

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to herein as the "Patents-In-Suit".

13. The inventions of the Patents-In-Suit originated from breakthrough work and development in the internet protocol communications field.

14. Internet protocol (IP) communications commonly involve personal computers (PCs), phones, and other devices, sending and receiving various types of communication in various formats (e.g., audio, video, text, and other data formats), for example, over local and wide area networks between client and server devices.

15. Furthermore, IP communication systems and methods may involve communication within or between IP networks, and between an IP network and external networks, such as the public switched telephone network (PSTN) including cellular networks for mobile devices.

16. Processing and routing such communications preferably requires resilience, reliability, high availability and flexibility in routing the communications within and between networks.

17. VoIP-Pal has provided significant improvements to communications technology by the invention of novel methods, processes and apparatuses that facilitate communications between internet protocol based systems and networks, such as internally controlled systems and external networks (e.g., between private networks and public networks), including the classification and routing thereof.

18. The Patents-In-Suit represent fundamental advancements to the art of internet protocol (IP) based communication, including improved functioning, routing and reliability for communications over the internet.

19. For example, claim 1 of the '762 Patent recites:

> A method of routing communications in a system in which a first participant identifier is associated with a first participant registered

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with the system and wherein a second participant identifier is associated with a second participant, the first participant being associated with a first participant device operable to establish a communication using the system to a second participant device associated with the second participant, the system comprising at least one processor operably configured to execute program code stored in at least one memory, the method comprising:

in response to the first participant device initiating the communication to the second participant device, receiving the first participant identifier and the second participant identifier from the first participant device;

using the first participant identifier to locate, via the at least one processor, a first participant profile from among a plurality of participant profiles that are stored in a database, the first participant profile comprising one or more attributes associated with the first participant;

processing the second participant identifier, via the at least one processor, based on at least one of the one or more attributes from the first participant profile, to produce a new second participant identifier;

classifying the communication, via the at least one processor, using the new second participant identifier, as a first network communication if a first network classification criterion is met and as a second network communication if a second network classification criterion is met;

when the first network classification criterion is met, producing, via the at least one processor, a first network routing message, the first network routing message identifying an address in the system, the address being associated with the second participant device;

and when the second network classification criterion is met, producing, via the at least one processor, a second network routing message, the second network routing message identifying an address associated with a gateway to a network external to the system, wherein the second network classification criterion is met if the second participant is not registered with the system.

20. For example, claim 1 of the ‘330 Patent recites:

A method for routing a communication in a communication system between an Internet-connected first participant device associated with a first participant and a second participant device associated with a second participant, the method comprising:

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in response to initiation of the communication by the first participant device, receiving, by a controller comprising at least one processor, over an Internet protocol (IP) network a first participant identifier and a second participant identifier;

causing at least one processor to access at least one database comprising user profiles using the first participant identifier, each user profile comprising a respective plurality of attributes for a respective user, to locate a user profile for the first participant including a plurality of first participant attributes;

comparing at least a portion of the second participant identifier, using the at least one processor, with at least one of the plurality of first participant attributes obtained from the user profile for the first participant;

causing at least one processor to access the at least one database to search for a user profile for the second participant;

classifying the communication, based on the comparing, as a system communication or an external network communication, using the at least one processor;

when the communication is classified as a system communication, producing a system routing message identifying an Internet address of a communication system node associated with the second participant device based on the user profile for the second participant, using the at least one processor, wherein the system routing message causes the communication to be established to the second participant device; and

when the communication is classified as an external network communication, producing an external network routing message identifying an Internet address associated with a gateway to an external network, using the at least one processor, wherein the external network routing message causes the communication to the second participant device to be established using the gateway to the external network.

21. For example, claim 1 of the ‘002 Patent recites:

A method of routing a communication in a communication system between an Internet-connected first participant device associated with a first participant and a second participant device associated with a second participant, the method comprising:

in response to initiation of the communication by the first

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participant device, receiving, by a controller comprising at least one processor, over an Internet protocol (IP) network a first participant identifier and a second participant identifier, the second participant identifier being associated with the second participant device;

causing at least one processor to access a database comprising user profiles, using the first participant identifier, each user profile associating a respective plurality of attributes with a respective user, to locate a plurality of first participant attributes;

processing the second participant identifier, using the at least one processor, based on at least one of the plurality of first participant attributes obtained from a user profile for the first participant, to produce a new second participant identifier;

classifying the communication, based on the new second participant identifier, as a system communication or an external network communication, using the at least one processor;

when the communication is classified as a system communication, producing a system routing message identifying an Internet address associated with the second participant device, using the at least one processor, wherein the system routing message causes the communication to be established to the second participant device; and

when the communication is classified as an external network communication, producing an external network routing message identifying an Internet address associated with a gateway to an external network, using the at least one processor, wherein the external network routing message causes the communication to the second participant device to be established using the gateway to the external network.

22. For example, claim 1of the ‘549 Patent recites:

A method of routing a communication in a communication system between an Internet-connected first participant device associated with a first participant and a second participant device associated with a second participant, the method comprising:

causing at least one processor to access at least one memory storing a first participant profile identifying at least one first participant attribute;

receiving, by the at least one processor, a second participant identifier inputted by the first participant using the first participant

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device to initiate a communication, the second participant identifier being associated with the second participant device;

processing the second participant identifier, based on the at least one first participant attribute obtained from the first participant profile, to produce a new second participant identifier;

classifying the communication as a system communication or an external network communication;

when the communication is classified as a system communication, producing a system routing message, based on the new second participant identifier, that identifies an Internet Protocol (IP) address of a network element through which the communication is to be routed thereby causing the communication to be established to the second participant device; and

when the communication is classified as an external network communication, producing an external network routing message, based on the new second participant identifier, that identifies an address associated with a gateway to an external network thereby causing the communication to the second participant device to be established by use of the gateway to the external network.

23. VoIP-Pal is the sole owner and assignee of the entire right title and interest in the '762 Patent, the '330 Patent, the '002 Patent and the '549 Patent and has the right to sue and recover damages for any current or past infringement of the '762 Patent, the '330 Patent, the '002 Patent and the '549 Patent.

## OVERVIEW OF THE ACCUSED INSTRUMENTALITIES

24. Each of the instrumentalities described herein made, used, sold and/or offered for sale by Apple comprises systems and devices relating to and supporting communications using devices, computers, servers, systems and methods used by, operated by and performed by Apple.

25. Apple's iMessage® system and service allows devices to communicate between participants, e.g., as between a first participant or user registered with Apple (such as through an Apple identifier) or that is using an Apple device, and a second user or participant that may or may not be a user registered with Apple or that may or may not be using an Apple device. The

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system makes use of attributes that are part of a profile for the first participant in order to classify communications.

26. Apple's Facetime® system and service allows devices to initiate an audio or video/audio communication between at least two participants which may or may not be associated with an Apple identification or Apple devices/software. The system makes use of attributes that are part of a user profile in order to classify the communication.

27. Apple enables the use of WiFi Calling in conjunction with its iMessage® and Facetime® systems and services, which allows an Apple device to initiate communications between participants using internet protocol (IP) based communication methods and participants using external networks, such as the PSTN. Apple also enables the use of mobile devices that communicate directly with external networks, such as iPhone® devices that can communicate over cellular networks.

**COUNT I**

**Infringement Of The '762 Patent**

28. Paragraphs 1 through 27 are incorporated by reference as if fully stated herein.

29. Apple, either alone or in conjunction with others, has infringed and continues to infringe, both directly and indirectly, one or more claims of the '762 Patent, including at least exemplary claim 1, under 35 U.S.C. § 271, either literally and/or under the doctrine of equivalents, by using, offering to sell, selling and/or importing into the United States at least certain methods, apparatuses, products and services used for communication, including, without limitation, messaging (iMessage®), video/audio communication (Facetime®), WiFi calling, telephony functionality, smartphone (iPhone®), tablet (iPad®), Apple Watch® and/or mobile devices, handheld and desktop computers including Mac® and the like (collectively, "the '762 Accused Instrumentalities").

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30. For example, Apple infringes exemplary claim 1 of the '762 Patent by using, offering to sell, selling and/or importing into the United States at least the '762 Accused Instrumentalities, which '762 Accused Instrumentalities comprise a method for routing communications in a system:

- in which a first participant identifier is associated with a first participant registered with the system (e.g., Apple's iMessage® system and Facetime® system associate a first participant with an identifier such as a phone number or other identifier of the participant) and wherein a second participant identifier is associated with a second participant (e.g., Apple's iMessage® system and Facetime® system associate a second participant with an identifier such as a phone number or other identifier of the participant), the first participant being associated with a first participant device operable to establish a communication using the system to a second participant device associated with the second participant (e.g., Apple's iMessage® system and Facetime® system associate the participants with devices such as an iPhone® or a Mac® desktop computer or other mobile or desktop devices), the system comprising at least one processor operably configured to execute program code stored in at least one memory, the method comprising (e.g., Apple's iMessage® system and Facetime® system comprise at least computers and/or servers that comprise processors configured to execute program code stored in memory):
- in response to the first participant device initiating the communication to the second participant device, receiving the first participant identifier and the second participant identifier from the first participant device (e.g., in

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Apple's iMessage® system and Facetime® system, the communication is initiated by the first participant and the first participant identifier and the second participant identifier are received by the system , the identifiers being a phone number or other identification of the participants);

- using the first participant identifier to locate, via the at least one processor, a first participant profile from among a plurality of participant profiles that are stored in a database, the first participant profile comprising one or more attributes associated with the first participant (e.g., in Apple's iMessage® system and Facetime® system, the first participant profile is located within at least one database that stores profiles associated with participants, using the identifier such as a phone number, Apple ID or other identification of the first participant);
- processing the second participant identifier, via the at least one processor, based on at least one of the one or more attributes from the first participant profile, to produce a new second participant identifier (e.g., Apple's iMessage® system and Facetime® system processes the participant identifier using the first participant profile to produce a new second participant identifier);
- classifying the communication, via the at least one processor, using the new second participant identifier, as a first network communication if a first network classification criterion is met and as a second network communication if a second network classification criterion is met (e.g., Apple's iMessage® system and Facetime® system classify the communication through a server or computer, using the new second

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participant identifier, such as when the identifier represents an Apple registered device, and classifies it as the appropriate network communication when the corresponding network criterion is met);

- when the first network classification criterion is met, producing, via the at least one processor, a first network routing message, the first network routing message identifying an address in the system, the address being associated with the second participant device (e.g., Apple's iMessage® system and Facetime® system send or receive a produced routing message that identifies an address on the system that is associated with the second participant for routing to an Apple device);
- and when the second network classification criterion is met, producing, via the at least one processor, a second network routing message, the second network routing message identifying an address associated with a gateway to a network external to the system, wherein the second network classification criterion is met if the second participant is not registered with the system (e.g., Apple's iMessage® system and Facetime® system can send and receive communications to and from external networks, for example, SMS/MMS messages to be communicated over WiFi Calling or a cellular network, or audio communications using a PSTN network over WiFi Calling; and a routing message that identifies an address associated with a gateway to such an external network is produced for routing to a non-Apple device).

31. On information and belief, Apple has had knowledge of the '762 Patent since at least April 12, 2018 when VoIP-Pal issues a press release announcing the issuance of the '762

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Patent. (*See* https://www.voip-pal.com/voip-pal-strengthens-patent-holding).

32. Despite its knowledge and notice of the '762 Patent and its infringement of that patent, Apple has continued to make, use, sell and offer to sell the '762 Accused Instrumentalities in the United States. Accordingly, Apple's infringement has been and continues to be willful.

33. Apple has induced infringement, and continues to induce infringement, of one or more claims of the '762 Patent under 35 U.S.C. § 271(b). Apple actively, knowingly, and intentionally induced, and continues to actively, knowingly and intentionally induce infringement of the '762 Patent by selling or otherwise making available and/or supplying the '762 Accused Instrumentalities; with the knowledge and intent that third parties will use the '762 Accused Instrumentalities supplied by Apple to infringe the '762 Patent; and with the knowledge and intent to encourage and facilitate third party infringement through the dissemination of the '762 Accused Instrumentalities and/or the creation and dissemination of promotional and marketing materials, supporting materials, instructions, product manuals, and/or technical information related to the '762 Accused Instrumentalities.

34. Apple specifically intended and was aware that the ordinary and customary use of the '762 Accused Instrumentalities would infringe the '762 Patent. For example, Apple sells, uses, makes available and provides the '762 Accused Instrumentalities, which when used in their ordinary and customary manner intended by Apple, infringe one or more claims of the '762 Patent, including at least exemplary claim 1. Upon information and belief, Apple further provides product manuals and other technical information that cause Apple customers and other third parties to use and to operate the '762 Accused Instrumentalities for their ordinary and customary use. Apple customers and other third parties have directly infringed the '762 Patent, including at least exemplary claim 1, through the normal and customary use of the '762 Accused Instrumentalities. By providing instruction and training to customers and other third parties on

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how to use the '762 Accused Instrumentalities in an infringing manner, Apple specifically intended to induce infringement of the '762 Patent, including at least exemplary claim 1. Apple accordingly has induced and continues to induce Apple customers and other users of the '762 Accused Instrumentalities in their ordinary and customary way to infringe the '762 Patent, knowing, or at least being willful blind to the fact, that such use constitutes infringement of the '762 Patent.

35. VoIP-Pal has been and continues to be damaged by Apple's infringement of the '762 Patent.

36. Apple's conduct in infringing the '762 Patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

**COUNT II**

**Infringement Of The '330 Patent**

37. Paragraphs 1 through 36 are incorporated by reference as if fully stated herein.

38. Apple, either alone or in conjunction with others, has infringed and continues to infringe, both directly and indirectly, one or more claims of the '330 Patent, including at least exemplary claim 1, under 35 U.S.C. § 271, either literally and/or under the doctrine of equivalents, by using, offering to sell, selling and/or importing into the United States at least certain methods, apparatuses, products and services used for communication, including, without limitation, messaging (iMessage®) and video/audio communication (Facetime®), WiFi calling, telephony functionality, smartphone (iPhone®), tablet (iPad®), Apple Watch® and/or mobile devices, handheld and desktop computers, including Mac® and the like (collectively, "the '330 Accused Instrumentalities").

39. For example, Apple infringes exemplary claim 1 of the '330 Patent by using, offering to sell, selling and/or importing into the United States at least the '330 Accused

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Instrumentalities, which '330 Accused Instrumentalities comprise a method for routing a communication in a system:

- between an Internet-connected first participant device associated with a first participant and a second participant device associated with a second participant, the method comprising (e.g., Apple's iMessage® system and Facetime® system comprises various servers that perform a method of routing communications in a system where first participants or senders of a communication have one or more Apple devices that can be connected to the Internet):
- in response to initiation of the communication by the first participant device, receiving, by a controller comprising at least one processor, over an Internet protocol (IP) network a first participant identifier and a second participant identifier (e.g., in Apple's iMessage® system and Facetime® system, the communication is initiated by the first participant and the first participant identifier and the second participant identifier are received over an IP network by the system, the identifiers being a phone number or other identification of the participants);
- causing at least one processor to access at least one database comprising user profiles using the first participant identifier, each user profile comprising a respective plurality of attributes for a respective user, to locate a user profile for the first participant including a plurality of first participant attributes (e.g., in Apple's iMessage® system and Facetime® system, the first participant profile is located within at least one database that stores profiles associated with users or participants);

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- comparing at least a portion of the second participant identifier, using the at least one processor, with at least one of the plurality of first participant attributes obtained from the user profile for the first participant (e.g., Apple's iMessage® system and Facetime® system compare at least one of the attributes of the first participant or sender's profile, such as the IDD or NDD, to a least a portion of the second participant's or recipient's identifier);
- causing at least one processor to access the at least one database to search for a user profile for the second participant (e.g. Apple's iMessage® system and Facetime® system search at least one database of registered users for a profile for the second participant);
- classifying the communication, based on the comparing, as a system communication or an external network communication, using the at least one processor (e.g., Apple's iMessage® system and Facetime® system allow communications to be made to and from external networks, for example, messages using SMS/MMS over WiFi Calling or a cellular network, or audio to be communicated to and from PSTN networks over WiFi Calling; Apple's systems classify whether the communication is a system communication or an external network communication, using at least one processor);
- when the communication is classified as a system communication, producing a system routing message identifying an Internet address of a communication system node associated with the second participant device based on the user profile for the second participant, using the at least one

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processor, wherein the system routing message causes the communication to be established to the second participant device (e.g., in Apple's iMessage® system and Facetime® system, if the communication is classified as a system communication, a routing message is produced, using at least one processor, to identify an address in the system such that communication can be established to an Apple device associated with the second participant); and

- when the communication is classified as an external network communication, producing an external network routing message identifying an Internet address associated with a gateway to an external network, using the at least one processor, wherein the external network routing message causes the communication to the second participant device to be established using the gateway to the external network (e.g., in Apple's iMessage® system and Facetime® system, if the communication is classified as an external communication, a routing message is produced, using at least one processor to identify an address associated with a gateway to an external network, e.g., for messages sent via SMS/MMS or communications over the PSTN).

40. On information and belief, Apple has had knowledge of the '330 Patent since at least April 12, 2018 when VoIP-Pal issues a press release announcing the issuance of the '330 Patent. (*See* https://www.voip-pal.com/voip-pal-strengthens-patent-holding).

41. Despite its knowledge and notice of the '330 Patent and its infringement of that patent, Apple has continued to make, use, sell and offer to sell the '330 Accused Instrumentalities in the United States. Accordingly, Apple's infringement has been and continues to be willful.

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42. Apple has induced infringement, and continues to induce infringement, of one or more claims of the '330 Patent under 35 U.S.C. § 271(b). Apple actively, knowingly, and intentionally induced, and continues to actively, knowingly and intentionally induce infringement of the '330 Patent by selling or otherwise making available and/or supplying the '330 Accused Instrumentalities; with the knowledge and intent that third parties will use the '330 Accused Instrumentalities supplied by Apple to infringe the '330 Patent; and with the knowledge and intent to encourage and facilitate third party infringement through the dissemination of the '330 Accused Instrumentalities and/or the creation and dissemination of promotional and marketing materials, supporting materials, instructions, product manuals, and/or technical information related to the '330 Accused Instrumentalities.

43. Apple specifically intended and was aware that the ordinary and customary use of the '330 Accused Instrumentalities would infringe the '330 Patent. For example, Apple sells, uses, makes available and provides the '330 Accused Instrumentalities, which when used in their ordinary and customary manner intended by Apple, infringe one or more claims of the '330 Patent, including at least exemplary claim 1. Upon information and belief, Apple further provides product manuals and other technical information that cause Apple customers and other third parties to use and to operate the '330 Accused Instrumentalities for their ordinary and customary use. Apple customers and other third parties have directly infringed the '330 Patent, including at least exemplary claim 1, through the normal and customary use of the '330 Accused Instrumentalities. By providing instruction and training to customers and other third parties on how to use the '330 Accused Instrumentalities in an infringing manner, Apple specifically intended to induce infringement of the '330 Patent, including at least exemplary claim 1. Apple accordingly has induced and continues to induce Apple customers and other users of the '330 Accused Instrumentalities in their ordinary and customary way to infringe the '330 Patent,

knowing, or at least being willful blind to the fact, that such use constitutes infringement of the '330 Patent.

44. VoIP-Pal has been and continues to be damaged by Apple's infringement of the '330 Patent.

45. Apple's conduct in infringing the '330 Patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

**COUNT III**

**Infringement Of The '002 Patent**

46. Paragraphs 1 through 45 are incorporated by reference as if fully stated herein.

47. Apple, either alone or in conjunction with others, has infringed and continues to infringe, both directly and indirectly, one or more claims of the '002 Patent, including at least exemplary claim 1, under 35 U.S.C. § 271, either literally and/or under the doctrine of equivalents, by using, offering to sell, selling and/or importing into the United States at least certain methods, apparatuses, products and services used for communication, including, without limitation, messaging (iMessage®), video/audio communication (Facetime®), WiFi calling, telephony functionality, smartphone (iPhone®), tablet (iPad®), Apple Watch® and/or mobile devices, handheld and desktop computers, including Mac® and the like (collectively, "the '002 Accused Instrumentalities").

48. For example, Apple infringes exemplary claim 1 of the '002 Patent by using, offering to sell, selling and/or importing into the United States at least the '002 Accused Instrumentalities, which '002 Accused Instrumentalities comprise a method for routing a communication in a system:

- between an Internet-connected first participant device associated with a first participant and a second participant device associated with a second

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LAWYERS
6605 GRAND MONTECITO PKWY, STE. 200
LAS VEGAS, NEVADA 89149
(702) 384-7000

ALVERSON, TAYLOR, MORTENSEN & SANDERS
LAWYERS
6605 GRAND MONTECITO PKWY, STE. 200
LAS VEGAS, NEVADA 89149
(702) 384-7000

participant, the method comprising (e.g., in Apple's iMessage® system and Facetime® system, the system comprises various servers that communicate with first participants or senders with Apple devices, such as desktop computers, laptops, tablets or mobile handheld devices that can be connected to the Internet and that can send communications):

- in response to initiation of the communication by the first participant device, receiving, by a controller comprising at least one processor, over an Internet protocol (IP) network a first participant identifier and a second participant identifier, the second participant identifier being associated with the second participant device (e.g., in Apple's iMessage® system and Facetime® system, the system receives identifiers for the participants when a communication is initiated by the user of the Apple device, where the participants' identifiers may be an Apple identifier or a phone number, for example, which is handled by a controller and at least one processor);
- causing at least one processor to access a database comprising user profiles, using the first participant identifier, each user profile associating a respective plurality of attributes with a respective user, to locate a plurality of first participant attributes (e.g., in Apple's iMessage® system and Facetime® system, attributes associated with the first participant are located within at least one database that stores profiles associated with users , using an identifier such as a phone number of other identification of the first participant);
- processing the second participant identifier, using the at least one processor, based on at least one of the plurality of first participant

ALVERSON, TAYLOR, MORTENSEN & SANDERS
LAWYERS
6605 GRAND MONTECITO PKWY, STE. 200
LAS VEGAS, NEVADA 89149
(702) 384-7000

attributes obtained from a user profile for the first participant, to produce a new second participant identifier (e.g., in Apple's iMessage® system and Facetime® system, a new second participant identifier is produced based on the first participant attributes );

- classifying the communication, based on the new second participant identifier, as a system communication or an external network communication, using the at least one processor (e.g., Apple's iMessage® system and Facetime® system allow communications to be made to and from external networks, for example, communication of SMS/MMS messages over WiFi Calling or a cellular network, or audio communication to or from a PSTN networks over WiFi Calling, and such a communication is classified as a system communication or external network communication using at least one processor);
- when the communication is classified as a system communication, producing a system routing message identifying an Internet address associated with the second participant device, using the at least one processor, wherein the system routing message causes the communication to be established to the second participant device (e.g., Apple's iMessage® system and Facetime® system classifies the system communication and produces a routing message that identifies an Internet address associated with the second participant for routing to an Apple device of the second participant such that the communication can be established); and
- when the communication is classified as an external network

ALVERSON, TAYLOR, MORTENSEN & SANDERS
LAWYERS
6605 GRAND MONTECITO PKWY, STE. 200
LAS VEGAS, NEVADA 89149
(702) 384-7000

communication, producing an external network routing message identifying an Internet address associated with a gateway to an external network, using the at least one processor, wherein the external network routing message causes the communication to the second participant device to be established using the gateway to the external network (e.g., in Apple's iMessage® system and Facetime® system, if the communication is classified as an external communication, an external network routing message is produced that identifies an Internet address associated with a gateway to an external network, for example, for messages using SMS/MMS over WiFi calling or cellular, or for communicating audio using the PSTN over WiFi calling, such that the communication is established to the device of the second participant).

49. On information and belief, Apple has had knowledge of the '002 Patent since at least April 12, 2018 when VoIP-Pal issues a press release announcing the issuance of the '002 Patent. (*See* https://www.voip-pal.com/voip-pal-strengthens-patent-holding).

50. Despite its knowledge and notice of the '002 Patent and its infringement of that patent, Apple has continued to make, use, sell and offer to sell the '002 Accused Instrumentalities in the United States. Accordingly, Apple's infringement has been and continues to be willful.

51. Apple has induced infringement, and continues to induce infringement, of one or more claims of the '002 Patent under 35 U.S.C. § 271(b). Apple actively, knowingly, and intentionally induced, and continues to actively, knowingly and intentionally induce infringement of the '002 Patent by selling or otherwise making available and/or supplying the '002 Accused Instrumentalities; with the knowledge and intent that third parties will use the '002 Accused Instrumentalities supplied by Apple to infringe the '002 Patent; and with the knowledge and

ALVERSON, TAYLOR, MORTENSEN & SANDERS
LAWYERS
6605 GRAND MONTECITO PKWY, STE. 200
LAS VEGAS, NEVADA 89149
(702) 384-7000

intent to encourage and facilitate third party infringement through the dissemination of the '002 Accused Instrumentalities and/or the creation and dissemination of promotional and marketing materials, supporting materials, instructions, product manuals, and/or technical information related to the '002 Accused Instrumentalities.

52. Apple specifically intended and was aware that the ordinary and customary use of the '002 Accused Instrumentalities would infringe the '002 Patent. For example, Apple sells, uses, makes available and provides the '002 Accused Instrumentalities, which when used in their ordinary and customary manner intended by Apple, infringe one or more claims of the '002 Patent, including at least exemplary claim 1. Upon information and belief, Apple further provides product manuals and other technical information that cause Apple customers and other third parties to use and to operate the '002 Accused Instrumentalities for their ordinary and customary use. Apple customers and other third parties have directly infringed the '002 Patent, including at least exemplary claim 1, through the normal and customary use of the '002 Accused Instrumentalities. By providing instruction and training to customers and other third parties on how to use the '002 Accused Instrumentalities in an infringing manner, Apple specifically intended to induce infringement of the '002 Patent, including at least exemplary claim 1. Apple accordingly has induced and continues to induce Apple customers and other users of the '002 Accused Instrumentalities in their ordinary and customary way to infringe the '002 Patent, knowing, or at least being willful blind to the fact, that such use constitutes infringement of the '002 Patent.

53. VoIP-Pal has been and continues to be damaged by Apple's infringement of the '002 Patent.

54. Apple's conduct in infringing the '002 Patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

ALVERSON, TAYLOR, MORTENSEN & SANDERS
LAWYERS
6605 GRAND MONTECITO PKWY, STE. 200
LAS VEGAS, NEVADA 89149
(702) 384-7000

**COUNT IV**

**Infringement Of The '549 Patent**

55. Paragraphs 1 through 54 are incorporated by reference as if fully stated herein.

56. Apple, either alone or in conjunction with others, has infringed and continues to infringe, both directly and indirectly, one or more claims of the '549 Patent, including at least exemplary claim 1, under 35 U.S.C. § 271, either literally and/or under the doctrine of equivalents, by using, offering to sell, selling and/or importing into the United States at least certain methods, apparatuses, products and services used for communication, including, without limitation, messaging (iMessage®), video/audio communication (Facetime®), WiFi calling, telephony functionality, smartphone (iPhone®), tablet (iPad®), Apple Watch® and/or mobile devices, handheld and desktop computers, including Mac® and the like (collectively, "the '549 Accused Instrumentalities").

57. For example, Apple infringes exemplary claim 1 of the '549 Patent by using, offering to sell, selling and/or importing into the United States at least the '549 Accused Instrumentalities, which '549 Accused Instrumentalities comprise a method for routing a communication in a system:

- between an Internet-connected first participant device associated with a first participant and a second participant device associated with a second participant, the method comprising (e.g., in Apple's iMessage® system and Facetime® system, the system comprises various servers that communicate with first participants or senders with Apple devices, such as desktop computers, laptops, tablets or mobile handheld devices that are connected to a network and that can send communications; alternatively or in addition, the system comprises functionality incorporated within Apple

ALVERSON, TAYLOR, MORTENSEN & SANDERS
LAWYERS
6605 GRAND MONTECITO PKWY, STE. 200
LAS VEGAS, NEVADA 89149
(702) 384-7000

devices such as desktop computer, laptops, tablets or mobile handheld devices):

- causing at least one processor to access at least one memory storing a first participant profile identifying at least one first participant attribute (e.g., Apple's iMessage® system and Facetime® system locate a participant profile stored on an Apple server; alternatively or in addition, the first participant profile is stored on an Apple device such as a laptop computer or mobile device);
- receiving, by the at least one processor, a second participant identifier inputted by the first participant using the first participant device to initiate a communication, the second participant identifier being associated with the second participant device (e.g., in Apple's iMessage® system and Facetime® system, when a communication is initiated by the first participant inputting of the second participant's identifier, such as a phone number, Apple identifier or other identifier that is associated with the device of the second participant, the second participant identifier is received by an Apple server; alternatively or in addition, the second participant identifier is received by a portion of an Apple device such as a laptop computer or mobile device);
- processing the second participant identifier, based on the at least one first participant attribute obtained from the first participant profile, to produce a new second participant identifier (e.g., Apple's iMessage® system and Facetime® system processes the second participant's or receiver's identifier using at least one processor to produce a new identifier for the

ALVERSON, TAYLOR, MORTENSEN & SANDERS
LAWYERS
6605 GRAND MONTECITO PKWY, STE. 200
LAS VEGAS, NEVADA 89149
(702) 384-7000

second participant based on attributes obtained from the first participant's profile, such as where at least one participant's attribute indicates that the first participant is blocked or at least one participant's attribute indicates processing of dialing conventions associated with the first participant; alternatively or in addition, a contact list stored on an Apple device such as a laptop computer or mobile device may be consulted to produce a new second participant identifier);

- classifying the communication as a system communication or an external network communication (e.g., Apple's iMessage® system and Facetime® system allow communications to be made to other Apple devices and to and from external networks, and the communication may be classified as a system communication or external network communication using a processor on an Apple server; alternatively, the communication may be classified using a processor on an Apple device such as a laptop computer or mobile handheld device);
- when the communication is classified as a system communication, producing a system routing message, based on the new second participant identifier, that identifies an Internet Protocol (IP) address of a network element through which the communication is to be routed thereby causing the communication to be established to the second participant device (e.g., Apple's iMessage® system and Facetime® system classifies the system communication and produces a routing message on an Apple server that identifies an internet protocol (IP) address associated with the second participant device for routing to an Apple device; alternatively, a system

ALVERSON, TAYLOR, MORTENSEN & SANDERS
LAWYERS
6605 GRAND MONTECITO PKWY, STE. 200
LAS VEGAS, NEVADA 89149
(702) 384-7000

routing message may be produced on an Apple device such as a laptop computer or mobile handheld device); and

- when the communication is classified as an external network communication, producing an external network routing message, based on the new second participant identifier, that identifies an address associated with a gateway to an external network thereby causing the communication to the second participant device to be established by use of the gateway to the external network (e.g., in Apple's iMessage® system and Facetime® system, if the communication is classified as an external communication, an external network routing message is produced by an Apple server that identifies an internet address associated with a gateway to an external network, for example, a gateway for the communication of SMS/MMS messages or a PSTN gateway for communicating audio, such that the communication is established to the device of the second participant by use of the gateway; alternatively, the external routing message may be produced by an Apple device such as a laptop computer or mobile handheld device).

58. On information and belief, Apple has had knowledge of the '549 Patent since at least April 12, 2018 when VoIP-Pal issues a press release announcing the issuance of the '549 Patent. (*See* https://www.voip-pal.com/voip-pal-strengthens-patent-holding).

59. Despite its knowledge and notice of the '549 Patent and its infringement of that patent, Apple has continued to make, use, sell and offer to sell the '549 Accused Instrumentalities in the United States. Accordingly, Apple's infringement has been and continues to be willful.

60. Apple has induced infringement, and continues to induce infringement, of one or

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LAWYERS
6605 GRAND MONTECITO PKWY, STE. 200
LAS VEGAS, NEVADA 89149
(702) 384-7000

more claims of the '549 Patent under 35 U.S.C. § 271(b). Apple actively, knowingly, and intentionally induced, and continues to actively, knowingly and intentionally induce infringement of the '549 Patent by selling or otherwise making available and/or supplying the '549 Accused Instrumentalities; with the knowledge and intent that third parties will use the '549 Accused Instrumentalities supplied by Apple to infringe the '549 Patent; and with the knowledge and intent to encourage and facilitate third party infringement through the dissemination of the '549 Accused Instrumentalities and/or the creation and dissemination of promotional and marketing materials, supporting materials, instructions, product manuals, and/or technical information related to the '549 Accused Instrumentalities.

61. Apple specifically intended and was aware that the ordinary and customary use of the '549 Accused Instrumentalities would infringe the '549 Patent. For example, Apple sells, uses, makes available and provides the '549 Accused Instrumentalities, which when used in their ordinary and customary manner intended by Apple, infringe one or more claims of the '549 Patent, including at least exemplary claim 1. Upon information and belief, Apple further provides product manuals and other technical information that cause Apple customers and other third parties to use and to operate the '549 Accused Instrumentalities for their ordinary and customary use. Apple customers and other third parties have directly infringed the '549 Patent, including at least exemplary claim 1, through the normal and customary use of the '549 Accused Instrumentalities. By providing instruction and training to customers and other third parties on how to use the '549 Accused Instrumentalities in an infringing manner, Apple specifically intended to induce infringement of the '549 Patent, including at least exemplary claim 1. Apple accordingly has induced and continues to induce Apple customers and other users of the '549 Accused Instrumentalities in their ordinary and customary way to infringe the '549 Patent, knowing, or at least being willful blind to the fact, that such use constitutes infringement of the

'549 Patent.

62. VoIP-Pal has been and continues to be damaged by Apple's infringement of the '549 Patent.

63. Apple's conduct in infringing the '549 Patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

**PRAYER FOR RELIEF**

WHEREFORE, VoIP-Pal respectfully requests that this Court enter judgment against Apple as follows:

A. That Apple has infringed the Patents-In-Suit;

B. That VoIP-Pal be awarded damages adequate to compensate VoIP-Pal for Apple's past infringement and any continuing and future infringement up until the date such judgment is entered, including pre- and post-judgment interests, costs, disbursements as justified under 35 U.S.C. § 284;

C. That any award of damages be enhanced under 35 U.S.C. § 284 as a result of Apple's willful infringement;

D. That this case be declared an exceptional case within the meaning of 35 U.S.C. § 285 and that VoIP-Pal be awarded reasonable attorney fees;

E. A judgment requiring that VoIP-Pal be awarded a compulsory ongoing licensing fee or reasonable royalty; and

F. That VoIP-Pal be awarded such other and further relief at law or equity as this Court deems just and proper.

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ALVERSON, TAYLOR, MORTENSEN & SANDERS
LAWYERS
6605 GRAND MONTECITO PKWY, STE. 200
LAS VEGAS, NEVADA 89149
(702) 384-7000

**DEMAND FOR JURY TRIAL**

Plaintiff VoIP-Pal demands a trial by jury on all claims and issues so triable.

DATED this 24th day of May, 2018.

ALVERSON, TAYLOR,
MORTENSEN & SANDERS

/s/ Kurt R. Bonds

KURT R. BONDS, ESQ.
Nevada Bar No. 6228
ADAM R. KNECHT, ESQ.
Nevada Bar No. 13166
6605 Grand Montecito Parkway
Suite 200
Las Vegas, Nevada 89149

*Attorneys for Plaintiff*
*VoIP-Pal.com, Inc.*

Of Counsel:

MALEK MOSS PLLC
KEVIN N. MALEK, ESQ. )
340 Madison Avenue, FL 19
New York, New York 10173
(212) 812-1491
kevin.malek@malekmoss.com