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15 Attorneys for Plaintiff MobileExp, LLC

16 IN THE UNITED STATES DISTRICT COURT
17 FOR THE CENTRAL DISTRICT OF CALIFORNIA

18 MOBILEEXP, LLC,
19 Plaintiff,
20 v.
21 XHE, INC.,
22 Defendant.

Case No.: 2:18-cv-06863
COMPLAINT FOR
PATENT INFRINGEMENT
DEMAND FOR JURY TRIAL

PARTIES

1
2 4. Plaintiff MobileExp, LLC is a Texas limited liability company, having a
3 principal place of business of 1708 Harrington Dr., Plano, TX 75075.
4

5 5. Upon information and belief, Defendant Xhe, Inc., is a corporation
6 organized and existing under the laws of the State of Delaware, with its
7 principal place of business located at 4300 Jefferson Blvd #2 Los Angeles, CA
8 90016. Defendant may be served via its registered agent for service of
9 process: The Company Corporation, 251 Little Falls Drive, Wilmington, DE
10 19808.
11
12

13 BACKGROUND OF U.S. PATENT NO. 8,879,246
14

15 6. Plaintiff is the owner by assignment of United States Patent No.
16 8,879,246 (“the ‘246 Patent”) titled “Peripheral Data Storage Device.” The ‘246
17 Patent issued on November 4, 2014. A true and correct copy of the ‘246
18 Patent is attached as Exhibit A.
19

20 7. James T. Fahey and Michael Page McGirr are listed as the inventors of
21 the ‘246 Patent.
22

23 8. Among other things, Apple, Inc., manufactures smartphones such as the
24 various iPhone models. Unlike a number of its competitors, Apple intentionally
25 manufactures devices without the expansion slots to add additional memory to
26
27
28

1 its devices. For example, the iPhone 8 and iPhone 8 plus model comes in only
2 two memory capacity options.
3

4
5 **Finish**



13 Gold, Silver, Space Gray, (PRODUCT)RED™



14 Gold, Silver, Space Gray, (PRODUCT)RED™

15
16 **Capacity¹**

17 64GB
256GB

18 64GB
256GB

19 <https://www.apple.com/iphone-8/specs/>

20 9. The difference in price between the 64GB and 256GB models are
21 typically \$150.00.
22
23
24
25
26
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28

Now choose your capacity.



<https://www.apple.com/shop/buy-iphone/iphone-8#00,20,30>

10. Given the actual cost of flash memory, the '246 Patent disclosed an invention for an accessory increase the memory capacity of the iPhone while supporting the device without the high cost.

11. Apple, to its credit, provides developer creating accessories for the iPhone with the iOS Software Development Kit ("iOS SDK"). "The SDK is a free download for users of Mac personal computers. It is not available for Microsoft Windows PCs. The SDK contains sets giving developers access to various functions and services of iOS devices, such as hardware and software attributes. It also contains an iPhone simulator to mimic the look and feel of the device on the computer while developing. New versions of the SDK accompany new versions of iOS. In order to test applications, get technical support, and distribute apps through App Store, developers are required to subscribe to the Apple Developer Program. Combined with Xcode, the iOS SDK helps developers write iOS apps using officially supported programming

1 languages, including Swift and Objective-C. Other companies have also
2 created tools that allow for the development of native iOS apps using their
3 respective programming languages.” see
4 https://en.wikipedia.org/wiki/iOS_SDK.
5

6
7 12. As taught by the patent, a developer using the standard iOS SDK is able
8 to create an iPhone accessory capable of interacting with iOS to expand the
9 capacity of the iPhone.

10
11 13. On August 7, 2017, Plaintiff sent a licensing offer letter to Defendant via
12 email and first-class mail. Attached hereto as Exhibit B. Plaintiff’s letter
13 informed Defendant that Plaintiff was seeking market compliance with its
14 patent portfolio and gave Defendant the option to either contact Plaintiff to
15 discuss licensing or face the possibility of a suit of patent infringement.
16 Defendant failed to respond to Plaintiff’s letter in any way.
17

18
19 COUNT I
20 INFRINGEMENT OF U.S. PATENT NO. 8,879,246

21 14. Upon information and belief, to the extent any marking was required by
22 35 U.S.C. § 287, predecessors in interest to the ’246 Patent complied with
23 such requirements.
24

25 15. Defendant directly or through intermediaries, makes, uses, offers to sell,
26 or sells peripheral storage devices which infringe the ’246 Patent, shown in
27 Exhibit C.
28

1 16. Upon information and belief, Defendant has been and is now infringing
2 claims 1, 2, 6, and 9 of the '246 Patent in the State of Delaware, in this judicial
3 district, and elsewhere in the United States, by, among other things, directly or
4 through intermediaries, making, using, selling, and/or offering for sale
5 peripheral data storage devices, *i.e.*, the Ultimate ZEE Core Smart Case for
6 various iPhone models (the "Accused Instrumentalities"), covered by one or
7 more claims of the '246 Patent to the injury of Plaintiff. Defendant is directly
8 infringing, literally infringing, and/or infringing the '246 Patent under the
9 doctrine of equivalents. Defendant is thus liable for direct infringement of the
10 '246 Patent pursuant to 35 U.S.C. § 271(a).
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15 17. The Accused Instrumentalities infringe claim 1 of the '246 Patent. They
16 are peripheral storage device for a computing device having a 8 pin connector,
17 said peripheral storage device comprising: (a) an encasement for electronic
18 circuits, (b) a system of electronic circuits mounted inside said encasement, (c)
19 a device software means inside said system of electronic circuits for
20 transmitting and receiving data to and from said computing device, said
21 computing device including a host software means for transmitting and
22 receiving data to and from said system of electronic circuits, and (d) said
23 encasement having a vertical rear wall and a horizontal base attached to said
24 vertical rear wall, wherein said horizontal base includes a 8 pin connector to
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1 mate with said connector of said computing device, whereby said peripheral
2 storage device provides said computing device with direct access to additional
3 incremental storage beyond that built in said computing device. See Ex. C,
4 Figs. 1-6.
5

6
7 18. The Accused Instrumentalities infringes claim 2 of the '246 Patent. They
8 include a pass through connector for connection for connecting with a charger,
9 *i.e.*, it includes a lightening charging port. See Ex. C, Figs. 1-6.
10

11 19. The Accused Instrumentalities infringe claim 6 of the '246 Patent. They
12 further include an encasement with an eight pin dock connector for
13 transmission and reception of data to and from the computing device directly.
14 See Ex. C, Figs. 1-6.
15

16 20. The Accused Instrumentalities infringe claim 9 of the '246 Patent. They
17 operate in conjunction with a computing device in the form of an Apple iPhone.
18 See Ex. C, Figs. 1-6.
19

20 21. As a result of Defendant's infringement of the '246 Patent, Plaintiff has
21 suffered monetary damages and is entitled to a money judgment in an amount
22 adequate to compensate for Defendant's infringement, but in no event less
23 than a reasonable royalty for the use made of the invention by Defendant,
24 together with interest and costs as fixed by the Court, and Plaintiff will continue
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1 to suffer damages in the future unless Defendant's infringing activities are
2 enjoined by this Court.

3
4 22. Unless a permanent injunction is issued enjoining Defendant and its
5 agents, servants, employees, representatives, affiliates, and all others acting
6 on in active concert therewith from infringing the '246 Patent, Plaintiff will be
7 greatly and irreparably harmed.
8

9
10 COUNT II
11 WILLFUL INFRINGEMENT

12 23. Defendant has willfully infringed the '246 Patent, in connection with the
13 Accused Instrumentalities.

14 24. Defendant's conduct in making, using, selling, offering to sell and/or
15 importing the Accused Instrumentalities directly infringes multiple claims of the
16 '246 Patent pursuant to 35 U.S.C. § 271(a).
17

18 25. Defendant had knowledge of the '246 Patent and of the fact that the
19 Accused Instrumentalities were made or adapted for use in infringement of the
20 '246 Patent.
21

22 26. Defendant had knowledge of the '246 Patent prior to this lawsuit.
23 Defendant failed to provide any material, description, reasoning, or evidence of
24 non-infringement or invalidity of the '246 Patent. Defendant continued using
25 the Accused Instrumentalities regardless of its knowledge of infringement.
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1 Accordingly, Defendant's infringement is and has been willful, wanton,
2 malicious, bad-faith, deliberate, consciously wrongful, and fragrant. Thus,
3
4 Plaintiff sues for willful infringement of the '246 Patent.

5 27. As a result of Defendant's willful infringement of the '246 Patent, Plaintiff
6 has suffered monetary damages and is entitled to a money judgment in an
7 amount three times the compensatory damages, in accordance with 35 U.S.C.
8 § 284.
9

10 PRAYER FOR RELIEF

11
12 WHEREFORE, Plaintiff respectfully requests that this Court enter:

13 1. a judgment in favor of Plaintiff that Defendant has infringed the
14 '246 Patent;

15
16 2. a judgment that Defendant's infringement was willful and ordering
17 Defendant to pay Plaintiff increased damages of three times the compensatory
18 damages, in accordance with 35 U.S.C. § 284;

19
20 3. a permanent injunction enjoining Defendant and its officers,
21 directors, agents, servants, affiliates, employees, divisions, branches,
22 subsidiaries, parents, and all others acting in active concert therewith from
23 infringement, inducing the infringement of, or contributing to the infringement of
24 the '246 Patent, or such other equitable relief the Court determines is
25 warranted;
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4. a judgment and order requiring Defendant pay to Plaintiff its damages, costs, expenses, and prejudgment and post-judgment interest for Defendant's infringement of the '246 Patent as provided under 35 U.S.C. § 284, and an accounting of ongoing post-judgment infringement; and

5. any and all other relief, at law or equity, to which Plaintiff may show itself to be entitled.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Dated: August 9, 2018

/s/ Kris LeFan
By: _____
Kris S. LeFan
Attorney for Plaintiff
MOBILEEXP, LLC