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15 UNITED STATES DISTRICT COURT  
16 NORTHERN DISTRICT OF CALIFORNIA  
17

18 APPLE INC.,  
19 Plaintiff,  
20 v.  
21 FUNDAMENTAL INNOVATION  
22 SYSTEMS INTERNATIONAL LLC; and  
23 FUNDAMENTAL INNOVATION  
24 SYSTEMS INTERNATIONAL  
25 HOLDINGS LLC,  
26 Defendants.

CASE NO. 5:19-cv-638

**COMPLAINT FOR DECLARATORY  
JUDGMENT OF NONINFRINGEMENT**

**DEMAND FOR JURY TRIAL**

26 Plaintiff Apple Inc. (“Apple”) files this Complaint for Declaratory Judgment of  
27 Noninfringement against Defendants Fundamental Innovation Systems International LLC

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1 (“FISI”) and Fundamental Innovation Systems International Holdings LLC (“FISI Holdings”)  
2 (collectively “Defendants”), and in support of its Complaint alleges as follows:

3 **NATURE OF THE ACTION**

4 1. This is an action for a declaratory judgment of noninfringement arising under the  
5 patent laws of the United States, Title 35 of the United States Code.

6 2. Apple is a leading designer and manufacturer of mobile communication devices,  
7 personal computers and portable digital media players. As a result of its significant investment in  
8 research and development, Apple has developed innovative technologies that have changed the  
9 face of the computing and telecommunications industries for four decades.

10 3. Apple’s many pioneering and revolutionary products spanning its history include  
11 the Macintosh PC (first released in 1984), PowerBook (first released in 1991), Newton (first  
12 released in 1993), PowerMac (first released in 1994), iMac (first released in 1998), iPod (first  
13 released in 2001), iTunes Store (opened in 2003), MacBook (first released in 2006), iPhone and  
14 Apple TV (first released in 2007), Apple App Store (opened in 2008), Siri (first released 2010),  
15 iPad (first released in 2010), Apple Watch (first released in 2015), and AirPods (first released in  
16 2016). These may be the products and platforms that consumers most frequently associate with  
17 Apple’s consistent innovation, but Apple has also been a pioneer in development of proprietary  
18 data and power connector technology, such as its 30-pin data and power connector (first released  
19 in 2003) and Lightning® data and power connector (first released in 2012).

20 4. The United States Patent & Trademark Office has awarded Apple thousands of  
21 patents protecting the technological inventions underlying Apple’s groundbreaking products and  
22 services, including on Apple’s proprietary Lightning® connector technology. Many well-known  
23 functionalities and features of Apple’s products were made possible with the inventions of Apple  
24 engineers.

25 5. Defendants, on the other hand, are patent assertion entities formed for the sole  
26 purpose of generating revenue by asserting patents against other companies’ products.  
27 Defendants’ prior actions and statements have created a substantial controversy of sufficient  
28 immediacy and reality to warrant the issuance of a declaratory judgment of noninfringement as to

1 whether Apple products practice United States Patent Nos. 6,936,936 (“the ’936 patent”);  
2 7,239,111 (“the ’111 patent”); 7,453,233 (“the ’233 patent”); 7,812,565 (“the ’565 patent”);  
3 8,193,776 (“the ’776 patent”); 8,330,422 (“the ’422 patent”); 8,624,550 (“the ’550 patent”)  
4 (collectively “the Adapter Patents”) and 7,358,703 (“the ’703 patent”); 7,737,657 (“the ’657  
5 patent”); 7,834,586 (“the ’586 patent”); 8,169,187 (“the ’187 patent”); and 8,232,766 (“the ’766  
6 patent”) (collectively “the Device Patents”) (Apple refers to the Adapter Patents and Device  
7 Patents collectively as the “Patents-in-Suit”).

8 6. Defendants have claimed, through letters, claim charts, telephone calls and in-  
9 person meetings with Apple personnel in this District, that certain Apple products infringe the  
10 Patents-in-Suit and that Apple requires a license to the Patents-in-Suit. However, Apple’s  
11 products do not infringe the Patents-in-Suit, as detailed in the allegations below.

12 7. This Court should not allow the threat of a future lawsuit to harm and cause  
13 uncertainty to Apple’s business.

14 8. Therefore, there is and remains a substantial controversy between Apple and  
15 Defendants of sufficient immediacy and reality to warrant the issuance of a declaratory judgment  
16 of noninfringement. Therefore, Apple brings this action to obtain a declaratory judgment that  
17 Apple’s Adapter Products (including the Apple 2.4A Adapter), Lightning Products (including the  
18 Apple iPhone 7 Plus and 8 Plus, iPad Pro 4, iPod touch, AirPods, and Beats Pill+ Portable  
19 Speaker) and Apple Watch Products (including Apple Watch Series 2 and 3) (collectively “the  
20 Accused Products”) do not infringe at least the claims of the Patents-in-Suit identified below,  
21 directly or indirectly, literally or under the doctrine of equivalents.

## 22 **THE PARTIES**

23 9. Plaintiff Apple is a California corporation having its principal place of business at  
24 One Apple Park Way, Cupertino, California 95014. Apple has over 20,000 employees who work  
25 in or near its headquarters in Cupertino, California.

26 10. On information and belief, Defendant FISI is a company organized and existing  
27 under the laws of Delaware with a principal place of business at 2990 Long Prairie Road, Suite B,  
28 Flower Mound, Texas 75022.

1 11. On information and belief, Defendant FISI Holdings is also a company organized  
2 and existing under the laws of Delaware and is the parent company of Defendant FISI.

3 **JURISDICTION AND VENUE**

4 12. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§  
5 1331 and 1338(a) because this action involves claims arising under the patent laws of the United  
6 States, 35 U.S.C. § 1, *et seq.*, and under the Federal Declaratory Judgment Act, 28 U.S.C. §§  
7 2201 and 2202.

8 13. Personal jurisdiction and venue are proper in this Court pursuant to 28 U.S.C. §§  
9 1391(b), 1391(c) and/or 1400, because, on information and belief, Defendants have directed and  
10 continue to direct acts to this District, including acts pertaining to the Patents-in-Suit. For  
11 example, in connection with Defendants' business, Defendants have targeted and met with  
12 companies located in this District, including Apple. For these reasons and for those stated below,  
13 Defendants have, and have had, continuous and systematic contacts within the State of California,  
14 including this District, and have purposefully directed business activities into and in this District.  
15 In addition, a substantial part of the events giving rise to the claims alleged in this Complaint  
16 occurred in this District, and Defendants are subject to personal jurisdiction in this District.

17 14. On information and belief, Defendant FISI is a wholly owned subsidiary of  
18 Defendant FISI Holdings, and Defendant FISI purports to be the owner of all rights, title and  
19 interest in and to the Patents-in-Suit. Defendants have made statements in this District alleging  
20 that Apple's Accused Products infringe the Patents-in-Suit, including through claim charts  
21 directed to Apple in this District, and that Apple requires a license to Defendants' patent  
22 portfolio, including the Patents-in-Suit (both of which Apple disputes). Furthermore, on  
23 information and belief, Defendants have demonstrated a pattern of conduct with other companies  
24 and engage in efforts to monetize their intellectual property. On information and belief,  
25 Defendants have demonstrated on multiple occasions a willingness to file suit through their  
26 initiation of multiple lawsuits against companies similarly situated to Apple, including multiple  
27 lawsuits involving one or more of the Patents-in-Suit.

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1 15. This Court has personal jurisdiction over Defendants and venue is proper in this  
2 District. Defendants have purposefully availed themselves of the benefits of California law and  
3 have more than sufficient minimum contacts with California, including within this District, such  
4 that this declaratory judgment action meets the requirements of California’s long-arm statute.

5 16. For instance, Apple resides in this District and Defendants have alleged that Apple  
6 has committed acts of infringement in this District related to the Patents-in-Suit and the Apple  
7 Accused Products. This District is also the most convenient District for the present declaratory  
8 judgment claims because, among other things, witnesses and evidence concerning the Apple  
9 Accused Products are located in this District.

10 17. As another example, Defendants’ representatives have met with Apple in person  
11 within this District to discuss Defendants’ allegations of infringement pertaining to the Patents-in-  
12 Suit and the Apple Accused Products on at least two occasions on or about August 28, 2018 and  
13 November 9, 2018. Furthermore, Defendants have sent a number of letters and claim charts  
14 addressed to Apple personnel in this District alleging infringement of the Patents-in-Suit and  
15 Apple’s alleged need for a license to FISI’s patent portfolio, including the Patents-in-Suit.

16 18. For these reasons and the reasons set forth below, a substantial controversy exists  
17 between the parties which is of sufficient immediacy and reality to warrant declaratory relief.

18 **INTRADISTRICT ASSIGNMENT**

19 19. For purposes of intra-district assignment under Civil Local Rules 3-2(c) and 3-  
20 5(b), this intellectual property action will be assigned on a district-wide basis.

21 **FACTUAL BACKGROUND**

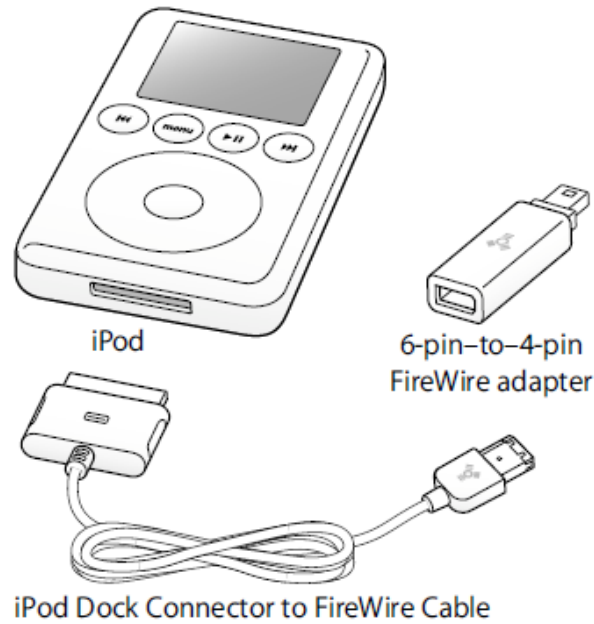
22 **A. Apple Is An Innovator In Data And Power Connector Technology.**

23 20. Apple is an innovator in data and power connector technology. For example, in  
24 2003, Apple released its proprietary 30-pin connector, allowing users to easily connect their iPods  
25 (and later iPhones and iPads) to a multitude of other devices for both power and data transfer  
26 purposes. See iPod (with Dock Connector) – User Guide, available at  
27 [https://support.apple.com/en\\_US/manuals/ipod:](https://support.apple.com/en_US/manuals/ipod:)

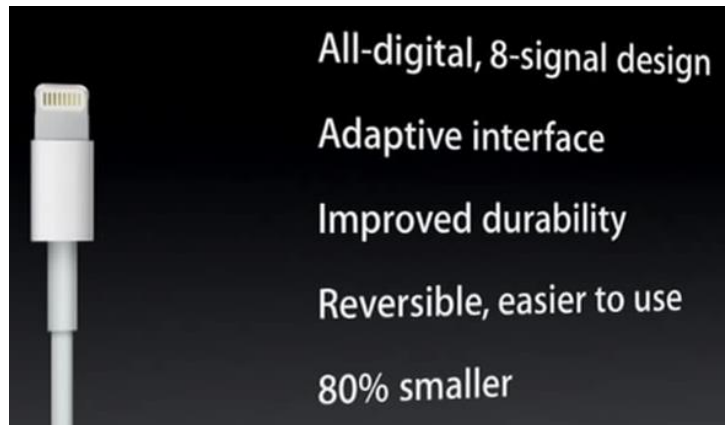
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Your iPod includes the following components:



21. In 2012, Apple yet again innovated in the data and power connector technology space with the release of its proprietary 8-pin digital Lightning® connector that succeeded the 30-pin connector. The Lightning® connector is 80 percent smaller than the 30-pin connector, is more durable, with an adaptive interface, and can be inserted into the Apple device with either side of the connector facing up—increasing ease of use for the user. See Apple Special Event, September 12, 2012, available at <https://itunes.apple.com/us/podcast/apple-keynotes-1080p/id509310064?mt=2#>:



1 **B. FISI Has Aggressively Licensed And Litigated Its Patents.**

2 22. FISI has an extensive history of litigating its patents, including the Patents-in-Suit.  
3 On information and belief, since 2016, FISI has asserted 10 patents in at least four patent  
4 infringement suits, including several of the Patents-in-Suit. FISI has kept Apple regularly  
5 updated as to the status of FISI's litigation and settlement efforts with the defendants in these  
6 other lawsuits.

7 23. On information and belief, in 2016, FISI asserted patents in litigation against LG  
8 Electronics, Inc., LG Electronics U.S.A., Inc., LG Electronics MobileComm U.S.A. Inc., LG  
9 Electronics Mobile Research U.S.A. LLC, and LG Electronics Alabama, Inc. FISI's complaint  
10 included infringement allegations regarding the '111, '550, '586, and '766 patents.

11 24. On information and belief, in 2016, FISI asserted patents in litigation against  
12 Huawei Investment & Holding Co., Ltd., Huawei Technologies Co., Ltd., Huawei Device USA,  
13 Inc., and Futurewei Technologies, Inc. FISI's complaint included infringement allegations  
14 regarding the '111, '550, '586, and '766 patents.

15 25. On information and belief, in 2017, FISI asserted patents in litigation against ZTE  
16 Corporation, ZTE (USA), Inc., and ZTE (TX), Inc. FISI's complaint included infringement  
17 allegations regarding the '111, '550, '586, and '766 patents.

18 26. On information and belief, in 2017, FISI asserted patents in litigation against  
19 Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. FISI's complaint included  
20 infringement allegations regarding the '936, '111, '550, '586, and '766 patents.

21 27. On information and belief, FISI's history of asserting patents in litigation against  
22 companies with competitive product offerings to Apple establishes a substantial controversy of  
23 sufficient immediacy and reality to warrant the issuance of a declaratory judgment as to whether  
24 Apple's Accused Products practice the Patents-in-Suit. Moreover, FISI's direct allegations that  
25 Apple's Accused Products practice the Patents-in-Suit and that Apple allegedly requires a license  
26 to the Patents-in-Suit establishes a substantial controversy of sufficient immediacy and reality to  
27 warrant the issuance of a declaratory judgment of noninfringement.

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**THE PATENTS-IN-SUIT**

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2 28. On August 30, 2005, the United States Patent and Trademark Office (the “Patent  
3 Office”) issued the ’936 patent, entitled “Multifunctional charger system and method” to Daniel  
4 M. Fischer, Dan G. Radut, Michael F. Habicher, Quang A. Luong, and Jonathan T. Malton. A  
5 true and correct copy of the ’936 patent is attached to this Complaint as Exhibit 1. On  
6 information and belief, FISU purports to own by assignment the ’936 patent.

7 29. On July 3, 2007, the Patent Office issued the ’111 patent, entitled “Universal serial  
8 bus adapter for a mobile device” to Daniel M. Fischer, Dan G. Radut, Michael F. Habicher,  
9 Quang A. Luong, and Jonathan T. Malton. A true and correct copy of the ’111 patent is attached  
10 to this Complaint as Exhibit 2. On information and belief, FISU purports to own by assignment  
11 the ’111 patent.

12 30. On April 15, 2008, the Patent Office issued the ’703 patent, entitled “Universal  
13 serial bus charger for a mobile device” to Dusan Veselic. A true and correct copy of the ’703  
14 patent is attached to this Complaint as Exhibit 3. On information and belief, FISU purports to own  
15 by assignment the ’703 patent.

16 31. On November 18, 2008, the Patent Office issued the ’233 patent, entitled “Adapter  
17 system and method for powering a device” to Daniel M. Fischer, Dan G. Radut, Michael F.  
18 Habicher, Quang A. Luong, and Jonathan T. Malton. A true and correct copy of the ’233 patent  
19 is attached to this Complaint as Exhibit 4. On information and belief, FISU purports to own by  
20 assignment the ’233 patent.

21 32. On June 15, 2010, the Patent Office issued the ’657 patent, entitled “System and  
22 method for charging a battery in a mobile device” to Daniel M. Fischer, Dan G. Radut, Michael  
23 F. Habicher, Quang A. Luong, and Jonathan T. Malton. A true and correct copy of the ’657  
24 patent is attached to this Complaint as Exhibit 5. On information and belief, FISU purports to own  
25 by assignment the ’657 patent.

26 33. On October 12, 2010, the Patent Office issued the ’565 patent, entitled “Charger  
27 system and method” to Ryan M. Bayne, Skarine Alexei, and Steve Green. A true and correct

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1 copy of the '565 patent is attached to this Complaint as Exhibit 6. On information and belief,  
2 FISI purports to own by assignment the '565 patent.

3 34. On November 16, 2010, the Patent Office issued the '586 patent, entitled  
4 "Multifunctional charger system and method" to Daniel M. Fischer, Dan G. Radut, Michael F.  
5 Habicher, Quang A. Luong, and Jonathan T. Malton. A true and correct copy of the '586 patent  
6 is attached to this Complaint as Exhibit 7. On information and belief, FISI purports to own by  
7 assignment the '586 patent.

8 35. On May 1, 2012, the Patent Office issued the '187 patent, entitled "Multifunctional  
9 charger system and method" to Daniel M. Fischer, Dan G. Radut, Michael F. Habicher, Quang A.  
10 Luong, and Jonathan T. Malton. A true and correct copy of the '187 patent is attached to this  
11 Complaint as Exhibit 8. On information and belief, FISI purports to own by assignment the '187  
12 patent.

13 36. On June 5, 2012, the Patent Office issued the '776 patent, entitled "Charger system  
14 and method" to Ryan M. Bayne, Skarine Alexei, and Steven R. Green. A true and correct copy of  
15 the '776 patent is attached to this Complaint as Exhibit 9. On information and belief, FISI  
16 purports to own by assignment the '776 patent.

17 37. On July 31, 2012, the Patent Office issued the '766 patent, entitled  
18 "Multifunctional charger system and method" to Daniel M. Fischer, Dan G. Radut, Michael F.  
19 Habicher, Quang A. Luong, and Jonathan T. Malton. A true and correct copy of the '766 patent  
20 is attached to this Complaint as Exhibit 10. On information and belief, FISI purports to own by  
21 assignment the '766 patent.

22 38. On December 11, 2012, the Patent Office issued the '422 patent, entitled "Charger  
23 system and method" to Ryan M. Bayne, Alexei Skarine, and Steven R. Green. A true and correct  
24 copy of the '422 patent is attached to this Complaint as Exhibit 11. On information and belief,  
25 FISI purports to own by assignment the '422 patent.

26 39. On January 7, 2014, the Patent Office issued the '550 patent, entitled  
27 "Multifunctional charger system and method" to Daniel M. Fischer, Dan G. Radut, Michael F.  
28 Habicher, Quang A. Luong, and Jonathan T. Malton. A true and correct copy of the '550 patent

1 is attached to this Complaint as Exhibit 12. On information and belief, FISU purports to own by  
2 assignment the '550 patent.

3 **COUNT ONE**

4 **Noninfringement of United States Patent No. 6,936,936**

5 40. Apple incorporates by reference the preceding allegations of its Complaint.

6 41. Apple has not infringed and does not infringe at least claims 18 and 51 of the '936  
7 patent, either directly or indirectly, literally or under the doctrine of equivalents, including  
8 through its making, use, sale or offer for sale in, or importation into the United States of the  
9 Apple Adapter Products, such as the Apple 2.4A Adapter.

10 42. The claims of the '936 patent are directed to a Universal Serial Bus ("USB")  
11 Specification Revision 2.0 ("USB 2.0") adapter providing an identification signal on one or more  
12 data lines of a primary USB 2.0 connector. *See, e.g.*, '936 patent at 12:44-60, 15:38-55. In  
13 contrast, the Apple Adapter Products do not comprise a USB 2.0 adapter with data lines of a USB  
14 2.0 connector, do not communicate using USB 2.0 compliant protocols, and do not transfer data.  
15 The Apple Adapter Products do not include a USB connector and circuitry compliant with USB  
16 2.0 protocols and specifications; consequently, the connector does not include data lines capable  
17 of transferring data within the meaning of USB 2.0.

18 43. The claims of the '936 patent further require that the identification signal  
19 comprises a voltage level on at least one of the data lines in the primary USB connector. *See,*  
20 *e.g., id.* at 13:14-16. In contrast, the Apple Adapter Products do not comprise a connector with  
21 USB 2.0 data lines because the Apple Adapter Products are not capable of data transfer within the  
22 meaning of USB 2.0 protocols and specifications.

23 44. The claims of the '936 patent also require that the identification signal, via the  
24 identification subsystem and the USB connector, inform the mobile device that the USB adapter  
25 is not limited by power limits imposed by the USB specification. *See, e.g., id.* at 15:51-55. In  
26 contrast, as explained above, the Apple Adapter Products do not include the claimed  
27 identification system at least because they lack data lines and are not capable of data transfer  
28 within the meaning of USB 2.0 protocols and specifications.

1           45.     Accordingly, at least for the above reasons, the Apple Adapter Products do not  
2 infringe at least claims 18 and 51 of the '936 patent, either literally or under the doctrine of  
3 equivalents.

4           46.     Apple also does not induce infringement of the '936 patent or otherwise indirectly  
5 infringe the '936 patent for at least the reasons stated above and because there is no direct  
6 infringement of the '936 patent, either literally or under the doctrine of equivalents.

7           47.     As set forth above, an actual controversy exists between Apple and Defendants  
8 with respect to alleged infringement of the '936 patent, and this controversy is likely to continue.  
9 Accordingly, Apple desires a judicial determination and declaration of the respective rights and  
10 duties of the parties with respect to the '936 patent.

11          48.     A judicial declaration is necessary and appropriate so that Apple may ascertain its  
12 rights regarding the claims of the '936 patent.

## COUNT TWO

### Noninfringement of United States Patent No. 7,239,111

15          49.     Apple incorporates by reference the preceding allegations of its Complaint.

16          50.     Apple has not infringed and does not infringe at least claims 8 and 17 of the '111  
17 patent, either directly or indirectly, literally or under the doctrine of equivalents, including  
18 through its making, use, sale or offer for sale in, or importation into the United States of the  
19 Apple Adapter Products, such as the Apple 2.4A Adapter.

20          51.     The claims of the '111 patent are directed to a USB 2.0 adapter for providing  
21 power to a mobile device through a USB 2.0 port. *See, e.g.*, '111 patent at 11:60-61, 13:1-3. In  
22 contrast, the Apple Adapter Products do not comply with USB 2.0 protocols, but rather provide  
23 power to Apple Lightning Products over a proprietary port, *e.g.*, a Lightning® port. In addition,  
24 the claims of the '111 patent are directed to a USB 2.0 adapter that generates an identification  
25 signal that is configured to indicate to a mobile device that a power socket is not a USB host or  
26 hub. *See, e.g.*, '111 patent at 11:60-61, 12:2-4; 13:1-3, 7-9. In contrast, the Apple Adapter  
27 Products are not USB 2.0 adapters because they do not comply with USB 2.0 protocols and

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1 specifications, and they do not generate an identification signal configured to indicate that a  
2 power socket is not a USB 2.0 hub or host.

3 52. Furthermore, the claims of the '111 patent are directed to a USB 2.0 connector.  
4 *See, e.g., id.* at 12:5-8, 13:12-13. Claim 17 of the '111 patent further requires a USB 2.0  
5 connector with data pins. *See id.* at 13:10-11. In contrast, the Apple Adapter Products do not  
6 include a USB connector and circuitry compliant with USB 2.0 protocols and specifications;  
7 consequently, the connector does not include pins capable of transferring data within the meaning  
8 of USB 2.0.

9 53. Claim 8 of the '111 patent requires a USB controller. *See id.* at 12:33-36. In  
10 contrast, the Apple Adapter Products do not include a USB controller at least because the Apple  
11 Adapter Products are not configured to transfer data.

12 54. Accordingly, at least for the reasons recited above, the Apple Adapter Products do  
13 not infringe at least claims 8 and 17 of the '111 patent, either literally or under the doctrine of  
14 equivalents.

15 55. Apple also does not induce infringement of the '111 patent or otherwise indirectly  
16 infringe the '111 patent for at least the reasons stated above and because there is no direct  
17 infringement of the '111 patent, either literally or under the doctrine of equivalents.

18 56. As set forth above, an actual controversy exists between Apple and Defendants  
19 with respect to alleged infringement of the '111 patent, and this controversy is likely to continue.  
20 Accordingly, Apple desires a judicial determination and declaration of the respective rights and  
21 duties of the parties with respect to the '111 patent.

22 57. A judicial declaration is necessary and appropriate so that Apple may ascertain its  
23 rights regarding the claims of the '111 patent.

### 24 **COUNT THREE**

#### 25 **Noninfringement of United States Patent No. 7,358,703**

26 58. Apple incorporates by reference the preceding allegations of its Complaint.

27 59. Apple has not infringed and does not infringe at least claim 13 of the '703 patent,  
28 either directly or indirectly, literally or under the doctrine of equivalents, including through its

1 making, use, sale or offer for sale in, or importation into the United States of the Apple Lightning  
2 Products that may connect to an Apple adapter, such as the Apple iPad Pro 4 and iPhone 7 Plus  
3 products.

4 60. The claims of the '703 patent are directed to a mobile device with a USB port on  
5 the device. *See, e.g.*, '703 patent at 8:21-25. In contrast, the Apple Lightning Products include  
6 proprietary connectors, *e.g.*, the Lightning® connectors, which do not comprise a USB port. The  
7 claims also require determination of both a regulated voltage value and a maximum current value  
8 for the external device from waveform characteristics of a charger configuration signal. *See, e.g.*,  
9 *id.* at 8:27-29. In contrast, the Apple Lightning Products do not determine such values based on  
10 waveform characteristics of such a signal.

11 61. Accordingly, at least for the reasons recited above, the Apple Lightning Products  
12 do not infringe at least claim 13 of the '703 patent, either literally or under the doctrine of  
13 equivalents.

14 62. Apple also does not induce infringement of the '703 patent or otherwise indirectly  
15 infringe the '703 patent for at least the reasons stated above and because there is no direct  
16 infringement of the '703 patent, either literally or under the doctrine of equivalents.

17 63. As set forth above, an actual controversy exists between Apple and Defendants  
18 with respect to alleged infringement of the '703 patent, and this controversy is likely to continue.  
19 Accordingly, Apple desires a judicial determination and declaration of the respective rights and  
20 duties of the parties with respect to the '703 patent.

21 64. A judicial declaration is necessary and appropriate so that Apple may ascertain its  
22 rights regarding the claims of the '703 patent.

#### 23 **COUNT FOUR**

#### 24 **Noninfringement of United States Patent No. 7,453,233**

25 65. Apple incorporates by reference the preceding allegations of its Complaint.

26 66. Apple has not infringed and does not infringe at least claims 6 and 15 of the '233  
27 patent, either directly or indirectly, literally or under the doctrine of equivalents, including

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1 through its making, use, sale or offer for sale in, or importation into the United States of the  
2 Apple Adapter Products, such as the Apple 2.4A Adapter.

3 67. The claims of the '233 patent are directed to a USB 2.0 adapter for providing  
4 power through a USB 2.0 connector configured to send substantial energy through the USB 2.0  
5 connector before completing device enumeration. *See, e.g.*, '233 patent at 11:36-39, 48-50;  
6 12:39-42, 47-49. In contrast, the Apple Adapter Products do not comprise a USB 2.0 adapter for  
7 providing power through a USB 2.0 connector, and do not participate in device enumeration.

8 68. Claim 6 of the '233 patent also requires an identification signal on at least one data  
9 line in the USB 2.0 connector. *See, e.g., id.* at 12:5-7. In contrast, the Apple Adapter Products do  
10 not comprise a USB 2.0 connector with data lines for USB 2.0 compliant protocols. The Apple  
11 Adapter Products do not include a USB connector and circuitry compliant with USB 2.0 protocols  
12 and specifications; consequently, the connector does not include data lines capable of transferring  
13 data within the meaning of USB. 2.0.

14 69. Accordingly, at least for the reasons recited above, the Apple Adapter Products do  
15 not infringe at least claims 6 and 15 of the '233 patent, either literally or under the doctrine of  
16 equivalents.

17 70. Apple also does not induce infringement of the '233 patent or otherwise indirectly  
18 infringe the '233 patent for at least the reasons stated above and because there is no direct  
19 infringement of the '233 patent, either literally or under the doctrine of equivalents.

20 71. As set forth above, an actual controversy exists between Apple and Defendants  
21 with respect to alleged infringement of the '233 patent, and this controversy is likely to continue.  
22 Accordingly, Apple desires a judicial determination and declaration of the respective rights and  
23 duties of the parties with respect to the '233 patent.

24 72. A judicial declaration is necessary and appropriate so that Apple may ascertain its  
25 rights regarding the claims of the '233 patent.

## 26 **COUNT FIVE**

### 27 **Noninfringement of United States Patent No. 7,737,657**

28 73. Apple incorporates by reference the preceding allegations of its Complaint.

1           74. Apple has not infringed and does not infringe at least claim 2 of the '657 patent,  
2 either directly or indirectly, literally or under the doctrine of equivalents, including through its  
3 making, use, sale or offer for sale in, or importation into the United States of the Apple Lightning  
4 Products that may connect to an Apple adapter, such as the Apple Beats Pill+ Portable Speaker,  
5 iPod touch, iPad Pro 4 and iPhone 7 Plus and 8 Plus products.

6           75. Claim 2 of the '657 patent is directed to a mobile device with a USB 2.0 interface  
7 configured to allow reception of a USB 2.0 cable. *See, e.g.,* '657 patent at 11:35-38. In contrast,  
8 Apple Lightning Products include proprietary connectors, *e.g.,* the Lightning® connector, which  
9 do not comprise a USB 2.0 interface that allows reception of a USB 2.0 cable. Claim 2 also  
10 requires that a charging system be operably connected to the USB 2.0 interface. *See, e.g., id.* at  
11 11:39-40. In contrast, the Apple Lightning Products charge through a proprietary interface, not a  
12 USB 2.0 interface. Additionally, claim 2 requires the mobile device to refrain from transmitting  
13 over the data lines from the USB 2.0 interface. *See, e.g., id.* at 11:47-48. In contrast, the Apple  
14 Lightning Products do not include a USB 2.0 interface and do not refrain from transmitting over  
15 data line(s) of their proprietary connectors. Claim 2 also requires D+ and D- lines of a USB 2.0  
16 interface, where D+ and D- signals arriving at the USB interface, if any, are not responded to. In  
17 contrast, the Apple Lightning Products do not include a USB 2.0 interface and do respond to  
18 signals arriving on data line(s) of their proprietary connectors.

19           76. Accordingly, at least for the reasons recited above, the Apple Lightning Products  
20 do not infringe at least claim 2 of the '657 patent, either literally or under the doctrine of  
21 equivalents.

22           77. Apple also does not induce infringement of the '657 patent or otherwise indirectly  
23 infringe the '657 patent for at least the reasons stated above and because there is no direct  
24 infringement of the '657 patent, either literally or under the doctrine of equivalents.

25           78. As set forth above, an actual controversy exists between Apple and Defendants  
26 with respect to alleged infringement of the '657 patent, and this controversy is likely to continue.  
27 Accordingly, Apple desires a judicial determination and declaration of the respective rights and  
28 duties of the parties with respect to the '657 patent.



1 79. A judicial declaration is necessary and appropriate so that Apple may ascertain its  
2 rights regarding the claims of the '657 patent.

3 **COUNT SIX**

4 **Noninfringement of United States Patent No. 7,812,565**

5 80. Apple incorporates by reference the preceding allegations of its Complaint.

6 81. Apple has not infringed and does not infringe at least claims 1 and 5 of the '565  
7 patent, either directly or indirectly, literally or under the doctrine of equivalents, including  
8 through its making, use, sale or offer for sale in, or importation into the United States of the  
9 Apple Adapter Products, such as the Apple 2.4A Adapter.

10 82. The claims of the '565 patent are directed to a charger providing power through a  
11 USB 2.0 connector with data lines. *See, e.g.*, '565 patent at 11:52-53; 12:8-10. In contrast, the  
12 Apple Adapter Products do not comprise a USB 2.0 connector with data lines, do not  
13 communicate using USB 2.0 compliant protocols, and do not transfer data within the meaning of  
14 the USB 2.0 protocols and specifications. The Apple Adapter Products do not include a USB 2.0  
15 connector and circuitry compliant with USB 2.0 protocols and specifications; consequently, the  
16 connector does not include data lines capable of transferring data within the meaning of USB 2.0.

17 83. Claim 1 of the '565 patent also requires a charging controller configured to control  
18 an amount of power provided at the USB 2.0 connector, and configured to generate an  
19 identification signal on the USB 2.0 connector's two data lines. *See, e.g., id.* at 11:59-60. In  
20 contrast, the Apple Adapter Products do not have the claimed charging controller at least because  
21 they lack a USB 2.0 connector, and at least because no such controller generates an identification  
22 signal on a USB 2.0 connector's two data lines. In addition, the claims require generation of the  
23 identification signal on the USB 2.0 connector's two data lines, usable to indicate the charger is  
24 not subject to standard USB 2.0 power limitations and provided through the use of a resistance  
25 between D+ and D- data lines. *See, e.g., id.* at 11:62-65; 12:17-21. In contrast, as explained  
26 above, the Apple Adapter Products do not generate the claimed identification signal at least  
27 because they lack data lines and also because no such identification signal is provided through the  
28 use of a resistance between D+ and D- lines.

1 84. Accordingly, at least for the reasons recited above, the Apple Adapter Products do  
2 not infringe at least claims 1 and 5 of the '565 patent, either literally or under the doctrine of  
3 equivalents.

4 85. Apple also does not induce infringement of the '565 patent or otherwise indirectly  
5 infringe the '565 patent for at least the reasons stated above and because there is no direct  
6 infringement of the '565 patent, either literally or under the doctrine of equivalents.

7 86. As set forth above, an actual controversy exists between Apple and Defendants  
8 with respect to alleged infringement of the '565 patent, and this controversy is likely to continue.  
9 Accordingly, Apple desires a judicial determination and declaration of the respective rights and  
10 duties of the parties with respect to the '565 patent.

11 87. A judicial declaration is necessary and appropriate so that Apple may ascertain its  
12 rights regarding the claims of the '565 patent.

13 **COUNT SEVEN**

14 **Noninfringement of United States Patent No. 7,834,586**

15 88. Apple incorporates by reference the preceding allegations of its Complaint.

16 89. Apple has not infringed and does not infringe at least claims 2, 6, 9, and 12 of the  
17 '586 patent, either directly or indirectly, literally or under the doctrine of equivalents, including  
18 through its making, use, sale or offer for sale in, or importation into the United States of the  
19 Apple Lightning Products that may connect to an Apple adapter, such as the Apple Beats Pill+  
20 Portable Speaker, iPod touch, iPad Pro 4 and iPhone 7 Plus and 8 Plus products.

21 90. The claims of the '586 patent are directed to a mobile device with a USB 2.0  
22 interface configured to allow reception of a USB 2.0 cable. *See, e.g.*, '586 patent at 11:51-52. In  
23 contrast, the Apple Lightning Products include proprietary connectors, *e.g.*, the Lightning®  
24 connector, which do not comprise a USB interface that allows reception of a USB cable. The  
25 claims further require that a charging system be operably connected to the USB 2.0 interface.  
26 *See, e.g., id.* at 11:53-54. In contrast, the Apple Lightning Products charge through a proprietary  
27 interface, not a USB interface. Additionally, the claims require an identification signal  
28 comprising a voltage level applied to at least one data line in the USB connector. *See, e.g., id.* at

1 11:65-67. In contrast, the Apple Lightning Products do not include a USB connector at least for  
2 the reason that the Apple Lightning Products use proprietary connectors and communication  
3 protocols that differ from those specified by USB 2.0 protocols and specifications.

4 91. Accordingly, at least for the reasons recited above, the Apple Lightning Products  
5 do not infringe at least claims 2, 6, 9, and 12 of the '586 patent, either literally or under the  
6 doctrine of equivalents.

7 92. Apple also does not induce infringement of the '586 patent or otherwise indirectly  
8 infringe the '586 patent for at least the reasons stated above and because there is no direct  
9 infringement of the '586 patent, either literally or under the doctrine of equivalents.

10 93. As set forth above, an actual controversy exists between Apple and Defendants  
11 with respect to alleged infringement of the '586 patent, and this controversy is likely to continue.  
12 Accordingly, Apple desires a judicial determination and declaration of the respective rights and  
13 duties of the parties with respect to the '586 patent.

14 94. A judicial declaration is necessary and appropriate so that Apple may ascertain its  
15 rights regarding the claims of the '586 patent.

## 16 **COUNT EIGHT**

### 17 **Noninfringement of United States Patent No. 8,169,187**

18 95. Apple incorporates by reference the preceding allegations of its Complaint.

19 96. Apple has not infringed and does not infringe at least claims 6 and 15 of the '187  
20 patent, either directly or indirectly, literally or under the doctrine of equivalents, including  
21 through its making, use, sale or offer for sale in, or importation into the United States of the  
22 Apple Lightning Products and Apple Watch Products that may connect to an Apple adapter, such  
23 as the Apple Beats Pill+ Portable Speaker, iPod touch, iPad Pro 4, iPhone 7 Plus and 8 Plus,  
24 AirPods, and Apple Watch Series 2 and Series 3.

25 97. The claims of the '187 patent are directed to a mobile communication device with  
26 a USB 2.0 communication path. *See, e.g.*, '187 patent at 12:7-8; 12:31-32. In contrast, the Apple  
27 Lightning Products and Apple Watch Products include proprietary connectors, *e.g.*, the  
28 Lightning® connector or magnetic charger, which do not comprise a USB 2.0 communication

1 path. The claims also require an abnormal data line condition on D+ and D- lines of a USB 2.0  
2 communication path. *See, e.g. id.* at 12:21-23; 12:45-47. In contrast, the Apple Lightning  
3 Products and Apple Watch Products do not include a USB 2.0 communication path with D+ and  
4 D- lines.

5 98. Accordingly, at least for the reasons recited above, the Apple Lightning Products  
6 and Apple Watch Products do not infringe at least claims 6 and 15 of the '187 patent, either  
7 literally or under the doctrine of equivalents.

8 99. Apple also does not induce infringement of the '187 patent or otherwise indirectly  
9 infringe the '187 patent for at least the reasons stated above and because there is no direct  
10 infringement of the '187 patent, either literally or under the doctrine of equivalents.

11 100. As set forth above, an actual controversy exists between Apple and Defendants  
12 with respect to alleged infringement of the '187 patent and this controversy is likely to continue.  
13 Accordingly, Apple desires a judicial determination and declaration of the respective rights and  
14 duties of the parties with respect to the '187 patent.

15 101. A judicial declaration is necessary and appropriate so that Apple may ascertain its  
16 rights regarding the claims of the '187 patent.

### 17 **COUNT NINE**

#### 18 **Noninfringement of United States Patent No. 8,193,776**

19 102. Apple incorporates by reference the preceding allegations of its Complaint.

20 103. Apple has not infringed and does not infringe at least claims 15 and 17 of the '776  
21 patent, either directly or indirectly, literally or under the doctrine of equivalents, including  
22 through its making, use, sale or offer for sale in, or importation into the United States of the  
23 Apple Adapter Products, such as the Apple 2.4A Adapter.

24 104. The claims of the '776 patent are directed to a charger having a USB 2.0 connector  
25 with data lines. *See, e.g.,* '776 patent at 13:3-5, 14:1. In contrast, the Apple Adapter Products do  
26 not comprise a USB 2.0 connector with data lines, do not communicate using USB 2.0 compliant  
27 protocols and do not transfer data within the meaning of USB 2.0. The Apple Adapter Products  
28 do not include a USB 2.0 connector and circuitry compliant with USB 2.0 protocols and

1 specifications; consequently, the connector does not include data lines capable of transferring data  
2 within the meaning of USB 2.0.

3 105. The claims of the '776 patent also require an identification signal on the two data  
4 lines usable to indicate the charger is not subject to standard USB 2.0 power limitations. *See,*  
5 *e.g., id.* at 14:1-3. In contrast, the Apple Adapter Products do not provide the claimed  
6 identification signal at least because they lack data lines and are not capable of data transfer  
7 within the meaning of USB 2.0 protocols and specifications.

8 106. In addition, claim 17 of the '776 patent requires the data lines to use a resistance  
9 while being pulled into a high state. *See, e.g. id.* at 14:6-7. In contrast, the Apple Adapter  
10 Products do not use USB 2.0 data lines and do not have such data lines using the claimed  
11 resistance while being pulled into a high state.

12 107. Accordingly, at least for the reasons recited above, the Apple Adapter Products do  
13 not infringe at least claims 15 and 17 of the '776 patent, either literally or under the doctrine of  
14 equivalents.

15 108. Apple also does not induce infringement of the '776 patent or otherwise indirectly  
16 infringe the '776 patent for at least the reasons stated above and because there is no direct  
17 infringement of the '776 patent, either literally or under the doctrine of equivalents.

18 109. As set forth above, an actual controversy exists between Apple and Defendants  
19 with respect to alleged infringement of the '776 patent, and this controversy is likely to continue.  
20 Accordingly, Apple desires a judicial determination and declaration of the respective rights and  
21 duties of the parties with respect to the '776 patent.

22 110. A judicial declaration is necessary and appropriate so that Apple may ascertain its  
23 rights regarding the claims of the '776 patent.

## 24 COUNT TEN

### 25 Noninfringement of United States Patent No. 8,232,766

26 111. Apple incorporates by reference the preceding allegations of its Complaint.

27 112. Apple has not infringed and does not infringe at least claims 5 and 13 of the '766  
28 patent, either directly or indirectly, literally or under the doctrine of equivalents, including

1 through its making, use, sale or offer for sale in, or importation into the United States of the  
2 Apple Lightning Products and Apple Watch Products that may connect to an Apple adapter, such  
3 as the Apple Beats Pill+ Portable Speaker, iPod touch, iPad Pro 4, iPhone 7 Plus and 8 Plus,  
4 AirPods, and Apple Watch Series 2 and Series 3.

5 113. The claims of the '766 patent are directed to a mobile device with a USB 2.0  
6 communication path. *See, e.g.*, '766 patent at 12:15-16; 12:40-41. In contrast, the Apple  
7 Lightning Products include proprietary connectors, *e.g.*, the Lightning® connector, which does  
8 not comprise a USB 2.0 communication path because it does not comply with USB 2.0 protocols  
9 and specifications. The Apple Watch Products do not include a USB 2.0 communication path or  
10 another connector; rather, the Apple Watch Products rely on wireless communication protocols  
11 and wireless charging. Additionally, the claims require an abnormal USB 2.0 data condition on  
12 D+ and D- lines of a USB 2.0 communication path. *See, e.g. id.* at 12:30-32; 12:57-59. In  
13 contrast, the Apple Lightning Products and Apple Watch Products do not include a USB 2.0  
14 communication path with D+ and D- lines.

15 114. Accordingly, at least for the reasons recited above, the Apple Lightning Products  
16 and Apple Watch Products do not infringe at least claims 5 and 13 of the '766 patent, either  
17 literally or under the doctrine of equivalents.

18 115. Apple also does not induce infringement of the '766 patent or otherwise indirectly  
19 infringe the '766 patent for at least the reasons stated above and because there is no direct  
20 infringement of the '766 patent, either literally or under the doctrine of equivalents.

21 116. As set forth above, an actual controversy exists between Apple and Defendants  
22 with respect to alleged infringement of the '766 patent, and this controversy is likely to continue.  
23 Accordingly, Apple desires a judicial determination and declaration of the respective rights and  
24 duties of the parties with respect to the '766 patent.

25 117. A judicial declaration is necessary and appropriate so that Apple may ascertain its  
26 rights regarding the claims of the '766 patent.

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**COUNT ELEVEN****Noninfringement of United States Patent No. 8,330,422**

118. Apple incorporates by reference the preceding allegations of its Complaint.

119. Apple has not infringed and does not infringe at least claims 1, 6, and 11 of the '422 patent, either directly or indirectly, literally or under the doctrine of equivalents, including through its making, use, sale or offer for sale in, or importation into the United States of the Apple Adapter Products, such as the Apple 2.4A Adapter.

120. The claims of the '422 patent are directed to charging through a USB 2.0 interface or connector with data lines. *See, e.g.*, '422 patent Reexamination Certificate at 1:24-26, 32; 1:44-46; 1:62-65. In contrast, the Apple Adapter Products do not comprise a USB 2.0 connector with data lines, do not communicate using USB 2.0 compliant protocols, and do not transfer data within the meaning of USB 2.0. The Apple Adapter Products do not include a USB 2.0 connector and circuitry compliant with USB 2.0 protocols and specifications; consequently, the connector does not include data lines capable of transferring data within the meaning of USB 2.0.

121. Claim 1 of the '422 patent also requires a charging controller configured to control an amount of power output from the charger and to communicate an identification signal via the USB 2.0 interface's data lines. *See, e.g., id.* at 1:29-32. In contrast, the Apple Adapter Products do not have the claimed charging controller at least because they lack a USB 2.0 interface, and at least because no such controller generates an identification signal on a USB 2.0 interface's data lines. In addition, the claims require generation of the identification signal on USB 2.0 D+ and D- data lines, indicating the power output exceeds standard USB 2.0 power limits. *See, e.g., id.* at 1:35-39; 1:52-59; 2:5-7. In contrast, the Apple Adapter Products do not generate the claimed identification signal at least because they lack data lines, and because no such identification signal is provided to indicate the power output exceeds standard USB 2.0 power limits.

122. Claims 1 and 6 of the '422 patent also require provision of the identification signal based on a resistance between the D+ and D- data lines. *See, e.g., id.* at 1:35-39; 1:52-59. In contrast, the Apple Adapter Products do not generate the claimed identification signal at least

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1 because they do not provide such a signal through the use of a resistance between USB 2.0 D+  
2 and D- lines.

3 123. Accordingly, at least for the reasons recited above, the Apple Adapter Products do  
4 not infringe at least claims 1, 6 and 11 of the '422 patent, either literally or under the doctrine of  
5 equivalents.

6 124. Apple also does not induce infringement of the '422 patent or otherwise indirectly  
7 infringe the '422 patent for at least the reasons stated above and because there is no direct  
8 infringement of the '422 patent, either literally or under the doctrine of equivalents.

9 125. As set forth above, an actual controversy exists between Apple and Defendants  
10 with respect to alleged infringement of the '422 patent, and this controversy is likely to continue.  
11 Accordingly, Apple desires a judicial determination and declaration of the respective rights and  
12 duties of the parties with respect to the '422 patent.

13 126. A judicial declaration is necessary and appropriate so that Apple may ascertain its  
14 rights regarding the claims of the '422 patent.

### 15 COUNT TWELVE

#### 16 Noninfringement of United States Patent No. 8,624,550

17 127. Apple incorporates by reference the preceding allegations of its Complaint.

18 128. Apple has not infringed and does not infringe at least claims 4 and 13 of the '550  
19 patent, either directly or indirectly, literally or under the doctrine of equivalents, including  
20 through its making, use, sale or offer for sale in, or importation into the United States of the  
21 Apple Adapter Products, such as the Apple 2.4A Adapter.

22 129. The claims of the '550 patent are directed to an adapter comprising a USB  
23 communication path. *See, e.g.*, '550 patent at 12:8-10. In contrast, the Apple Adapter Products  
24 do not communicate using USB compliant protocols. The Apple Adapter Products do not include  
25 circuitry compliant with USB 2.0 protocols and specifications; consequently, these products do  
26 not include data lines capable of transferring data within the meaning of USB 2.0. Thus, the  
27 Apple Adapter Products do not comprise a "USB communication path." Additionally, the claims  
28 require that current is supplied in response to an abnormal data condition on said USB

1 communication path. *See, e.g., id.* at 12:17-19. In contrast, the Apple Adapter Products do not  
2 supply current in response to a condition on the USB communication path for several reasons. As  
3 alleged above, the Apple Adapter Products lack a USB communication path. Also, the Apple  
4 Adapter Products supply current irrespective of a condition associated with a USB connector.

5 130. Accordingly, at least for the reasons recited above, the Apple Adapter Products do  
6 not infringe at least claims 4 and 13 of the '550 patent, either literally or under the doctrine of  
7 equivalents.

8 131. Apple also does not induce infringement of the '550 patent or otherwise indirectly  
9 infringe the '550 patent for at least the reasons stated above and because there is no direct  
10 infringement of the '550 patent, either literally or under the doctrine of equivalents.

11 132. As set forth above, an actual controversy exists between Apple and Defendants  
12 with respect to alleged infringement of the '550 patent, and this controversy is likely to continue.  
13 Accordingly, Apple desires a judicial determination and declaration of the respective rights and  
14 duties of the parties with respect to the '550 patent.

15 133. A judicial declaration is necessary and appropriate so that Apple may ascertain its  
16 rights regarding the claims of the '550 patent.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Apple respectfully requests that judgment be entered:

19 A. Declaring that Apple does not infringe at least the identified claims of the Patents-  
20 in-Suit, directly or indirectly, literally or under the doctrine of equivalents, by the making, using,  
21 selling, offering to sell, and/or importing of the Apple Accused Products;

22 B. Awarding Apple its reasonable attorneys' fees under 35 U.S.C. § 285; and

23 C. Awarding any other remedy or relief to which Apple may be entitled and which is  
24 deemed appropriate by the Court.

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**DEMAND FOR JURY TRIAL**

Apple demands trial by jury of all issues triable of right by a jury.

Dated: February 5, 2019

DLA PIPER LLP (US)

By /s/Sean C. Cunningham

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