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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

APPLE INC.,) Case No. 3:19-cv-06352-EMC
)
Plaintiff,)
)
vs.) **APPLE’S FIRST AMENDED COMPLAINT**
) **FOR DECLARATORY JUDGMENT OF**
) **NON-INFRINGEMENT OF U.S. PATENT**
) **NO. 6,703,963**
PRINCEPS INTERFACE TECHNOLOGIES)
LLC and PRINCEPS SECUNDUS LLC,)
) **JURY TRIAL DEMANDED**
Defendants.)

1 Plaintiff Apple Inc. (“Apple”) files this First Amended Complaint for Declaratory Judgment
2 of Noninfringement against Defendants Princeps Interface Technologies LLC (“Princeps I”) and
3 Princeps Secundus LLC (“Princeps II”) (collectively, “Defendants”), and in support of its
4 Complaint alleges as follows:

5 **NATURE OF THE ACTION**

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

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

12 3. Apple’s many pioneering and revolutionary products spanning its history include the
13 Macintosh PC (first released in 1984), PowerBook (first released in 1991), Newton (first released
14 in 1993), PowerMac (first released in 1994), iMac (first released in 1998), iPod (first released in
15 2001), iTunes Store (opened in 2003), MacBook (first released in 2006), iPhone and Apple TV (first
16 released in 2007), Apple App Store (opened in 2008), Siri (first released 2010), iPad (first released
17 in 2010), Apple Watch (first released in 2015), and AirPods (first released in 2016).

18 4. The United States Patent & Trademark Office has awarded Apple thousands of patents
19 protecting the technological inventions underlying Apple’s groundbreaking products and services.
20 Many well-known functionalities and features of Apple’s products were made possible with the
21 inventions of Apple engineers.

22 5. Defendants, on the other hand, are patent assertion entities formed for the sole purpose
23 of generating revenue by asserting patents against other companies’ products. Defendants’ prior
24 actions and statements have created a substantial controversy of sufficient immediacy and reality to
25 warrant the issuance of a declaratory judgment of noninfringement as to whether Apple products
26 practice U.S. Patent No. 6,703,963 (“the ‘963 patent” or “Asserted Patent”).

27 6. Defendants have claimed, through claim charts and pleadings served on Apple, that
28 certain Apple products infringe the ‘963 patent. However, Apple’s products do not infringe the

1 ‘963 patent, as detailed in the allegations below.

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

4 **THE PARTIES**

5 8. Apple is a California corporation having its principal place of business at One Apple
6 Park Way, Cupertino, California 95014. Apple has over 20,000 employees who work in or near its
7 headquarters in Cupertino, California.

8 9. On information and belief, Princeps I is a limited liability company organized under
9 the laws of the State of Delaware, with a place of business at Princeps Interface Technologies LLC,
10 c/o Kustal and Kustal, P.C., 261 West 35th Street, Suite No. 1003, New York, New York 10001,
11 whose registered agent is Rita Carnevale, 717 North Union Street, Wilmington, Delaware, 19805-
12 3031, and whose certificate of formation was executed by Timothy Devlin.

13 10. On information and belief, Princeps II is a limited liability company organized under
14 the laws of the State of Delaware, whose registered agent is also Rita Carnevale, 717 North Union
15 Street, Wilmington, Delaware, 19805-3031, and whose certificate of formation was also executed
16 by Timothy Devlin.

17 11. Between June 14, 2019 and July 30, 2019, Princeps I filed five lawsuits asserting
18 infringement of the ‘963 patent, each time alleging that Princeps I was the “assignee and owner of
19 the right, title and interest in and to the ‘963 patent, including the right to assert all causes of action
20 arising under [the ‘963 patent] and the right to any remedies for infringement of it.”

21 12. On information and belief, Princeps I was formed for the sole purpose of initiating
22 patent infringement lawsuits against companies that provide products and services to U.S.
23 consumers across the country, including within this District. In particular, Princeps I’s patent
24 assertion campaign for the ‘963 patent has targeted companies that are located in this District,
25 including Apple, Google, ASUS Computer International, and Samsung Semiconductor, Inc.

26 13. When Apple filed the original complaint in this case, the U.S. Patent Office Patent
27 Assignment Search Database indicated that Princeps I was the most recent assignee of the ‘963
28 patent. On April 18, 2019, the named assignee of the ‘963 patent, Yuvee, Inc., and the sole named

1 inventor of the '963 patent, Timothy B. Higginson, executed a document purportedly assigning their
2 rights in the '963 patent to Princeps I. *See* [http://legacy-](http://legacy-assignments.uspto.gov/assignments/assignment-pat-49424-537.pdf)
3 [assignments.uspto.gov/assignments/assignment-pat-49424-537.pdf](http://legacy-assignments.uspto.gov/assignments/assignment-pat-49424-537.pdf). Timothy B. Higginson
4 executed the document both on behalf of Yuvee, Inc. and on behalf of himself as the named inventor.
5 Pat Mathews of Devlin Law Firm LLC recorded the purported assignment on June 10, 2019 in the
6 USPTO Patent Assignment Database at Reel/Frame 049424/0537.

7 14. On December 5, 2019, Princeps I filed a Certificate of Interested Entities or Persons
8 in this action stating that other than Princeps I “there are no known persons . . . or other entities
9 other than the parties themselves known by the party to have either: (i) a financial interest of any
10 kind in the subject matter in controversy or in a party to the proceeding; or (ii) any other kind of
11 interest that could be substantially affected by the outcome of the proceeding.” Dkt. No. 14.

12 15. On November 20, 2019, Timothy B. Higginson executed a document titled “Quitclaim
13 Patent Assignment” on behalf of Yuvee, Inc., purportedly assigning the '963 patent to the new
14 Delaware entity, Princeps II. *See* Yuvee Quit Claim Assignment, *available at* [http://legacy-](http://legacy-assignments.uspto.gov/assignments/assignment-pat-51116-715.pdf)
15 [assignments.uspto.gov/assignments/assignment-pat-51116-715.pdf](http://legacy-assignments.uspto.gov/assignments/assignment-pat-51116-715.pdf).

16 16. On November 20, 2019, Timothy B. Higginson executed a document titled “Quitclaim
17 Patent Assignment” on his own behalf as an inventor, purportedly assigning the '963 patent to the
18 new Delaware entity, Princeps II. *See* Higginson Quit Claim Assignment, *available at* [http://legacy-](http://legacy-assignments.uspto.gov/assignments/assignment-pat-51116-630.pdf)
19 [assignments.uspto.gov/assignments/assignment-pat-51116-630.pdf](http://legacy-assignments.uspto.gov/assignments/assignment-pat-51116-630.pdf). On November 22, 2019,
20 Jeffrey M. Gross, Managing Member, executed the document on behalf of Princeps II.

21 17. On November 22, 2019, Jeffrey M. Gross, Managing Member of both Princeps I and
22 Princeps II, executed a document titled “Quitclaim Patent Assignment” on behalf of both Princeps
23 I and Princeps II, purportedly assigning the '963 patent to the new Delaware entity, Princeps II. *See*
24 *Princeps Interface Quit Claim Assignment*, *available at* [http://legacy-](http://legacy-assignments.uspto.gov/assignments/assignment-pat-51117-37.pdf)
25 [assignments.uspto.gov/assignments/assignment-pat-51117-37.pdf](http://legacy-assignments.uspto.gov/assignments/assignment-pat-51117-37.pdf).

26 18. On November 26, 2019, Pat Mathews of Devlin Law Firm LLC, who also recorded a
27 purported April 18, 2019 assignment of the '963 patent to Princeps I, recorded the purported Yuvee,
28 Higginson, and Princeps I Quit Claim Assignments to Princeps II in the USPTO Patent Assignment

1 Database, each purportedly assigning the '963 patent to the new Delaware entity, Princeps II.

2 19. Many of the same agents act on behalf of both Princeps I and Princeps II. For example,
3 Jeffery M. Gross is Managing Member of both Princeps entities and executed the Princeps I Quit
4 Claim Assignment on behalf of both Princeps entities. Pat Mathews of Devlin Law Firm LLC
5 recorded each of the relevant patent assignments involving the Princeps entities. Rita Carnevale, of
6 717 N. Union Street, Wilmington, Delaware, 19805, is the registered agent for both Princeps
7 entities. Finally, Timothy Devlin, of Devlin Law Firm LLC, executed the certificates of formation
8 for both Princeps entities. Timothy Devlin is also one of the attorneys representing Princeps I before
9 this Court.

10 20. The U.S. Patent Office Patent Assignment Search Database indicates that Princeps II
11 is now the most recent purported assignee of the '963 patent as a result of the recently executed quit
12 claim assignments. USPTO Patent Assignment Search for U.S. Patent Application No. 10/247,065
13 (last visited December 12, 2019).

14 21. On information and belief, Princeps II is the assignee and owner of the asserted patent.
15 Further on information and belief, Princeps II and Princeps I were formed on behalf, for the benefit,
16 and are alter egos of the same corporate actors or individuals, including one or more of the agents
17 identified above. On information and belief, Princeps II was created to further Princeps I's campaign
18 for the '963 patent against Apple and others. Therefore, Princeps II is a necessary party to the
19 litigation to fully adjudicate Apple's declaratory judgment claim of noninfringement.

20 **JURISDICTION AND VENUE**

21 22. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§
22 1331 and 1338(a) because this action involves claims arising under the patent laws of the United
23 States, 35 U.S.C. § 1, *et seq.*, and under the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201
24 and 2202.

25 23. Princeps I is subject to personal jurisdiction in this Court at least because, on
26 information and belief, Princeps I has directed and continues to direct acts to this District, including
27 acts pertaining to the Asserted Patent. For example, in connection with Princeps I's business,
28 Princeps I has targeted at least one other company located in this District by asserting infringement

1 allegations in this District for the same ‘963 patent at issue here, and in doing so, purposefully
2 availed itself of the benefits of this District’s jurisdiction. *See Princeps Interface Techs. LLC v.*
3 *ASUSTek Computer Inc., et al.* Case No. 5-19-cv-04298-NC (N.D. Cal.). On information and belief,
4 given the commonality of agents and the assignment of the asserted patent from Princeps I to
5 Princeps II, Princeps II will continue Princeps I’s campaign against Apple and other companies in
6 this District, based on substantially the same claims made previously by Princeps I. For these
7 reasons and for those stated below, Defendants have continuous and systematic contacts within the
8 State of California, including this District, and have purposefully directed business activities into
9 and in this District.

10 24. Princeps I served Apple with claim charts alleging that Apple’s iPhone X, iPhone 8,
11 iPad, iPad Pro, iPad Air, and iPod Touch using Apple’s iOS operating system (the “Apple Accused
12 Products”) sold or offered for sale in this District infringe at least claims 1-3, 9, 12, and 60 of the
13 ‘963 patent. Furthermore, on information and belief, Princeps I has engaged in conduct with other
14 companies in efforts to monetize Defendants’ intellectual property through litigation, including at
15 least one lawsuit in this District involving the same ‘963 patent at issue here. *See Princeps Interface*
16 *Techs. LLC v. ASUSTek Computer Inc., et al.* Case No. 5-19-cv-04298-NC (N.D. Cal.). Princeps
17 I’s Complaint in its lawsuit against *ASUSTek Computer Inc. et al.*, acknowledges that the ASUS
18 Computer International has its U.S. headquarters in Fremont, California, which is also in this
19 District. *Id.*, ECF. No. 1, at 2. Princeps I’s conduct further includes serving claim charts and
20 asserting infringement allegations for the ‘963 patent against other corporations that have a principal
21 place of business in this District, including Google LLC (headquarters located in Mountain View,
22 California) and Samsung Semiconductor, Inc. (U.S. Regional Office located in San Jose,
23 California). *See Princeps Interface Techs. LLC v. Google LLC, et al.*, Case No. 1:19-cv-01102-CFC
24 (D. Del.); *Princeps Interface Techs. LLC v. Samsung Elecs. Co., Ltd, et al.*, Case No. 1:19-cv-
25 01103-CFC (D. Del.). Princeps I also asserts the above alleged infringers that all have principal
26 places of business in this District (*i.e.*, ASUS Computer International, Google LLC, Samsung
27 Semiconductor, Inc.) infringe the same patent claims being asserted against Apple: claims 1-3, 9,
28 12, and 60 of the ‘963 patent. On information and belief, Princeps I and Princeps II are alter egos

1 of the same corporate actors or individuals, including one or more of the agents identified above
2 and will continue to assert that Apple and others in this District infringe the '963 patent.

3 25. This Court also has personal jurisdiction over Defendants because Defendants, as alter
4 egos of one or more of the same corporate actors, have purposefully availed themselves of the
5 benefits of California law and have more than sufficient minimum contacts with California,
6 including within this District, such that this declaratory judgment action meets the requirements of
7 California's long-arm statute.

8 26. For example, Apple resides in this District and Defendants have alleged that Apple
9 has committed acts of infringement in this District related to the Asserted Patent and the Apple
10 Accused Products. This District is also the most convenient District for the present declaratory
11 judgment claims because, among other things, witnesses and evidence concerning the Apple
12 Accused Products are located in this District.

13 27. Additionally, Princeps I is subject to specific personal jurisdiction in this Court and
14 has consented to venue in this Court for purposes of litigating the '963 patent because Princeps I
15 has initiated litigation in this Court concerning the '963 patent. *See Princeps Interface Techs. LLC*
16 *v. ASUSTek Computer Inc., et al.* Case No. 5-19-cv-04298-NC (N.D. Cal.).

17 28. It is fair and reasonable for this Court to exercise personal jurisdiction over Princeps
18 II because, on information and belief, given the commonality of corporate actors and the assignment
19 of the asserted patent from Princeps I to Princeps II, Princeps II will continue Princeps I's campaign
20 against Apple and other companies in this District, based on substantially the same claims made
21 previously by Princeps I. Further, Princeps II has consented to venue and personal jurisdiction in
22 this District by stipulating that Apple may add Princeps II as a named defendant in this action.

23 29. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and 1391(c) because
24 a substantial part of the events giving rise to the claims alleged in this Complaint occurred in this
25 District and Defendants are subject to the Court's personal jurisdiction with respect to this civil
26 action.

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

1 **INTRADISTRICT ASSIGNMENT**

2 31. This is an intellectual property action subject to district-wide assignment pursuant to
3 Local Rules 3-2(c) and 3-5(b).

4 **THE ASSERTED PATENT**

5 32. On March 9, 2004, the United States Patent and Trademark Office (the “Patent
6 Office”) issued the ‘963 patent, entitled “Universal Keyboard” to Timothy B. Higginson. A true and
7 correct copy of the ‘963 patent is attached as Exhibit A. On information and belief, Princeps II
8 purports to own by assignment the ‘963 patent.

9 33. The ‘963 patent issued from U.S. Patent Application No. 10/247,065 (“the ‘065
10 Application”) filed on September 12, 2002.

11 34. On June 20, 2003, the Patent Office rejected all claims in the ‘065 Application as
12 either anticipated or obvious in view of the prior art.

13 35. In response to this rejection, the applicant amended claim 1 of the ‘065 Application
14 to require, among other things, that “the input keys and domain control are simultaneously presented
15 by the input device.”

16 36. Also in response to the Patent Office rejection, the applicant for the ‘065 Application
17 argued that amended claim 1 was patentable over the prior art. In particular, the applicant stated:

18 [I]n contrast to simultaneously presenting the input keys and domain (level) control,
19 as recited in claims 1, 36, and 64, the Platte ‘949 patent discloses replacing a
20 previously displayed set of input/level selection keys, including a selected input
21 key that initiated displaying a next input key level, by a new set of input keys. Thus,
22 even in the event that an input (e.g., PLAY) key in the Platte remote control device
23 is considered the claimed ‘domain control,’ the selected ‘domain control’
disappears from the input interface when the new set of input keys are presented on
the input interface. Therefore, Platte does not disclose *simultaneously presenting
the input keys and the domain control* (that selects one of multiple domain levels)
as recited in amended claim 64 as well as claims 1 and 36.

24 **COUNT ONE**

25 **(Declaratory Judgment of Non-Infringement of U.S. Patent No. 6,703,963)**

26 37. Apple repeats and realleges Paragraphs 1 through 36 of this Complaint.

27 38. Apple has not infringed and does not infringe at least claim 1 of the ‘963 patent either
28 directly, contributorily, or by inducement, literally or under the doctrine of equivalents, including

1 through its making, use, importation into the United States, sale, and/or offer for sale of the Apple
2 Accused Products.

3 39. Claim 1 of the ‘963 patent is directed to:

4 An information input device, comprising:

5 a functional mode control for selecting a first functional mode of operation of
6 multiple functional modes of operation by the input device;

7 a domain control for selecting one of multiple domain levels within the first
8 functional mode wherein each domain level is associated with a set of domain-
9 level values;

10 a plurality of input keys, separate and distinct from the domain control, assigned
11 to the set of domain-level values associated with a selected domain level and
12 functional mode, wherein each input key assigned to a domain-level value is
13 associated with a signal, representative of the domain-level value, transmitted by
14 the input device in response to actuation of the input key; and

15 a function-specific display indicating a domain-level value associated with each
16 input key for a currently selected functional mode and domain level combination,
17 wherein the input keys and domain control are simultaneously presented by the
18 input device. (Exhibit A, ‘963 Patent, at 13:28-49.)

19 40. The Apple Accused Products do not infringe at least claim 1 of the ‘963 patent because
20 the Apple Accused Products do not include every limitation required by claim 1. As one example,
21 claim 1 requires the alleged input keys to be “separate and distinct from the domain control” and
22 “assigned to the set of domain-level values associated with a selected domain level.” According to
23 Princeps I’s claim charts, the alleged “domain control(s)” in the Apple Accused Products are the
24 Globe and Emoji symbols appearing in the lower left location on the iOS keyboard. Princeps I’s
25 claim charts further allege that the characters on the iOS keyboard are input keys. However, in the
26 Apple Accused Products the iOS keyboard characters are not input keys that are separate and distinct
27 from the Globe and Emoji symbols and assigned to a set of domain-level values within the meaning
28 of claim 1.

41. Separately and additionally, the Apple Accused Products do not infringe at least claim
1 of the ‘963 patent because the Apple Accused Products do not include a function-specific display
wherein the input keys and domain control are simultaneously presented by the input device. In

1 order to overcome the examiner’s prior art rejections during prosecution, as explained above, the
2 applicant amended claim 1 to require presenting the input keys and domain control simultaneously
3 on the display and argued that the prior art did not disclose this limitation. According to Princeps
4 I’s infringement claim charts, the alleged “domain control(s)” in the Apple Accused Products are
5 the Globe and Emoji symbols appearing in the lower left location on the iOS keyboard. Princeps I’s
6 claim charts further allege that the characters on the iOS keyboard are input keys. However, in the
7 Apple Accused Products the iOS keyboard characters are not simultaneously displayed with the
8 alleged associated domain control within the meaning of claim 1. For example, the Emoji symbol
9 (*i.e.*, accused as being a domain control) does not appear simultaneously with Emoji characters (*i.e.*,
10 accused as being input keys).

11 42. Accordingly, at least for the above reasons, the Apple Accused Products do not
12 infringe at least claim 1 of the ‘963 patent, either literally or under the doctrine of equivalents.

13 43. Apple also does not induce infringement of the ‘963 patent, or otherwise indirectly
14 infringe the ‘963 patent, for at least the reasons stated above there is no direct infringement of the
15 ‘963 patent and because Apple has not acted with specific intent necessary for induced infringement.

16 44. Apple also does not contributorily infringe at least claim 1 of the ‘963 patent for at
17 least the reasons stated above there is no direct infringement of the ‘963 patent and because the
18 Accused Products have substantial non-infringing uses, including, at least, inputting text using a
19 QWERTY keyboard.

20 45. As set forth above, there exists an actual controversy between Apple and Defendants
21 with respect to alleged infringement of the ‘963 patent of sufficient immediacy and reality to warrant
22 the issuance of a declaratory judgment as to whether the asserted claims of the ‘963 patent are
23 infringed. Accordingly, Apple desires a judicial determination and declaration of the respective
24 rights and duties of the parties with respect to the ‘963 patent.

25 46. Apple is entitled to a judicial determination that Apple has not directly infringed,
26 induced others to infringe, or contributed to the infringement of the asserted claims of the ‘963
27 patent.

28 47. A judicial declaration is necessary and appropriate so that Apple may ascertain its

1 rights regarding the claims of the '963 patent.

2 **PRAYER FOR RELIEF**

3 WHEREFORE, Apple respectfully requests that judgment be entered:

- 4 A. Declaring that judgment be entered in favor of Apple and against Princeps I;
- 5 B. Declaring that judgment be entered in favor of Apple and against Princeps II;
- 6 C. Declaring that Apple has not and does not infringe, either directly, contributorily, by
7 inducement, or willfully, any claim of the '963 patent by making, using, selling,
8 offering to sell, and/or importing of the Apple Accused Products;
- 9 D. Finding this to be an exceptional case under 35 U.S.C. § 285, and awarding Apple its
10 reasonable attorney's fees;
- 11 E. Awarding Apple its costs associated with this case;
- 12 F. Awarding Apple any other remedy or relief to which Apple may be entitled and which
13 the Court deems just, proper, and equitable.

14 **JURY DEMAND**

15 Apple demands a trial by jury on all claims and issues so triable.

16 December 12, 2019

Respectfully Submitted

17 SHOOK, HARDY & BACON L.L.P.

18 By: /s/ Jason Richardson
19 Attorney for Apple Inc.