

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND-ODESSA DIVISION**

RESONANT SYSTEMS, INC., d/b/a
RevelHMI,

Plaintiff,

v.

APPLE, INC.,

Defendant.

Case No. 7:23-cv-00077-ADA

JURY TRIAL DEMANDED

SECOND AMENDED COMPLAINT FOR INFRINGEMENT OF U.S. PATENTS

8,093,767, 8,860,337, 9,941,830, AND 11,152,882

This is an action for patent infringement arising under the Patent Laws of the United States of America, 35 U.S.C. § 1 *et seq.*, in which Plaintiff Resonant Systems, Inc., doing business as RevelHMI (“Plaintiff” or “RevelHMI”), makes the following allegations against Defendant Apple, Inc. (“Defendant” or “Apple”):

INTRODUCTION

1. This complaint arises from Apple’s unlawful infringement of the following United States patents owned by Plaintiff, which relate to improvements in haptic feedback devices: United States Patent Nos. 8,093,767 (the “767 Patent”), 8,860,337 (the “337 Patent”), 9,941,830 (the “830 Patent), and 11,152,882 (the “882 Patent”) (collectively, the “Asserted Patents”).

PARTIES

2. Plaintiff is a corporation organized and existing under the laws of the state of Washington, with a place of business at 520 South King Street, Seattle, Washington 98104. Plaintiff is the sole owner by assignment of all right, title, and interest in the Asserted Patents, including the right to recover damages for past, present, and future infringement.
3. Defendant Apple Inc. is a publicly traded corporation organized under the laws of the State of California, with its principal place of business at One Apple Park Way, Cupertino, CA 95014. Apple may be served with process through its registered agent, CT Corporation System, at 330 North Brand Boulevard, Suite 700, Glendale, California 91203.
4. This Court has personal jurisdiction over Apple in this action at least because Apple has a regular and established places of business in this district.

JURISDICTION AND VENUE

5. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).
6. This Court has personal jurisdiction over Apple in this action because Apple has committed acts within this District giving rise to this action and has established minimum contacts with this forum such that the exercise of jurisdiction over Apple would not offend traditional notions of fair play and substantial justice. Apple, directly and through subsidiaries or intermediaries, has committed and continues to commit acts of infringement in this District by, among other things, importing, offering to sell, and selling products that infringe the Asserted Patents, and inducing others to do the same.

7. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400(b). Defendant has committed acts of infringement in this District and has regular and established places of business in this District, including its office located at 12545 Riata Vista Cir, Austin, TX 78727; 2901 S. Capital of Texas Hwy, Austin, TX 78746; 3121 Palm Way, Austin, TX 78758; 8401 Gateway Boulevard West, El Paso, TX 79925; 15900 La Cantera Parkway, San Antonio, TX 78256; and 7400 San Pedro Avenue, San Antonio, TX 78216, among others.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 8,093,767

8. Plaintiff realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.
9. Plaintiff owns by assignment all rights, title, and interest, including the right to recover damages for past, present, and future infringement, in U.S. Patent No. 8,093,767, entitled “Linear-resonant vibration module.” The ’767 Patent was duly and legally issued by the United States Patent and Trademark Office on January 10, 2012. A true and correct copy of the ’767 Patent was filed as Dkt. 1-1.
10. On information and belief, Apple makes, uses, offers for sale, sells, and/or imports certain products and services, including without limitation iPhone products (iPhone 6s, 6s Plus, 7, 7 Plus, 8, 8 Plus, X, XR, XS, XS Max, 11, 11 Pro, 11 Pro Max, SE (second generation), 12, 12 mini, 12 Pro, 12 Pro Max, 13, 13 mini, 13 Pro, 13 Pro Max, SE (third generation), 14, 14 Plus, 14 Pro, 14 Pro Max), (collectively, “Accused Products”), that directly infringe, literally and/or under the doctrine of equivalents, one or more claims of the ’767 Patent.

11. The Accused Products satisfy all claim limitations of one or more claims of the '767 Patent. A claim chart comparing exemplary independent claim 1 of the '767 Patent to representative Accused Products was filed as Dkt. 1-2 and incorporated by reference herein.
12. By making, using, offering for sale, selling and/or importing into the United States the Accused Products, Apple has injured Plaintiff and is liable for infringement of the '767 Patent pursuant to 35 U.S.C. § 271.
13. As a result of Apple's infringement of the '767 Patent, Plaintiff is entitled to monetary damages in an amount adequate to compensate for Apple's infringement, but in no event less than a reasonable royalty for the use made of the invention by Apple, together with interest and costs as fixed by the Court.

COUNT II

INFRINGEMENT OF U.S. PATENT NO. 8,860,337

14. Plaintiff realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.
15. Plaintiff owns by assignment all rights, title, and interest, including the right to recover damages for past, present, and future infringement, in U.S. Patent No. 8,860,337, entitled "Linear vibration modules and linear-resonant vibration modules." The '337 Patent was duly and legally issued by the United States Patent and Trademark Office on October 14, 2014. A true and correct copy of the '337 Patent was filed as Dkt. 1-3.
16. On information and belief, Apple makes, uses, offers for sale, sells, and/or imports certain products and services, including without limitation iPhone products (iPhone 6s, 6s Plus, 7, 7 Plus, 8, 8 Plus, X, XR, XS, XS Max, 11, 11 Pro, 11 Pro Max, SE (second generation), 12, 12 mini, 12 Pro, 12 Pro Max, 13, 13 mini, 13 Pro, 13 Pro Max, SE (third generation),

- 14, 14 Plus, 14 Pro, 14 Pro Max), (collectively, “Accused Products”), that directly infringe, literally and/or under the doctrine of equivalents, one or more claims of the ’337 Patent.
17. The Accused Products satisfy all claim limitations of one or more claims of the ’337 Patent. A claim chart comparing exemplary independent claim 2 of the ’337 Patent to representative Accused Products was filed as Dkt. 1-4.
18. By making, using, offering for sale, selling and/or importing into the United States the Accused Products, Apple has injured Plaintiff and is liable for infringement of the ’337 Patent pursuant to 35 U.S.C. § 271.
19. As a result of Apple’s infringement of the ’337 Patent, Plaintiff is entitled to monetary damages in an amount adequate to compensate for Apple’s infringement, but in no event less than a reasonable royalty for the use made of the invention by Apple, together with interest and costs as fixed by the Court.

COUNT III

INFRINGEMENT OF U.S. PATENT NO. 9,941,830

20. Plaintiff realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.
21. Plaintiff owns by assignment all rights, title, and interest, including the right to recover damages for past, present, and future infringement, in U.S. Patent No. 9,941,830, entitled “Linear vibration modules and linear-resonant vibration modules.” The ’830 Patent was duly and legally issued by the United States Patent and Trademark Office on April 18, 2018. A true and correct copy of the ’830 Patent was filed as Dkt. 1-5.
22. On information and belief, Apple makes, uses, offers for sale, sells, and/or imports certain products and services, including without limitation iPhone products (iPhone 6s, 6s Plus, 7,

7 Plus, 8, 8 Plus, X, XR, XS, XS Max, 11, 11 Pro, 11 Pro Max, SE (second generation), 12, 12 mini, 12 Pro, 12 Pro Max, 13, 13 mini, 13 Pro, 13 Pro Max, SE (third generation), 14, 14 Plus, 14 Pro, 14 Pro Max), (collectively, “Accused Products”), that directly infringe, literally and/or under the doctrine of equivalents, one or more claims of the ’830 Patent.

23. The Accused Products satisfy all claim limitations of one or more claims of the ’830 Patent. A claim chart comparing exemplary independent claim 1 of the ’830 Patent to representative Accused Products was filed as Dkt. 1-6.

24. By making, using, offering for sale, selling and/or importing into the United States the Accused Products, Apple has injured Plaintiff and is liable for infringement of the ’830 Patent pursuant to 35 U.S.C. § 271.

25. As a result of Apple’s infringement of the ’830 Patent, Plaintiff is entitled to monetary damages in an amount adequate to compensate for Apple’s infringement, but in no event less than a reasonable royalty for the use made of the invention by Apple, together with interest and costs as fixed by the Court.

COUNT IV

INFRINGEMENT OF U.S. PATENT NO. 11,152,882

26. Plaintiff realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

27. Plaintiff owns by assignment all rights, title, and interest, including the right to recover damages for past, present, and future infringement, in U.S. Patent No. 11,152,882, entitled “Oscillating-resonant-module controller.” The ’882 Patent was duly and legally issued by the United States Patent and Trademark Office on October 19, 2021. A true and correct copy of the ’882 Patent was filed as Dkt. 1-7.

28. On information and belief, Apple makes, uses, offers for sale, sells, and/or imports certain products and services, including without limitation iPhone products (iPhone 6s, 6s Plus, 7, 7 Plus, 8, 8 Plus, X, XR, XS, XS Max, 11, 11 Pro, 11 Pro Max, SE (second generation), 12, 12 mini, 12 Pro, 12 Pro Max, 13, 13 mini, 13 Pro, 13 Pro Max, SE (third generation), 14, 14 Plus, 14 Pro, 14 Pro Max), (collectively, “Accused Products”), that directly infringe, literally and/or under the doctrine of equivalents, one or more claims of the ’882 Patent.

29. The Accused Products satisfy all claim limitations of one or more claims of the ’882 Patent. A claim chart comparing exemplary independent claim 1 of the ’882 Patent to representative Accused Products was filed as Dkt. 1-8.

30. By making, using, offering for sale, selling and/or importing into the United States the Accused Products, Apple has injured Plaintiff and is liable for infringement of the ’882 Patent pursuant to 35 U.S.C. § 271.

31. As a result of Apple’s infringement of the ’882 Patent, Plaintiff is entitled to monetary damages in an amount adequate to compensate for Apple’s infringement, but in no event less than a reasonable royalty for the use made of the invention by Apple, together with interest and costs as fixed by the Court.

POST-SUIT, POST-TRIAL, AND POST-APPEAL WILLFUL INFRINGEMENT

32. Apple has had knowledge of Plaintiff’s allegations of infringement at least since receiving service of this lawsuit no later than June 7, 2023. Apple further received Plaintiff’s infringement contentions on October 5, 2023. Despite these infringement allegations, Apple continues to make, sell, use, and/or import the Accused Products. Apple has not indicated that it intends to cease its infringement or modify the Accused Products to design around the Asserted Patents. Accordingly, Apple continues to willfully infringe the Asserted Patents post-suit.

33. Additionally, Apple was served with an interrogatory asking it to “Describe in detail all steps Apple has taken or will take to avoid post-suit willful infringement after being served with the complaint and infringement contentions in this case.” Apple was instructed that its response “should clearly state whether Apple intends to continue making, selling, or using the Accused Products, without design around, should the jury find that the Asserted Patents are infringed and not invalid.” Apple answered this interrogatory on May 28, 2024. Apple’s answer contained lots of objections, but Apple’s answer to this interrogatory did not describe even one single step that Apple has taken to avoid post-suit willful infringement. Apple’s answer to the interrogatory did not indicate that Apple would stop making, selling, or using the Accused Products without design around, even if the jury were to find that the Asserted Patents are infringed and not invalid. It appears that Apple’s willful infringement will continue post-trial and post-appeal, even if a jury disagrees with any defenses that Apple may raise between now and trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter:

- a. A judgment in favor of Plaintiff that Apple has infringed, either literally and/or under the doctrine of equivalents, the ’767, ’337, ’830, and ’882 Patents;
- b. A judgment and order requiring Apple to pay Plaintiff its damages, costs, expenses, and pre-judgment and post-judgment interest for Apple’s infringement of the ’767, ’337, ’830, and ’882 Patents;
- c. A judgment and order requiring Apple to pay Plaintiff compulsory ongoing licensing fees, as determined by the Court;
- d. A judgment and order requiring Apple to provide an accounting and to pay supplemental damages to Plaintiff, including without limitation, pre-judgment and post-judgment

interest and compensation for infringing products released after the filing of this case that are not colorably different from the Accused Products;

e. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Plaintiff its reasonable attorneys' fees against Apple; and

f. Any and all other relief as the Court may deem appropriate and just under the circumstances.

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: June 26, 2024

Respectfully submitted,

/s/ Reza Mirzaie

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CERTIFICATE OF SERVICE

I hereby certify that on June 26, 2024, I electronically filed the foregoing document with the Clerk of the Court for the Western District of Texas using the ECF System which will send notification to the registered participants of the ECF System as listed on the Court's Notice of Electronic Filing.

/s/ Reza Mirzaie

Reza Mirzaie