

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

SimpleAir, Inc., a Texas corporation,

Plaintiff,

vs.

AWS Convergence Technologies, Inc., a Delaware corporation, The Weather Channel Interactive, Inc., a Georgia corporation, Apple, Inc., a California corporation, Research in Motion Corporation, a Delaware corporation, Research in Motion Limited, a Canadian corporation; Facebook, Inc., a California corporation; ESPN Enterprises, Inc., a Delaware corporation; Disney Online, a California corporation; American Broadcasting Companies, Inc., a Delaware corporation; Handango, Inc., a Delaware corporation; and Handmark, Inc., a Missouri corporation,

Defendants.

CASE NO. 2:09-cv-00289-TJW

**JURY DEMANDED**

**FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff SimpleAir, Inc. (“SimpleAir”) sues Defendants AWS Convergence Technologies, Inc.; The Weather Channel Interactive, Inc.; Apple, Inc.; Research in Motion Corporation; Research in Motion Limited; Facebook, Inc.; ESPN Enterprises, Inc.; Disney Online; American Broadcasting Companies, Inc.; Handango, Inc.; and Handmark, Inc. and, on information and belief, alleges as follows:

**Introduction**

1. Plaintiff SimpleAir owns the inventions described and claimed in United States Patent Nos. 6,021,433 (the ‘433 patent) and 7,035,914 (the ‘914 patent), both entitled “System and Method for Transmission of Data,” as well as United States Patent Nos. 6,735,614 (the ‘614 patent) and 6,167,426 (the ‘426 patent), both entitled “Contact Alerts for Unconnected Users”

(collectively, “the Patents”). Defendants have used, and continue to use, Plaintiff’s patented technology in products and services that they make, use, sell, and offer to sell, without Plaintiff’s permission. Plaintiff SimpleAir seeks damages for patent infringement and an injunction preventing Defendants from making, using, selling, or offering to sell products or services claimed by the Patents without Plaintiff’s permission.

**Jurisdiction and Venue**

2. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§271 and 281, *et seq.* The Court has original jurisdiction over this patent infringement action under 28 U.S.C. §1338(a).

3. Venue is proper in this Court because Defendants are responsible for acts of infringement occurring in the Eastern District of Texas as alleged in this Complaint, and have delivered or caused to be delivered infringing products or services in the Eastern District of Texas.

**Plaintiff SimpleAir, Inc.**

4. Plaintiff SimpleAir, Inc. is a corporation existing under and by virtue of the laws of the State of Texas.

**The Patents**

5. The United States Patent and Trademark Office issued: the ‘433 patent (attached as exhibit A) on February 1, 2000; the ‘914 patent (attached as exhibit B) on April 25, 2006; the ‘426 patent (attached as exhibit C) on December 26, 2000; and the ‘614 patent (attached as exhibit D) on May 11, 2004. Through assignment, Plaintiff is the owner of all right, title, and interest in the Patents, including all rights to pursue and collect damages for past infringements of the Patents.

**Defendants**

6. Defendant AWS Convergence Technologies, Inc.(“AWS Convergence”) is a

corporation organized and existing under the laws of the State of Delaware, with its principle place of business in Germantown, Maryland.

7. Defendant The Weather Channel Interactive, Inc. (the “Weather Channel”) is a corporation organized and existing under the laws of the State of Georgia, with its principle place of business in Atlanta, Georgia.

8. Defendant Apple, Inc. (“Apple”) is a corporation organized and existing under the laws of the State of California, with its principle place of business in Cupertino, California.

9. Defendant Research in Motion Corporation is a corporation organized and existing under the laws of the State of Delaware, with its principle place of business in Irving, Texas.

10. Defendant Research in Motion Limited is a corporation organized and existing under the laws of Ontario, Canada with its principle place of business in Waterloo, Ontario, Canada. The two Research in Motion Defendants are referred to collectively as “Research in Motion.”

11. Defendant Facebook, Inc. (“Facebook”) is a corporation organized and existing under the laws of the State of Delaware, with its principle place of business in Palo Alto, California.

12. Defendant ESPN Enterprises, Inc. (“ESPN”) is a corporation organized and existing under the laws of the State of Delaware, with its principle place of business in Bristol, Connecticut.

13. Defendant Disney Online (“Disney Online”) is a corporation organized and existing under the laws of the State of California, with its principle place of business in Burbank, California.

14. Defendant American Broadcasting Companies, Inc. (“ABC”) is a corporation organized and existing under the laws of the State of Delaware, with its principle place of business in New York, New York.

15. Defendant Handango, Inc. (“Handango”) is a corporation organized and existing under the laws of the State of Delaware, with its principle place of business in Irving, Texas.

16. Defendant Handmark, Inc. (“Handmark”) is a corporation organized and existing under the laws of the State of Delaware, with its principle place of business in Kansas City, Missouri.

**FIRST CLAIM FOR PATENT INFRINGEMENT (‘433 PATENT)**

17. Plaintiff incorporates by reference each of the allegations in paragraphs 1-16 above and further alleges as follows:

18. On February 1, 2000, United States Patent No. 6,021,433, disclosing and claiming a “System and Method for Transmission of Data,” was duly and legally issued by the United States Patent and Trademark Office.

19. Plaintiff SimpleAir, Inc. is the owner of the ‘433 patent with full rights to pursue recovery of royalties or damages for infringement of said patent, including full rights to recover past and future damages.

20. Each of Defendants AWS Convergence, the Weather Channel, Apple, Research in Motion, Facebook, ESPN, Disney Online, ABC, Handango, and Handmark has infringed the ‘433 patent and, unless enjoined, will continue to do so, by using, selling, or offering for sale products and services claimed by the ‘433 patent, including products or services relating to the generation, processing, and/or delivery of content, notifications, and updates to or for mobile computing devices, without a license or permission from Plaintiff.

21. Plaintiff has been damaged by Defendants’ infringement of the ‘433 patent and will suffer additional irreparable damage and impairment of the value of its patent rights unless Defendants are enjoined from continuing to infringe the ‘433 patent.

22. Plaintiff demands trial by jury of all issues relating to this claim.

**SECOND CLAIM FOR PATENT INFRINGEMENT ('914 PATENT)**

23. Plaintiff incorporates by reference each of the allegations in paragraphs 1-16 above and further alleges as follows:

24. On April 25, 2006, United States Patent No. 7,035,914, disclosing and claiming a "System and Method for Transmission of Data," was duly and legally issued by the United States Patent and Trademark Office.

25. Plaintiff SimpleAir, Inc. is the owner of the '914 patent with full rights to pursue recovery of royalties or damages for infringement of said patent, including full rights to recover past and future damages.

26. Each of Defendants AWS Convergence, the Weather Channel, Apple, Research in Motion, Facebook, ESPN, Disney Online, ABC, Handango, and Handmark has infringed the '914 patent and, unless enjoined, will continue to do so, by using, selling, or offering for sale products and services claimed by the '914 patent, including products or services relating to the generation, processing, and/or delivery of content, notifications, and updates to or for mobile computing devices, without a license or permission from Plaintiff.

27. Plaintiff has been damaged by Defendants' infringement of the '914 patent and will suffer additional irreparable damage and impairment of the value of its patent rights unless Defendants are enjoined from continuing to infringe the '914 patent.

28. Plaintiff demands trial by jury of all issues relating to this claim.

**THIRD CLAIM FOR PATENT INFRINGEMENT ('426 PATENT)**

29. Plaintiff incorporates by reference each of the allegations in paragraphs 1-16 above and further alleges as follows:

30. On December 26, 2000, United States Patent No. 6,167,426, disclosing and claiming "Contact Alerts for Unconnected Users," was duly and legally issued by the United States Patent and Trademark Office.

31. Plaintiff SimpleAir, Inc. is the owner of the '426 patent with full rights to pursue recovery of royalties or damages for infringement of said patent, including full rights to recover past and future damages.

32. Each of Defendants Apple, Research in Motion, and Facebook has infringed the '426 patent and, unless enjoined, will continue to do so, by using, selling, or offering for sale products and services claimed by the '426 patent, including products or services relating to the generation, processing, and/or delivery of content, notifications, and updates to or for mobile computing devices, without a license or permission from Plaintiff.

33. Plaintiff has been damaged by Defendants' infringement of the '426 patent and will suffer additional irreparable damage and impairment of the value of its patent rights unless Defendants are enjoined from continuing to infringe the '426 patent.

34. Plaintiff demands trial by jury of all issues relating to this claim.

**FOURTH CLAIM FOR PATENT INFRINGEMENT ('614 PATENT)**

35. Plaintiff incorporates by reference each of the allegations in paragraphs 1-16 above and further alleges as follows:

36. On May 11, 2004, United States Patent No. 6,735,614, disclosing and claiming "Contact Alerts for Unconnected Users," was duly and legally issued by the United States Patent and Trademark Office.

37. Plaintiff SimpleAir, Inc. is the owner of the '614 patent with full rights to pursue recovery of royalties or damages for infringement of said patent, including full rights to recover past and future damages.

38. Each of Defendants Apple, Research in Motion, and Facebook has infringed the '614 patent and, unless enjoined, will continue to do so, by using, selling, or offering for sale products and services claimed by the '614 patent, including products or services relating to the generation, processing, and/or delivery of content, notifications, and updates to or for mobile computing devices, without a license or permission from Plaintiff.

39. Plaintiff has been damaged by Defendants' infringement of the '614 patent and will suffer additional irreparable damage and impairment of the value of its patent rights unless Defendants are enjoined from continuing to infringe the '614 patent.

40. Plaintiff demands trial by jury of all issues relating to this claim.

WHEREFORE, Plaintiff prays for judgment as follows:

A. A decree preliminarily and permanently enjoining Defendants, their officers, directors, employees, agents, and all persons in active concert with them, from infringing the '433, '914, '426, and '614 patents;

B. Compensatory damages for Defendants' infringement of the '433, '914, '426, and '614 patents;

C. Costs of suit and attorneys' fees;

D. Pre-judgment interest; and

E. For such other relief as justice requires.

Dated: December 14, 2009

Respectfully submitted,

By: /s/ Jeff Eichmann

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ATTORNEYS FOR PLAINTIFF,  
SIMPLEAIR HOLDINGS, INC.

**Certificate of Service**

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this motion was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Fed. R. Civ. P. 5(d) and Local Rule CV-5(d) and (e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by email, on this the 14th day of December, 2009.

/s/ Jeff Eichmann  
John Jeffrey Eichmann