

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

_____	)	
AFFINITY LABS OF TEXAS, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. _____
	)	
APPLE, INC.,	)	
and AAMP OF FLORIDA, INC.,	)	
	)	
Defendants.	)	JURY TRIAL DEMANDED
_____	)	

**COMPLAINT**

Now comes Plaintiff Affinity Labs of Texas, LLC before this Court and alleges its complaint and petition for relief against each and all of the Defendants as follows:

**PARTIES**

1. Plaintiff Affinity Labs of Texas, LLC (“Affinity”) is a Texas limited liability corporation having offices at 4131 Spicewood Springs Blvd N10, Austin, TX 78759.
2. Defendant Apple, Inc., (“Apple”) is a California corporation having its principal place of business located at 1 Infinite Loop, Cupertino, CA 95014.
3. Upon information and belief, Defendant AAMP of Florida, Inc. (“AAMP”), is a Florida corporation having its principal place of business located at 13190 56<sup>th</sup> Ct, Ste. 401, Clearwater, FL 33760.
4. Upon information and belief, Defendant AAMP makes, markets, offers for sale, and sells products for integrating portable digital devices into a car audio system under the iSimple® brand, including the iSimple Gateway product.

**JURISDICTION AND VENUE**

5. These claims arise under the Patent Laws of the United States, 35 U.S.C. §101 *et seq.*, in that each is a claim for infringement of <sup>a</sup> United States patent. The jurisdiction of this Court is founded upon 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Defendants. Upon information and belief, each of the Defendants has transacted business in this judicial district and/or has committed, contributed to, and/or induced acts of patent infringement in this judicial district.

7. Venue within this District is proper under 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

**COUNT I: PATENT INFRINGEMENT OF THE ‘228 PATENT**

8. The allegations of paragraphs 1-7 are incorporated herein by reference.

9. Plaintiff Affinity is the sole owner by assignment of United States Patent No. 7,634,228 (“the ‘228 Patent”), which issued on December 15, 2009, and is entitled “Content Delivery System and Method.” A copy of the ‘228 Patent is attached hereto as Exhibit A.

10. Upon information and belief, each of the Defendants has infringed and, if not enjoined, will continue to infringe one or more claims of the ‘228 Patent, without authority, one or more of the following acts: (a) making, using, offering for sale, or selling within the United States products that infringe one or more claims of the ‘228 Patent, in violation of 35 U.S.C. § 271(a); (b) importing into the United States products that infringe one or more claims of the ‘228 Patent, in violation of 35 U.S.C. § 271(a); (c) inducing infringement of one or more claims of the ‘228 Patent, in violation of 35 U.S.C. § 271(b); and/or (d) contributing to the infringement of one or more claims of the ‘228 Patent, in violation of 35 U.S.C. § 271(c) (the “acts of infringement of the ‘228 Patent”).

11. Apple's acts of infringement of the '228 Patent include at least: (i) manufacturing, marketing, offering for sale, importing, and/or selling the iPod, iPod touch and iPhone line of products; and (ii) using an iPod, iPod touch or iPhone as part of the audio system and methods claimed in the '228 Patent.

12. Despite having knowledge of the '228 Patent, Apple has knowingly and willfully made, used, offered for sale, sold, and/or imported products that infringe the '228 Patent, including the iPod, iPod touch and iPhone line of products, and has done so after receiving notice of the '228 Patent and of Apple's infringement thereof, and Apple has taken these actions without authorization from Affinity.

13. Upon information and belief, AAMP's acts of infringement of the '228 Patent include at least (i) manufacturing, marketing, offering for sale and/or selling the iSimple Gateway line of products; and (ii) using the iSimple Gateway product as part of the audio system and methods claimed in the '228 Patent.

14. Upon information and belief, Defendants will continue to infringe the '228 Patent unless enjoined by this Court.

15. As a result of Defendants' infringement, Affinity has suffered and will continue to suffer damages.

16. Affinity is entitled to recover from Defendants the damages sustained by Affinity as a result of Defendants' wrongful acts in an amount subject to proof at trial.

**COUNT III: PATENT INFRINGEMENT OF THE '595 PATENT**

17. The allegations of paragraphs 1-16 are incorporated herein by reference.

18. Plaintiff Affinity is the sole owner by assignment of United States Patent No. 7,778,595 ("the '595 Patent"), which issued on August 17, 2010, and is entitled "Method for Managing Media." A copy of the '595 Patent is attached hereto as Exhibit B.

19. Upon information and belief, each of the Defendants has infringed and, if not enjoined, will continue to infringe one or more claims of the '595 Patent by performing, without authority, one or more of the following acts: (a) making, using, offering for sale, or selling within the United States the invention as claimed in one or more claims of the '595 Patent, in violation of 35 U.S.C. § 271(a); (b) importing into the United States the invention as claimed in one or more claims of the '595 Patent, in violation of 35 U.S.C. § 271(a); (c) inducing infringement of one or more claims of the '595 Patent, in violation of 35 U.S.C. § 271(b); and/or (d) contributing to the infringement of one or more claims of the '595 Patent, in violation of 35 U.S.C. § 271(c) (the "acts of infringement of the '595 Patent").

20. Apple's acts of infringement of the '595 Patent include at least: (i) manufacturing, marketing, offering for sale, importing, and/or selling the iPhone line of products; and (ii) using the iPhone as part of the audio system and methods claimed in the '595 Patent.

21. Despite having knowledge of the '595 Patent, Apple has knowingly and willfully made, used, offered for sale, sold, and/or imported products, including the iPhone, that infringe the '595 Patent, and has done so after receiving notice of the '595 Patent, and Apple has taken these actions without authorization from Affinity.

22. Upon information and belief, AAMP's acts of infringement of the '595 Patent include at least (i) manufacturing, marketing, offering for sale, importing, and/or selling the iSimple Gateway line of products; and (ii) using the iSimple Gateway product as part of the audio system and methods claimed in the '595 Patent.

23. Upon information and belief, Defendants will continue to infringe the '595 Patent unless enjoined by this Court.

24. As a result of Defendants' infringement, Affinity has suffered and will continue to suffer damages.

25. Affinity is entitled to recover from Defendants the damages sustained by Affinity as a result of Defendants' wrongful acts in an amount subject to proof at trial.

**JURY DEMAND**

Pursuant to Federal Rule of Civil Procedure 38 and the Seventh Amendment of the United States Constitution, Affinity hereby demands a jury trial on all issues triable to a jury.

**REQUEST FOR RELIEF**

WHEREFORE, Affinity petitions this Court and requests that a judgment be entered and relief be granted as follows:

A. Declaring that each of the Defendants has infringed the '228 Patent as alleged herein (directly, by inducement, and/or contributorily);

B. Declaring Apple's infringement of the '228 Patent is willful;

C. Permanently enjoining, restraining, and prohibiting each of the Defendants, and any party acting through, for, or in concert with each of the Defendants, from further infringing (directly, by inducement, or contributorily) any claim of the '228 Patent;

D. Awarding to Affinity such monetary or compensatory damages as may be found or deemed adequate to fully compensate Affinity for each of the Defendants' acts of infringement of the '228 Patent and/or any other injury suffered by Affinity due to each of the Defendants' acts of infringement of the '228 Patent;

E. Awarding to Affinity treble damages, pursuant to 35 U.S.C. § 284;

F. Declaring that each of the Defendants has infringed the '595 Patent as alleged herein (directly, by inducement, and/or contributorily);

G. Declaring that Apple's infringement of the '595 Patent is willful;

H. Permanently enjoining, restraining, and prohibiting each of the Defendants, and any party acting through, for, or in concert with each of the Defendants, from further infringing (directly, by inducement, or contributorily) any claim of the '595 Patent;

I. Awarding to Affinity such monetary or compensatory damages as may be found or deemed adequate to fully compensate Affinity for each of the Defendants' acts of infringement of the '595 Patent and/or any other injury suffered by Affinity due to each of the Defendants' acts of infringement of the '595 Patent;

J. Awarding to Affinity treble damages, pursuant to 35 U.S.C. § 284;

K. Declaring this case exceptional and awarding to Affinity its attorneys' fees, pursuant to 35 U.S.C. § 285;

L. Awarding to Affinity its costs; and

M. Awarding to Affinity such other, further, or general relief as this Court may deem proper.

Respectfully submitted,

Dated: July 26, 2011

By: /s/ Thomas W. Sankey  
Thomas W. Sankey  
TX Bar No. 17635670  
[twisankey@duanemorris.com](mailto:twisankey@duanemorris.com)  
Jordan T. Fowles  
TX Bar No. 24048471  
[jtfowles@duanemorris.com](mailto:jtfowles@duanemorris.com)  
**Duane Morris LLP**  
Suite 800  
1330 Post Oak Blvd.  
Houston, TX 77056-3166  
Tel.: 713.402.3900  
Fax: 713.402.3901

OF COUNSEL:

L. Norwood Jameson  
wjameson@duanemorris.com

Matthew C. Gaudet  
mcgaudet@duanemorris.com

**Duane Morris LLP**

1180 West Peachtree Street, Suite 700

Atlanta GA 30309-3448

Tel.: 404.253.6900

Fax: 404.253.6901

Brian McQuillen

bmcquillen@duanemorris.com

**Duane Morris LLP**

1540 Broadway

New York, NY 10036-4086

Tel.: 212.692.1000

Fax: 212.692.1020

ATTORNEYS FOR PLAINTIFF  
AFFINITY LABS OF TEXAS, LLC