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

APPLE COMPUTER, INC.,

Plaintiff,

v.

CREATIVE TECHNOLOGY LTD. and CREATIVE LABS, INC.,

Defendants.

CASE NO. 9:06cv150

JURY TRIAL DEMANDED

Judge Clark

PLAINTIFF APPLE COMPUTER, INC.'S COMPLAINT

FOR INFRINGEMENT OF UNITED STATES PATENT NO. 6,282,646

THE PARTIES

1. Plaintiff Apple Computer, Inc. ("Apple") is a corporation organized under the laws of the State of California, having its principal place of business at One Infinite Loop, Cupertino, California 95014. Apple manufactures and then sells computer hardware and software under various brand names, portable digital media players under the brand name iPod, and associated software under the brand name iTunes, including in and around Lufkin, Texas and elsewhere in the Eastern District of Texas. Apple owns numerous patents in various countries around the world, including the United States, that relate to these products and components, as well as other areas of technology. Apple sells, distributes, advertises and offers for sale a wide variety of its products, including products covered by one or more of the patent-in-suit, in Lufkin and throughout this District, and has for some time.

2. Upon information and belief, Defendant Creative Technology Ltd. is a corporation organized and existing under the laws of the country of Singapore, having its principal place of

business at 31 International Business Park, Creative Resources, Singapore 609921. Upon information and belief, Defendant Creative Labs, Inc. is a corporation organized and existing under the laws of the state of California, having its principal place of business at 1901 McCarthy Boulevard, Milpitas, California 95035. Defendants Creative Technology Ltd. and Creative Labs, Inc. will hereafter be referred to collectively as "Creative." On information and belief, Creative develops and tests, and then sells, advertises, markets and distributes personal digital entertainment products and products for personal computers, including portable media devices and components thereof, including in and around Lufkin, TX and in the Eastern District of Texas.

JURISDICTION

3. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. §§ 1 *et seq*. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338.

4. This Court has personal jurisdiction over Creative because Creative has established minimum contacts with the forum and the exercise of jurisdiction over Creative would not offend traditional notions of fair play and substantial justice. On information and belief, Creative has voluntarily conducted business and solicited customers in the State of Texas, including in Lufkin, as well as elsewhere throughout the Eastern District of Texas. On information and belief, Creative sells, advertises, markets and distributes infringing personal digital entertainment products and infringing products for personal computers in and around Lufkin and throughout the Eastern District of Texas.

5. Creative has committed and continues to commit acts of patent infringement in Lufkin, the Eastern District of Texas, elsewhere in the State of Texas and in the United States.

VENUE

6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and/or 1400 because Creative is subject to personal jurisdiction in the Eastern District of Texas. On information and belief, Creative has voluntarily conducted business and sold infringing products and/or products that perform infringing processes in Lufkin and throughout the Eastern District of Texas, including

selling, advertising, marketing and distributing infringing personal digital entertainment products and infringing products for personal computers in and around Lufkin, Texas and in the Eastern District of Texas.

7. Creative has committed and continues to commit acts of patent infringement in Lufkin and throughout the Eastern District of Texas.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 6,282,646

8. United States Patent No. 6,282,646 ("'646 patent"), entitled "System for Real-Time Adaptation To Changes In Display Configuration," a patent generally directed to methods for reconfiguring a computer system to accommodate changes in a display environment, was duly and legally issued on August 28, 2001, to inventors Ian Hendry, Eric Anderson, and Fernando Urbina. Apple owns and has full rights to sue and recover damages for infringement of the '646 patent. A copy of the '646 patent is attached hereto as Exhibit 1.

9. The '646 patent is valid and enforceable.

10. Creative has infringed, and is still infringing, one or more claims of the '646 patent in at least this State and District by making, using, offering to sell, selling, and/or importing products that infringe one or more of the claims of the '646 patent.

11. Creative has also contributed to and/or induced, and continues to contribute to and/or induce, the infringement of one or more claims of the '646 patent, in at least this State and District.

12. On information and belief, Creative's infringement of one or more claims of the '646 patent has taken place, and continues to take place, with full knowledge of the '646 patent and has been, and continues to be, willful, deliberate, and intentional.

13. Creative's infringement of one or more claims of the '646 patent has injured Apple, and Apple is entitled to recover damages adequate to compensate it for Creative's infringement, which in no event can be less than a reasonable royalty.

14. Creative has caused Apple substantial damage and irreparable injury by its infringement of one or more claims of the '646 patent, and Apple will continue to suffer damage and irreparable injury unless and until the infringement by Creative is enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Apple respectfully requests that judgment be entered in favor of Apple and against Defendants Creative Technology Ltd. and Creative Labs, Inc. and prays that the Court grant the following relief to Apple:

A. A judgment that Creative has infringed, contributorily infringed, and/or induced the infringement of the '646 patent, and continues to infringe, contribute to the infringement of, and/or induce the infringement of the '646 patent;

B. A judgment that Creative's infringement of the '646 patent was willful, and continues to be willful;

C. Entry of a permanent injunction pursuant to 35 U.S.C. § 283 enjoining Creative, its officers, directors, servants, consultants, managers, employees, agents, attorneys, successors, assigns, affiliates, subsidiaries, and all persons in active concert or participation with any of them, from infringement, contributory infringement, and inducement of infringement of the '646 patent, including but not limited to making, using, offering to sell, selling, or importing any products that infringe or products that perform the patented processes set forth in the '646 patent;

D. An award of all damages adequate to compensate Apple for Creative's infringement, contributory infringement, and/or inducement of infringement, such damages to be determined by a jury and, if necessary, an accounting of all damages;

E. An award of prejudgment and post-judgment interest to Apple pursuant to 35 U.S.C. § 284;

F. An award of increased damages in an amount not less than three times the amount of damages awarded to Apple for Creative's willful infringement of the '646 patent pursuant to 35 U.S.C. § 284;

G. A declaration that this case is exceptional under 35 U.S.C. § 285 and an award of the reasonable attorneys' fees, costs, and expenses incurred by Apple in this action; and

H. Such other and further relief as this Court may deem just and proper.

JURY DEMAND

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

DATED: July 15, 2006

By: _____

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