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4 *Attorney for Plaintiff*  
5 SMARTDATA, S.A.

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8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**

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11 SMARTDATA, S.A.,  
12 Plaintiff,  
13 v.  
14 APPLE, INC.,  
15 Defendant.

Case No. 12-cv-00583-JSC

AMENDED COMPLAINT FOR PATENT  
INFRINGEMENT

DEMAND FOR JURY TRIAL

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1 Plaintiff SMARTDATA, S.A. ("SmartData"), by and through its undersigned counsel, hereby  
2 alleges as follows:

3 **PARTIES**

4 1. SmartData is a corporation organized under the laws of Switzerland with its  
5 principal place of business at CP 931, Rue de la Fusion 99, 1920 Martigny, Switzerland.  
6 SmartData does not do business in the Northern District of California.

7 2. Upon information and belief, Apple, Inc. ("Apple") is a corporation  
8 organized under the laws of the State of California with its principal place of business at 1 Infinite  
9 Loop, Cupertino, CA 95014, USA. Apple does business in the Northern District of California.

10 **JURISDICTION AND VENUE**

11 3. This action for patent infringement arises under the patent laws of the  
12 United States, Title 35 of the United States Code. This Court has jurisdiction over the subject  
13 matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

14 4. Venue is proper in the Northern District of California under 28 U.S.C. §§  
15 1391(b) and (c) and 1400(b).

16 5. This Court has personal jurisdiction over Apple ("Defendant") because it  
17 resides within the State of California and within this judicial district, and because it has conducted  
18 and does conduct business within the State of California and within this judicial district.

19 **INTRADISTRICT ASSIGNMENT**

20 6. This is an Intellectual Property Action to be assigned on a district-wide  
21 basis pursuant to Civil Local Rule 3-2(c).

22 **BACKGROUND**

23 7. SmartData is a technology company specializing in wireless computing.  
24 SmartData develops wireless bridging solutions for portable devices and provides working  
25 reference designs, prototypes, and related services to major and leading companies wishing to  
26 extend their product portfolio with no or very short development efforts.

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1                   8.       SmartData sought and obtained patent protection pertaining to its  
2 innovations in wireless computing technology. The inventions protected by SmartData's patents  
3 resulted from the investment of large monetary sums in research and development.

4                   9.       On January 2, 2007, the United States Patent and Trademark Office duly  
5 and legally issued U.S. Patent No. 7,158,757, entitled "Modular Computer" ("the '757 Patent"). A  
6 true and correct copy of the '757 Patent is attached hereto as Exhibit A.

7                   10.      SmartData is the owner by assignment of the '757 Patent and has the  
8 exclusive right to license the '757 Patent as well as to sue for and collect fees, costs, and damages,  
9 including damages for past infringement of the '757 Patent.

10                  11.      The '757 Patent generally relates to wireless computing technology.

11                  12.      Upon information and belief, Defendant is a global supplier of computing  
12 technology, including wireless computing technology. Defendant designs, manufactures, and  
13 markets and extensive portfolio of wireless computing devices and systems. Specifically,  
14 Defendant designs, manufactures, and markets the following products:

15                  | iPhone, iPad, iPod, AppleTV, Remote, AirPlay, and AirPort Express  
16 (the "Accused Products").

17                  13.      Upon information and belief, Defendant has manufactured, used, caused to  
18 be used, offered to sell and/or sold its products, including but not limited to the Accused Products,  
19 in the Northern District of California and elsewhere in the United States.

20                  14.      Upon information and belief, Defendant has known of SmartData's  
21 intellectual property at least since July 30, 2004, when SmartData first contacted Defendant  
22 regarding the predecessor application to the '757 Patent, U.S. Pat. App. No. US2004/0142724.

23                  15.      Defendant corresponded with SmartData regarding a potential licensing  
24 offer for the predecessor application to the '757 Patent until mid-2006. On June 29, 2006,  
25 Defendant sent a letter to SmartData inviting "constructive dialog" regarding potential licensing of  
26 SmartData's intellectual property.

27                  16.      Despite further attempts on the part of SmartData to engage in licensing  
28 negotiations, Defendant abruptly ceased communication with SmartData following the letter dated

1 June 29, 2006, and failed to reply to SmartData's good-faith licensing offers for the predecessor  
2 application to the '757 Patent, expressed in correspondence dated September 6, 2006 and  
3 November 14, 2006, which remained unanswered.

4 17. The '757 Patent issued on January 2, 2007; SmartData referenced the '757  
5 Patent in its correspondence to Apple of May 21, 2007, making yet another licensing offer, which  
6 also remained unanswered.

7 18. Upon information and belief, Defendant released one of the Accused  
8 Products, the AppleTV, in March of 2007. Another one of the Accused Products, the iPhone, was  
9 released in June of 2007. The Remote iPhone application, which enables an iPhone user to  
10 interact with the AppleTV, was released in July of 2008. The use of the Accused Products with an  
11 audio/video unit infringes the '757 Patent. Both Apple and its customers have used these products  
12 together and have practiced the '757 Patent.

13 19. At the time the Accused Products were released, Defendant was clearly  
14 aware of the '757 Patent. Defendant was also clearly aware of the '757 Patent during the time the  
15 Accused Products were being developed.

## 16 **COUNT I**

### 17 **(Infringement of the '757 Patent)**

18 20. SmartData hereby restates and realleges the allegations set forth in  
19 paragraphs 1-14 above and incorporates them by reference, as though fully set forth herein.

20 21. SmartData is informed and believes, and on that basis alleges, that  
21 Defendant has infringed and is infringing the '757 Patent, has contributed and is contributing to  
22 infringement of the '757 Patent, and/or has actively induced and is actively inducing others to  
23 infringe the '757 Patent, by committing acts defined in 35 U.S.C. § 271 as unlawful and  
24 infringing, including but not limited to making, using, offering for sale, selling and/or importing  
25 products that infringe one or more claims of the '757 Patent. Defendant's infringing products  
26 include, but are not limited to, the Accused Products. All such acts by Defendant have been  
27 without authority or license from SmartData.  
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1           22.     As a consequence of Defendant's infringing activities, SmartData has been  
2 damaged in an amount not yet determined. Defendant's infringement of SmartData's exclusive  
3 rights under the '757 Patent will continue to damage SmartData, causing irreparable harm, for  
4 which there is no adequate remedy at law, unless Defendant is enjoined by this Court.

5           23.     Upon information and belief, Defendant's infringement is willful and  
6 deliberate, entitling SmartData to increased damages under 35 U.S.C. § 284 and to attorneys' fees  
7 and costs incurred in prosecuting this action under 35 U.S.C. § 285.

8           WHEREFORE, SmartData prays for the following relief:

9           A.     That the Court find and enter a judgment that Defendant has directly and/or  
10 indirectly infringed, induced infringement, and/or contributed to infringement of the '757 Patent;

11           B.     That the Court find and enter a judgment that Defendant's infringement of  
12 the '757 Patent has been and continues to be willful;

13           C.     That the Court enter a permanent injunction, pursuant to 35 U.S.C. § 283,  
14 enjoining Defendant and its officers, agents, servants, employees, successors, assigns, attorneys,  
15 and all others in active concert and/or participation with them from further directly infringing,  
16 indirectly infringing, inducing infringement and/or contributing to infringement of the '757 Patent;

17           D.     That the Court find and enter a judgment, pursuant to 35 U.S.C. § 284, first  
18 paragraph, awarding SmartData damages, including an accounting of damages, adequate to  
19 compensate SmartData for Defendant's past and present infringement of the '757 Patent by  
20 payment of an amount not less than a reasonable royalty on Defendant's sales of infringing  
21 products, together with pre-judgment and post-judgment interest on the damages awarded, and  
22 costs;

23           E.     That the Court award SmartData treble damages based on the willfulness of  
24 Defendant's infringement, pursuant to 35 U.S.C. § 284, second paragraph;

25           F.     That the Court find and enter a judgment that this case is exceptional and  
26 award to SmartData its reasonable attorney fees, disbursements and costs in accordance with the  
27 law, including, but not limited to, 35 U.S.C. § 285; and  
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1 G. That the Court award SmartData any other relief that the Court may deem  
2 just, equitable, and proper.

3 **DEMAND FOR JURY TRIAL**

4 SmartData hereby demands a jury trial on all issues so triable.

5  
6 Dated: March 2, 2012

Respectfully submitted,

7  
8 By:  \_\_\_\_\_

9 **LAW OFFICES OF LARISA  
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