

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

<b>DATA ENGINE TECHNOLOGIES</b>	§	
<b>LLC.</b>	§	
	§	
	§	
<b>Plaintiff,</b>	§	<b>Civil Action No.: 6:12-cv-00697</b>
<b>v.</b>	§	
	§	
<b>APPLE, INC.</b>	§	
	§	
<b>Defendant.</b>	§	<b>JURY TRIAL DEMANDED</b>

**PLAINTIFF'S FIRST AMENDED COMPLAINT**

Plaintiff Data Engine Technologies LLC (“Data Engine”) files this First Amended Complaint for patent infringement against Defendant Apple, Inc. (“Apple”).

**PARTIES**

1. Plaintiff Data Engine Technologies LLC is a limited liability company existing under the laws of Texas with its principal place of business at 6136 Frisco Square Blvd., Suite 385, Frisco, Texas 75034.

2. Defendant Apple, Inc. is a corporation existing under the laws of California with its principal place of business located at 1 Infinite Loop, Cupertino, California, 95014. It can be served through its agent for service: CT Corporation System, 350 N. St. Paul Street, Suite 2900, Dallas, Texas 75201.

**JURISDICTION AND VENUE**

3. This is an action for patent infringement under the Patent Laws of the United States, Title 35 of the United States Code.

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and 1400(b). Upon information and belief, Defendant has transacted business in this district, has a regular and established place of business in this district, has committed and/or induced acts of patent infringement in this district, and resides in this district.

### **FACTS**

6. On October 31, 1995, the United States Patent and Trademark Office (“USPTO”) duly and legally issued United States Patent No. 5,463,724 (“the ‘724 patent”), entitled “System and Methods for Improved Spreadsheet Interface with User-Familiar Objects.” Data Engine holds all right, title, and interest in and to the ‘724 patent.

7. Upon information and belief, Apple makes, uses, sells, offers for sale, or imports into the State of Texas, in this judicial district, and elsewhere within the United States, software that infringes the ‘724 patent.

8. On May 16, 1995, the USPTO duly and legally issued United States Patent No. 5,416,895 (“the ‘895 patent”), entitled “System and Methods for Improved Spreadsheet Interface with User-Familiar Objects.” Data Engine holds all right, title, and interest in and to the ‘895 patent.

9. Upon information and belief, Apple makes, uses, sells, offers for sale, or imports into the State of Texas, in this judicial district, and elsewhere within the United States, software that infringes the ‘895 patent.

10. On December 31, 1996, the USPTO duly and legally issued United States Patent No. 5,590,259 (“the ‘259 patent”), entitled “System and Methods for Improved Spreadsheet Interface with User-Familiar Objects.” Data Engine holds all right, title, and interest in and to the ‘259 patent.

11. Upon information and belief, Apple makes, uses, sells, offers for sale, or imports into the State of Texas, in this judicial district, and elsewhere within the United States, software that infringes the '259 patent.

**COUNT I: INFRINGEMENT OF THE '724 PATENT**

12. Data Engine incorporates the foregoing paragraphs as if fully set forth here.

13. Apple had actual knowledge of the '724 patent no later than June 8, 2010. On May 31, 2011, the USPTO issued United States Patent No. 7,954,047 ("the '047 patent'). The USPTO recorded an assignment of the '047 patent to Apple on August 6, 2007. On June 8, 2010, the examiner identified the '724 patent in a notice of references. On or around that date, Apple had actual notice of the '047 patent.

14. Apple has been and is now directly infringing the method claims of the '724 patent in the State of Texas, in this judicial district, and elsewhere within the United States by, among other things, making, using, licensing, selling, offering for sale, or importing software, including the software application Numbers, covered by one or more method claims of the '724 patent, all to the injury of Data Engine.

15. In addition and/or in the alternative, Apple has been and is now indirectly infringing by way of inducing infringement and/or contributing to the infringement of the method claims of the '724 patent in the State of Texas, in this judicial district, and elsewhere within the United States by, among other things, making, using, licensing, selling, offering for sale, or importing software, including the software application Numbers, covered by one or more method claims of the '724 patent, all to the injury of Data Engine. In the case of such infringement, the users of the software are the direct infringers of the '724 patent.

16. Apple's acts of infringement have been willful, deliberate, and in reckless disregard of Data Engine's patent rights, and will continue unless permanently enjoined by this Court.

17. Data Engine has been damaged by Apple's infringement of the method claims of the '724 patent in an amount to be determined at trial, and has suffered and will continue to suffer irreparable loss and injury unless Apple is permanently enjoined from infringing the method claims of the '724 patent.

### **COUNT II: INFRINGEMENT OF THE '895 PATENT**

18. Data Engine incorporates the foregoing paragraphs as if fully set forth here.

19. Apple had actual knowledge of the '895 patent no later than November 7, 2000. On November 7, 2000, the USPTO issued United States Patent No. 6,144,380 ("the '380 patent'). Apple was the original assignee of the '380 patent and received that assignment prior to or on November 7, 2000. The '895 patent is cited as a reference in the '380 patent. As a result, on or before November 7, 2000, Apple had actual notice of the '895 patent.

20. Apple has been and is now directly infringing the method claims of the '895 patent in the State of Texas, in this judicial district, and elsewhere within the United States by, among other things, making, using, licensing, selling, offering for sale, or importing software, including the software application Numbers, covered by one or more method claims of the '895 patent, all to the injury of Data Engine.

21. In addition and/or in the alternative, Apple has been and is now indirectly infringing by way of inducing infringement and/or contributing to the infringement of the method claims of the '895 patent in the State of Texas, in this judicial district, and elsewhere within the United States by, among other things, making, using, licensing, selling, offering for sale, or importing software, including the software application Numbers, covered by one or more

method claims of the '895 patent, all to the injury of Data Engine. In the case of such infringement, the users of the software are the direct infringers of the '895 patent.

22. Apple's acts of infringement have been willful, deliberate, and in reckless disregard of Data Engine's patent rights, and will continue unless permanently enjoined by this Court.

23. Data Engine has been damaged by Apple's infringement of the method claims of the '895 patent in an amount to be determined at trial, and has suffered and will continue to suffer irreparable loss and injury unless Apple is permanently enjoined from infringing the method claims of the '895 patent.

### **COUNT III: INFRINGEMENT OF THE '259 PATENT**

1. Data Engine incorporates the foregoing paragraphs as if fully set forth here.

2. Apple had actual knowledge of the '259 patent no later than December 11, 2011. On December 11, 2011, the USPTO issued United States Patent No. 8,078,963 ("the '963 patent'). Apple was the original assignee of the '963 patent and was assigned the patent on or before April 25, 2005. The '295 patent is cited as a reference in the '963 patent. As a result, on or before December 11, 2011, Apple had actual notice of the '259 patent. In addition, the '259 Patent was disclosed during the prosecution of the '963 Patent on or around June 17, 2009, and therefore on or around June 17, 2009, Apple had actual notice of the '259 patent.

3. Apple has been and is now directly infringing the method claims of the '259 patent in the State of Texas, in this judicial district, and elsewhere within the United States by, among other things, making, using, licensing, selling, offering for sale, or importing software, including the software application Numbers, covered by one or more method claims of the '259 patent, all to the injury of Data Engine.

4. In addition and/or in the alternative, Apple has been and is now indirectly infringing by way of inducing infringement and/or contributing to the infringement of the method claims of the '259 patent in the State of Texas, in this judicial district, and elsewhere within the United States by, among other things, making, using, licensing, selling, offering for sale, or importing software, including the software application Numbers, covered by one or more method claims of the '259 patent, all to the injury of Data Engine. In the case of such infringement, the users of the software are the direct infringers of the '259 patent.

5. Apple's acts of infringement have been willful, deliberate, and in reckless disregard of Data Engine's patent rights, and will continue unless permanently enjoined by this Court.

6. Data Engine has been damaged by Apple's infringement of the method claims of the '259 patent in an amount to be determined at trial, and has suffered and will continue to suffer irreparable loss and injury unless Apple is permanently enjoined from infringing the method claims of the '259 patent.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Data Engine Technologies LLC prays for the following relief against Defendant Apple, Inc.

A. A judgment in favor of Data Engine that Apple has infringed, directly and/or indirectly by way of inducing infringement and/or contributing to the infringement of the method claims of Data Engine's '724, '895, and '259 patents;

B. A permanent injunction, enjoining Apple along with its officers, directors, agents, servants, employees, affiliates, divisions, branches, subsidiaries, and parents from infringing,

inducing the infringement of, or contributing to the infringement of the method claims of Data Engine's '724, '895, and '259 patents;

C. A judgment and order requiring Apple to pay Data Engine damage for Apple's infringement of the method claims of Data Engine's '724, '895, and '259 patents, together with interest (both pre- and post-judgment), costs and disbursements as fixed by this Court under 35 U.S.C. § 284;

D. A judgment and order finding Apple's infringement is and/or has been willful and awarding treble the amount of damages and losses sustained by Data Engine as a result of Apple's infringement under 35 U.S.C. § 284;

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

J. Such other and further relief in law or in equity to which Data Engine may be justly entitled.

**DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury of any and all issues triable of right before a jury.

Respectfully submitted,

AHMAD, ZAVITSANOS, ANAIPAKOS, ALAVI & MENSING, P.C.

/s/ Amir H. Alavi

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Amir Alavi

Texas Bar No. 00793239

[aalavi@azalaw.com](mailto:aalavi@azalaw.com)

Demetrios Anaipakos

Texas Bar No. 00793258

[danaipakos@azalaw.com](mailto:danaipakos@azalaw.com)

Steven J. Mitby

Texas Bar No. 24037123

[smitby@azalaw.com](mailto:smitby@azalaw.com)

Brian E. Simmons

Texas Bar No. 24004922

[bsimmons@azalaw.com](mailto:bsimmons@azalaw.com)

1221 McKinney Street, Suite 3460

Houston, Texas 77010

Telephone: 713-655-1101

Facsimile: 713-655-0062

T. John Ward, Jr.

Texas Bar No. 00794818

[jw@wsfirm.com](mailto:jw@wsfirm.com)

Wesley Hill

Texas Bar No. 24032294

[wh@wsfirm.com](mailto:wh@wsfirm.com)

WARD & SMITH LAW FIRM

111 W. Tyler Street

Longview, TX 75601

Telephone: (903) 757-6400

Facsimile: (903) 757-2323

ATTORNEYS FOR PLAINTIFF



**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing document has been filed electronically in compliance with Local Rule CV-5(a). Therefore, this document 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 mail on this the 6<sup>th</sup> day of March, 2013.

/s/ Amir H. Alavi  
Amir H. Alavi