

# EXHIBIT 1

DECLARATION OF LUANN L. SIMMONS  
IN SUPPORT OF DEFENDANT APPLE, INC.'S  
REPLY IN SUPPORT OF ITS MOTION TO STAY

CASE NO. 5:15-CV-02008-EJD

1 Robert F. McCauley (SBN 162056)  
robert.mccauley@finnegan.com  
2 Jacob A. Schroeder (SBN 264717)  
jacob.schroeder@finnegan.com  
3 FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, LLP  
3300 Hillview Avenue  
4 Palo Alto, CA 94304-1203  
Telephone: (650) 849-6600  
5 Facsimile: (650) 849-6666

6 Gerald F. Ivey (*pro hac vice*)  
Smith R. Brittingham IV (*pro hac vice*)  
7 Elizabeth A. Niemeyer (*pro hac vice*)  
John M. Williamson (*pro hac vice*)  
8 Rajeev Gupta (*pro hac vice*)  
Cecilia Sanabria (*pro hac vice*)  
9 Aidan C. Skoyles (*pro hac vice*)  
FINNEGAN, HENDERSON, FARABOW,  
10 GARRETT & DUNNER, LLP  
901 New York Avenue, NW  
11 Washington, DC 20001-4413  
Telephone: (202) 408-4000  
12 Facsimile: (202) 408-4400

13 Stephen E. Kabakoff (*pro hac vice*)  
FINNEGAN, HENDERSON, FARABOW,  
14 GARRETT & DUNNER, LLP  
3500 SunTrust Plaza  
15 303 Peachtree Street, N.E.  
Atlanta, GA 30308-3263  
16 Telephone: (404) 653- 6400  
17 Facsimile: (404) 653-6444

18 *Attorneys for Plaintiffs*  
OpenTV, Inc., NagraVision S.A., and  
19 Nagra France S.A.S.

20 UNITED STATES DISTRICT COURT

21 NORTHERN DISTRICT OF CALIFORNIA

22 OPENTV, INC., NAGRAVISION S.A., and  
23 NAGRA FRANCE S.A.S.

Case No. 5:15-cv-02008-EJD (NMC)

24 Plaintiffs,

**PLAINTIFFS' DISCLOSURE OF  
ASSERTED CLAIMS AND  
INFRINGEMENT CONTENTIONS  
RELATING TO U.S. PATENT NOS.  
6,148,081, 6,233,736, 7,055,169,  
7,644,429, AND 7,725,740**

25 v.

26 APPLE INC.,

27 Defendant.

1 **I. PRELIMINARY STATEMENT**

2 Pursuant to Patent L.R. 3-1, Plaintiffs OpenTV, Inc., NagraVision S.A., and Nagra France  
3 S.A.S. (collectively “OpenTV”) provide the following Disclosure of Asserted Claims and  
4 Infringement Contentions Relating to U.S. Patent Nos. 6,148,081 (“the ’081 patent”), 6,233,736  
5 (“the ’736 patent”), 7,055,169 (“the ’169 patent”), 7,644,429 (“the ’429 patent”), and 7,725,740  
6 (“the ’740 patent”) (collectively “the asserted patents”).

7 This Disclosure is based on OpenTV’s current knowledge, understanding, and beliefs.  
8 Recognizing that discovery is in its early stages and OpenTV has not yet completed its investigation,  
9 collection of information, or analysis of Defendant Apple Inc.’s conduct relevant to the asserted  
10 patents, OpenTV reserves its right to amend, revise, or supplement any part of this Disclosure or any  
11 accompanying exhibits in accordance with this Court’s Scheduling Order, the Patent Local Rules of  
12 the Northern District of California, including Patent L.R. 3-6, or the Federal Rules of Civil  
13 Procedure, as additional documents and information become available and as discovery and the  
14 investigation proceed.

15 This Disclosure does not represent, and should not be understood as describing, OpenTV’s  
16 position regarding the construction of any claim language in the asserted claims of the asserted  
17 patents. Moreover, this Disclosure is made without prejudice to any position that OpenTV may take  
18 with respect to claim construction. OpenTV further reserves the right to supplement this Disclosure  
19 following any claim construction order from this Court, and reserves the right to introduce and use  
20 such supplemental materials at trial.

21 Furthermore, OpenTV makes this Disclosure without waiving its right to object to the  
22 production of any document, data compilation, or tangible thing disclosed on the basis of any  
23 privilege, work product, relevancy, undue burden, or other valid objection.

24 **II. ASSERTED CLAIMS**

25 Based on the information presently known to OpenTV, OpenTV identifies the following  
26 asserted claims pursuant to Patent L.R. 3-1(a):

27 (1) Claims 1-3 and 23-24 of the ’081 patent (“Asserted ’081 claims”);

28 (2) Claims 1, 2, and 8, 12 of the ’736 patent (“Asserted ’736 claims”);

- 1 (3) Claims 1, 2, 12, 22, and 23 of the '169 patent (“Asserted '169 claims”);
- 2 (4) Claims 1, 2, and 4-6 of the '429 patent (“Asserted '429 claims”); and
- 3 (5) Claims 1, 2, and 4-9 of the '740 patent (“Asserted '740 claims”).

4 OpenTV alleges that Apple infringes each of the Asserted '081 claims, Asserted '736 claims,  
5 Asserted '169 claims, Asserted '429 claims, and Asserted '740 claims under one or more of 35  
6 U.S.C. §§ 271(a), (b), or (c).

### 7 **III. ACCUSED INSTRUMENTALITIES**

8 Pursuant to Patent L.R. 3-1(b), and based on OpenTV’s investigation thus far, OpenTV  
9 identifies the following apparatuses, products, devices, processes, methods, acts, or other  
10 instrumentalities (collectively “the Accused Instrumentalities” or “the Accused Apple Products”)  
11 that OpenTV believes infringe the asserted claims:

12 Appendix A: Products Accused of Infringing the '081 Patent

13 Appendix B: Products Accused of Infringing the '736 Patent

14 Appendix C: Products Accused of Infringing the '169 Patent

15 Appendix D: Products Accused of Infringing the '429 Patent

16 Appendix E: Products Accused of Infringing the '740 Patent

17 OpenTV’s identification of the Accused Instrumentalities is based on its current knowledge,  
18 understanding, and beliefs as to the facts and information available as of the date of this Disclosure.  
19 OpenTV reserves the right to amend, revise, and/or supplement its asserted claims, identification of  
20 accused instrumentalities, claim charts, and other disclosures and bases for infringement as  
21 additional information becomes available as discovery, the investigation, and claim construction  
22 proceed.

### 23 **IV. CLAIM CHARTS**

24 Pursuant to Patent L.R. 3-1(c), and based on OpenTV’s investigation thus far, attached as  
25 Exhibits A-E are detailed claim charts that identify specifically where each limitation of each  
26 asserted claim is found within each Accused Instrumentality.

27 Exhibit A: Claim chart for the '081 patent that identifies specifically where each limitation of

28 each asserted claim is found within the Accused '081 Patent Apple Products

1 Exhibit B: Claim chart for the '736 patent that identifies specifically where each limitation of  
2 each asserted claim is found within the Accused '736 Patent Apple Products.

3 Exhibit C: Claim chart for the '169 patent that identifies specifically where each limitation of  
4 each asserted claim is found within the Accused '169 Patent Apple Products.

5 Exhibit D: Claim chart for the '429 patent that identifies specifically where each limitation of  
6 each asserted claim is found within the Accused '429 Patent Apple Products.

7 Exhibit E: Claim chart for the '740 patent that identifies specifically where each limitation of  
8 each asserted claim is found within the Accused '740 Patent Apple Products.

9 **V. INFRINGEMENT**

10 Pursuant to Patent L.R. 3-1(d), and based on OpenTV's investigation thus far, OpenTV  
11 believes that Apple infringes, directly or indirectly, at least claims 1-3 and 23-24 of the '081 patent  
12 based on the Accused '081 Patent Apple Products (Ex. A, App'x A); claims 1, 3, and 8-12 of  
13 the '736 patent based on the Accused '736 Patent Apple Products (Ex. B, App'x B); claims 1, 2, 12,  
14 22, and 23 of the '169 patent based on the Accused '169 Patent Apple Products (Ex. C, App'x C);  
15 claims 1, 2, and 4-6 of the '429 patent based on the Accused '429 Patent Apple Products (Ex. D,  
16 App'x D); and claims 1, 2, and 4-9 of the '740 patent based on the Accused '740 Patent Apple  
17 Products (Ex. E, App'x E).

18 Apple maintains a website through which it promotes and offers to sell its Accused  
19 Instrumentalities to customers, including customers in the United States. Moreover, Apple offers to  
20 sell and sells its Accused Instrumentalities to end users and customers throughout the United States  
21 through a variety of on-line stores, retailers, and distributors, including numerous Apple Store  
22 locations nationwide. *See* "Apple Store Locations" at <http://www.apple.com/retail/storelist/>.

23 On information and belief, Apple manufactures (or has manufactured on its behalf) the  
24 Accused Instrumentalities that infringe the asserted patents, and Apple employees use the Accused  
25 Instrumentalities in an infringing manner, for example, for research, development, testing, usability,  
26 and/or quality control analyses.

27 Further, Apple has induced and continues to induce direct infringement of the asserted  
28

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.