

# EXHIBIT 3

DECLARATION OF MELODY DRUMMOND HANSEN  
IN SUPPORT OF DEFENDANT APPLE INC.'S MOTION  
TO PRECLUDE RELIANCE ON CERTAIN  
INVENTION DATES AND TO STRIKE CERTAIN ALLEGATIONS

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18 Attorneys for Defendant  
19 **APPLE INC.**

20 **UNITED STATES DISTRICT COURT**  
21 **NORTHERN DISTRICT OF CALIFORNIA**  
22 **SAN JOSE**

23 OpenTV, Inc., NagraVision, SA, and Nagra  
24 France S.A.S.,

25 Plaintiffs,

26 v.

27 Apple Inc.,

28 Defendant.

Case No. 5:15-cv-02008-EJD

**DEFENDANT APPLE INC.'S PATENT  
L.R. 3-3 PRELIMINARY INVALIDITY  
CONTENTIONS**

1 **I. Introduction**

2 Pursuant to the Court’s Scheduling Order (Dkt. No. 58) and Patent L.R. 3-3, Defendant  
3 Apple Inc. (“Apple”) provides these preliminary invalidity contentions (“Invalidity Contentions”)  
4 to Plaintiffs OpenTV, Inc., Nagravision S.A., and Nagra France S.A.S. (collectively “Plaintiffs”  
5 or “OpenTV”).

6 Based on Plaintiffs’ Disclosure of Asserted Claims and Infringement Contentions  
7 (“Infringement Contentions”) served on October 15, 2015, Plaintiffs are asserting the following  
8 patents and claims against Apple:

- 9 1. U.S. Patent No. 6,148,081 (“the ’081 Patent”), Claims 1-3 and 23-24;
- 10 2. U.S. Patent No. 6,233,736 (“the ’736 Patent”), Claims 1-3 and 8-12;
- 11 3. U.S. Patent No. 7,055,169 (“the ’169 Patent”), Claims 1, 2, 12, 22, and 23;
- 12 4. U.S. Patent No. 7,644,429 (“the ’429 Patent”), Claims 1, 2, and 4-6; and
- 13 5. U.S. Patent No. 7,725,740 (“the ’740 Patent”), Claims 1, 2, and 4-9.

14 Collectively, these five patents will be referred to as the “Asserted Patents.” These  
15 invalidity contentions use the term “PHOSITA” to refer to a person having ordinary skill in the  
16 art to which each Asserted Patent pertains.

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1 **III. The '736 Patent**

2 The '736 Patent reports on its face a filing date of April 3, 1998. Plaintiffs allege in their  
3 Infringement Contentions that the asserted claims of the '736 Patent are entitled to a priority date  
4 of at least February 8, 1996. Pursuant to Patent L.R. 3-3(a), Apple identifies the following prior  
5 art now known to Apple to anticipate and/or render obvious at least one of the asserted claims of  
6 the '736 Patent under at least 35 U.S.C. §§ 102(a), (b), (e), and/or (g), either expressly or  
7 inherently as understood by a PHOSITA. The following patents, publications, and systems are  
8 prior art under at least 35 U.S.C. §§ 102(a), (b), (e), and/or (g). Pursuant to Patent L.R. 3-3(c),  
9 invalidity claim charts for these references with respect to the '736 Patent are attached as Exhibits  
10 B-1 through B-11.

11 **A. Prior Art Patents And Publications**

- 12 1. U.S. Patent No. 5,818,441 to Throckmorton et al., filed June 15, 1995, issued  
13 October 6, 1998. *See* Ex. B-1. (“Throckmorton”).
  - 14 2. U.S. Patent No. 5,841,978 to Rhoads, filed July 27, 1995, issued November 24,  
15 1998, which claims priority to U.S. Application No. 08/154,866, filed November  
16 18, 1993. *See* Ex. B-2. (“Rhoads”).
  - 17 3. U.S. Patent No. 5,440,678 to Eisen et al., filed September 13, 1994, issued August  
18 8, 1995, which claims priority to U.S. Application No. 07/918,866, filed July 22,  
19 1992. *See* Ex. B-3. (“Eisen”).
  - 20 4. U.S. Patent No. 5,905,865 to Palmer et al., filed October 30, 1996, issued May 18,  
21 1999, which claims priority to U.S. Application No. 60/008,111, filed October 30,  
22 1995. *See* Ex. B-4. (“Palmer”).
  - 23 5. U.S. Patent No. 5,708,845 to Wistendahl et al., filed September 29, 1995, issued  
24 January 13, 1998. *See* Ex. B-5. (“Wistendahl”).
  - 25 6. Michael Mascha, “Interactive Education: Transitioning CD-ROMs to the Web,”  
26 published May 1994. *See* Ex. B-6. (“Mascha”).
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1 Apple reserves the right to identify and rely upon additional patent or publication  
2 references that describe or are otherwise related to the prior art systems identified below based on  
3 discovery.

4 **B. Prior Art Systems**

- 5 1. Products, components, systems, and methods invented, designed, developed,  
6 and/or in public use or on sale related to **Apple Internet Connection Kit**  
7 developed in the United States by the Apple Computer by at least 1995, as  
8 exemplified by the following references and documents and subject to further  
9 discovery: (1) "Apple Makes Direct Internet Access Quick and Easy with the  
10 Apple Internet Connection Kit," *PR Newswire*, August 7, 1995; (2) Apple Internet  
11 Connection Kit: Getting Started, Apple Computer Inc. (1996); (3) Apple Internet  
12 Connection Kit: Installing from the CD, Apple Computer Inc. (1995). *See* Ex. B-7.
- 13 2. Products, components, systems, and methods invented, designed, developed,  
14 and/or in public use or on sale related to **Mosaic** web browser developed in the  
15 United States by the National Center for Supercomputing Applications by at least  
16 1993, as exemplified by the following references and documents and subject to  
17 further discovery: (1) Marc Andreessen, "NCSA Mosaic Technical Summary,"  
18 (1993); (2) Ronald J. Vetter, "Mosaic and the World-Wide Web," (1994); (3)  
19 Andrew S. Tanenbaum, "Computer Networks" (1996); (4) Peter Kent "The  
20 Complete Idiot's Guide to the World Wide Web" (1995); (5) Tony McDonald et  
21 al., "Software Tools for the World-Wide Web" (1996); (6) Peter Lewis, "A Clash  
22 of Titanic Web Browsers," *The New York Times*, January 30, 1996; (7) Greg R.  
23 Notes, "Comparing Commercial WWW Browsers," *Online*, Vol. 19 Issue 3, p. 43,  
24 May/June 95. *See* Ex. B-8.
- 25 3. Products, components, systems, and methods invented, designed, developed,  
26 and/or in public use or on sale related to **Netscape Navigator** developed in the  
27 United States by Netscape Communications by at least 1995, as exemplified by the  
28 following references and documents and subject to further discovery: (1) Peter

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