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20 *Attorneys for Plaintiff*
 21 QUALCOMM INCORPORATED

22 UNITED STATES DISTRICT COURT
 23 SOUTHERN DISTRICT OF CALIFORNIA

24 QUALCOMM INCORPORATED,

25 Plaintiff,

26 v.

27 APPLE INCORPORATED,

28 Defendant.

Case No. '17CV2402 WQHMD

**COMPLAINT FOR PATENT
 INFRINGEMENT**

[DEMAND FOR A JURY TRIAL]

1 Plaintiff Qualcomm Incorporated (“Qualcomm”), by its undersigned
2 attorneys, alleges, with knowledge with respect to its own acts and on information
3 and belief as to other matters, as follows:

4 NATURE OF THE ACTION

5 1. Qualcomm brings this action to compel Apple to cease infringing
6 Qualcomm’s patents and to compensate Qualcomm for Apple’s extensive
7 infringement of Qualcomm’s patented technologies.

8 2. Qualcomm is one of the world’s leading technology companies and a
9 pioneer in the mobile phone industry. Its inventions form the very core of modern
10 mobile communication and enable modern consumer experiences on mobile devices
11 and cellular networks.

12 3. Since its founding in 1985, Qualcomm has been designing, developing,
13 and improving mobile communication devices, systems, networks, and products.
14 Among other innovations, it has many invented technologies that enable cellular
15 communications around the world. For instance, Qualcomm developed fundamental
16 technologies at the heart of 2G, 3G, and 4G cellular communications, is one of a
17 handful of companies leading the development of the next-generation 5G standard,
18 and has developed numerous innovative features used in virtually every modern
19 cellular device.

20 4. Qualcomm also has focused on making inventive contributions to the
21 patents it has in its portfolio as part of its emphasis on supporting innovation.
22 Qualcomm’s patent portfolio currently includes more than 130,000 issued patents
23 and patent applications worldwide. Hundreds of mobile device suppliers around the
24 world have taken patent licenses from Qualcomm.

25 5. Apple is the world’s most profitable seller of mobile devices. Its
26 iPhones and other products enjoy enormous commercial success. But without the
27 innovative technology covered by Qualcomm’s patent portfolio, Apple’s products
28 would lose much of their consumer appeal. Apple was a relatively late entrant in the

1 mobile device industry, and its mobile devices rely heavily on the inventions of
2 Qualcomm and other companies that Qualcomm has invested in. While Apple is
3 trying to take credit for “creat[ing] the modern smartphone as a product category,” it
4 was the pioneering inventions by Qualcomm that created the smartphone. *Nearly a*
5 *decade before Apple released the iPhone*, Qualcomm unveiled its own full-feature,
6 top-of-the-line smartphone, the “pdQ 1900.” According to CNN’s 1999 holiday
7 buying guide, Qualcomm’s pdQ 1900 “lets you make calls, keep records, send
8 email, browse the web and run over a thousand different applications, all while on
9 the go. Although a cell phone, it is one of the first truly portable, mobile and
10 multipurpose Internet devices.”¹ And there were many follow-on devices with
11 similar capabilities, long before the iPhone. While Qualcomm no longer markets
12 phones directly to consumers, it continues to lead the development of cutting-edge
13 technologies that underpin a wide range of important wireless-device features.
14 Other companies, like Apple, now manufacture and market phones that feature
15 Qualcomm’s innovations and the innovations of other technology pioneers that
16 Qualcomm invested in.

17 6. Qualcomm’s innovations have influenced all smartphones, and
18 Apple—like other major mobile device makers—utilizes Qualcomm’s technologies.
19 Qualcomm’s technologies enable and enhance popular features that drive consumer
20 demand, for example, battery charging and power-management technologies that
21 improve battery health and battery life; improved radio signaling and networking
22 technologies that permit fast and uninterrupted wireless communications; cameras
23 that automatically focus on a desired location; and machine learning capabilities that
24 can assist users by facilitating various predictive functionalities, among many
25 others.

26

27

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¹ <http://edition.cnn.com/1999/TECH/ptech/12/03/qualcomm.pdq/>.

1 7. In contrast to Qualcomm’s lengthy history as a pioneer innovator of
2 mobile technology, including the smartphone and technologies consumers demand
3 in all smartphones, Apple is primarily an assembler of technologies it acquires or
4 takes. Apple has admitted to its history of knowingly copying technology and being
5 late in implementing technologies innovated by others.

6 8. In short, Qualcomm invented many core technologies that make the
7 iPhone (and other smartphones and mobile devices) desirable to consumers in their
8 daily lives. Instead of developing their own solutions in these areas, Apple instead
9 chose to use Qualcomm’s inventions without permission/license.

10 9. While Apple built the most successful consumer products in history by
11 relying significantly on technologies pioneered by Qualcomm and others, Apple
12 refuses to pay for those technologies. Instead, as Apple’s founder boasted, Apple
13 “steals” the great ideas of others—specifically, that “we have always been
14 shameless about stealing great ideas.”² Apple employees likewise admit that
15 Apple—a relatively late entrant in the mobile space—did not invent many of the
16 iPhone’s features. Instead, Apple incorporated, marketed, and commercialized the
17 work of others: “I don’t know how many things we can come up with that you could
18 legitimately claim we did first. . . . We had the first commercially successful version
19 of many features but that’s different than launching something to market first.”³

20 10. But rather than pay Qualcomm for the technology Apple uses, Apple
21 has taken extraordinary measures to avoid paying Qualcomm for the fair value of
22

23 ² Interview with Steve Jobs, available at
24 <https://www.youtube.com/watch?v=CW0DUg63lqU> (“Picasso had a saying, ‘good
25 artists copy, great artists steal.’ And we have always been shameless about stealing
26 great ideas.”).

26 ³ April 2010 email from Apple’s iPhone Product Marketing Manager, Steve
27 Sinclair, reported in: Rick Merritt, *Schiller ‘shocked at ‘copycat’ Samsung phone*,
28 Embedded (Aug. 3, 2012), <http://www.embedded.com/print/4391702> (April 21,
2017 snapshot of page, accessed via Google’s cache).

1 Qualcomm's patents. Apple is the quintessential example of a company engaging in
2 patent hold-out, and has repeatedly pursued a patent hold-out strategy using its
3 enormous financial resources to harm innovators of technologies it uses. More
4 recently, on January 20, 2017, Apple sued Qualcomm in this district, asserting an
5 array of excuses to avoid paying fair-market, industry-standard rates for the use of
6 certain of Qualcomm's pioneering patents that are critical to all smartphones like the
7 iPhone. *See* Case No. 3:17-cv-00108-GPC-MDD. Apple also encouraged the
8 companies that manufacture the iPhone to breach their contracts with Qualcomm by
9 refusing to pay for the Qualcomm technology in iPhones, something that those
10 manufacturers had done for many years, without complaint, before Apple's direction
11 to stop. Further, Apple misled governmental agencies around the world into
12 investigating Qualcomm in an effort to indirectly exert leverage over Qualcomm.

13 11. Many of Qualcomm's patents are essential to certain cellular or other
14 standards ("Standard Essential Patents"), such that the use of an underlying
15 technological standard would require use of the patent. Qualcomm also owns a
16 wide range of non-standard-essential patents for inventions in various technologies
17 related to mobile devices. A significant number of those patents are encompassed
18 by Qualcomm's patent licenses with Apple's manufacturers of iPhones, and Apple
19 is aware that Qualcomm cannot pursue Apple for infringement of those licensed
20 patents. But many other patents covering cutting edge technologies used in iPhones
21 -- are not included in licenses to Apple's iPhone manufacturers that Apple has
22 infringed upon.

23 12. In this suit, Qualcomm asserts a set of six non-standard-essential
24 patents infringed by Apple's mobile electronic devices. The patents asserted in this
25 suit represent only a small fraction of the Qualcomm non-standard-essential patents
26 that Apple uses without a license.

27 13. Qualcomm repeatedly offered to license its patents to Apple, including
28 those at issue in this case. But Apple has repeatedly refused offers to license

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