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27 QUALCOMM INCORPORATED

28 UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

QUALCOMM INCORPORATED,

Plaintiff,

v.

APPLE INCORPORATED,

Defendant.

Case No. '17CV2403 BAS NLS

**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 invented many 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 invests in technologies developed by other companies  
21 and has acquired companies (and their patented technologies) as part of its emphasis  
22 on supporting innovation. Qualcomm’s patent portfolio currently includes more  
23 than 130,000 issued patents and patent applications worldwide. Hundreds of mobile  
24 device suppliers around the 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.”<sup>1</sup> And there were many follow-on devices with  
11 similar capabilities, long before the iPhone. Without question, Qualcomm, not  
12 Apple, created the smartphone product category and Apple cannot rewrite history  
13 through slick marketing. While Qualcomm no longer markets phones directly to  
14 consumers, it continues to lead the development of cutting-edge technologies that  
15 underpin a wide range of important wireless-device features. Other companies, like  
16 Apple, now manufacture and market phones that feature Qualcomm’s innovations  
17 and the innovations of other technology pioneers that Qualcomm invested in.

18         6. Qualcomm’s innovations have influenced all smartphones, and  
19 Apple—like other major mobile device makers—utilizes Qualcomm’s technologies.  
20 Qualcomm’s patented features enable and enhance popular features that drive  
21 consumer demand, for example, instinctive instant messaging responses, multi-  
22 purpose power buttons, cameras that automatically focus on a desired location,  
23 intuitive user interfaces for switching between applications, and interacting with  
24 displayed content using gestures, among many others.

25         7. In contrast to Qualcomm’s lengthy history as a pioneer innovator of  
26 mobile technology, including the smartphone and technologies consumers demand

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

1 in all smartphones, Apple is primarily an assembler of technologies it acquires or  
2 takes. Apple has admitted to its history of knowingly copying technology and being  
3 late in implementing technologies innovated by others. Indeed, Apple’s founder  
4 boasted that Apple “steals” the great ideas of others—specifically, that “we have  
5 always been shameless about stealing great ideas.”<sup>2</sup> Apple employees likewise  
6 admit that Apple—a relatively late entrant in the mobile space—did not invent many  
7 of the iPhone’s features. Instead, Apple incorporated, marketed, and  
8 commercialized the work of others: “I don’t know how many things we can come up  
9 with that you could legitimately claim we did first. . . . We had the first  
10 commercially successful version of many features but that’s different than launching  
11 something to market first.”<sup>3</sup>

12 8. Qualcomm has invested millions of dollars in this technology and now  
13 owns much of the technology that Apple has been using without permission for  
14 years. Qualcomm, and the companies Qualcomm invested in, invented many core  
15 technologies that make the iPhone (and other smartphones and mobile devices)  
16 desirable to consumers in their daily lives.

17 9. But rather than pay Qualcomm for the technology Apple uses, Apple  
18 has taken extraordinary measures to avoid paying Qualcomm for the fair value of  
19 Qualcomm’s patents. Apple is the quintessential example of a company engaging in  
20 patent hold-out, and has repeatedly pursued a patent hold-out strategy using its  
21 enormous financial resources to harm innovators of technologies it uses. More  
22

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23 <sup>2</sup> 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 <sup>3</sup> 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 recently, on January 20, 2017, Apple sued Qualcomm in this district, asserting an  
2 array of excuses to avoid paying fair-market, industry-standard rates for the use of  
3 certain of Qualcomm's pioneering patents that are critical to all smartphones like the  
4 iPhone. *See* Case No. 3:17-cv-00108-GPC-MDD. Apple also encouraged the  
5 companies that manufacture the iPhone to breach their contracts with Qualcomm by  
6 refusing to pay for the Qualcomm technology in iPhones, something that those  
7 manufacturers had done for many years, without complaint, before Apple's direction  
8 to stop. Further, Apple misled governmental agencies around the world into  
9 investigating Qualcomm in an effort to indirectly exert leverage over Qualcomm.

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

20 11. In this suit, Qualcomm asserts a set of five non-standard-essential  
21 patents infringed by Apple's mobile electronic devices. The patents asserted in this  
22 suit represent only a small fraction of the Qualcomm non-standard-essential patents  
23 that Apple uses without a license. Several of these innovations were developed long  
24 before Apple sold its first iPhone which Apple freely borrowed from to make their  
25 products.

26 12. Qualcomm repeatedly offered to license its patents to Apple. But  
27 Apple has repeatedly refused offers to license Qualcomm's patents on reasonable  
28

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