

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No.: 17-cv-02869-MSK-STV

REALTIME ADAPTIVE STREAMING LLC,

Plaintiff,

v.

APPLE INC.,

Defendant.

[PROPOSED] SCHEDULING ORDER

**1. DATE OF CONFERENCE AND APPEARANCES
OF COUNSEL AND *PRO SE* PARTIES**

The Scheduling Conference pursuant to Fed. R. Civ. P. 16(b) is scheduled for March 12, 2018 at 11:00 a.m. before the Honorable Scott T Varholak, to be conducted telephonically.

The parties are represented by following counsel.

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2. STATEMENT OF JURISDICTION

This is a patent infringement action arising under the Patent Act, which gives rise to this Court's jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338(a).

3. STATEMENT OF CLAIMS AND DEFENSES

a. **Plaintiff's Statement**: Plaintiff Realtime Adaptive Streaming LLC hereby summarizes its claims, without waiving any rights to add additional claims or pursue additional remedies. This is a patent infringement action involving U.S. Patent Nos. 8,934,535; 7,386,046; 9,769,477; 8,929,442; 8,634,462; and 9,578,298 (collectively, the "asserted patents"). By way of assignment, Plaintiff is the owner of all right, title and interest in and to the asserted patents, with all rights to enforce them against infringers and to collect damages for all relevant times, including the right to prosecute this action.

Plaintiff asserts that Defendant has directly and/or indirectly infringed, either literally and/or under the doctrine of equivalents, the asserted patents, via, e.g., making, using offering to sell, selling, and/or importing into the United States infringing products (e.g., compression products and services of Defendant).

Plaintiff also seeks damages, costs, expenses, and prejudgment and post-judgment interest for Defendant's infringement of the asserted patents, as provided under 35 U.S.C. § 284, as well as 35 U.S.C. § 285 as appropriate. Plaintiff also seek for Defendant to provide an accounting and to pay supplemental damages to Plaintiff, including without limitation, prejudgment and post-judgment interest. Additional allegations are set forth in Plaintiff's complaint, which are incorporated herein by reference.

b. **Defendants' Statement**: Apple denies that it infringes any claim of the asserted patents or that it induces or contributes to direct infringement by others. Apple contends that Plaintiff fails to state any claim upon which relief can be granted and intends to file a motion to dismiss the complaint on that basis. Apple contends that the asserted patents are invalid under 35 U.S.C. §§ 101, 102, 103, or 112. Apple contends that Plaintiff's claims are barred or limited in whole or in part by prosecution history estoppel, 35 U.S.C. §§ 286 and 287, and doctrines of equity such as laches, waiver, estoppel, unclean hands, patent exhaustion and implied license. Apple asserts that this litigation is, or may become, an exceptional case under 35 U.S.C. § 285 and will request an award of costs and attorneys' fees as warranted.

4. UNDISPUTED FACTS The following facts are undisputed:

1. The Court has subject matter jurisdiction over any civil action arising under any Act of Congress relating to patents.

5. COMPUTATION OF DAMAGES

Plaintiff seeks damages adequate to compensate it for Defendants' infringement, including under 35 U.S.C. § 283, 284 and 285, and at least a reasonable royalty. Discovery has yet to be taken, which would allow additional information regarding computation of damages.

Apple denies that Plaintiff is entitled to any damages in this case. Apple may seek costs and reasonable attorneys' fees based on Plaintiff's conduct in bringing or litigating this case.

6. REPORT OF PRECONFERENCE DISCOVERY AND MEETING UNDER FED. R. CIV. P. 26(f)

- a. Date of Rule 26(f) meeting: Feb. 14, 2018.
- b. Names of each participant and party he/she represented.

Attorney for Plaintiff Realtime Adaptive Streaming LLC:

Reza Mirzaie
Jay Chung

Attorney for Defendant:

Clay James
Lucky Vidmar
Aaron Oakley

- c. Statement as to when Rule 26(a)(1) disclosures were made or will be made.

March 8, 2018

- d. Statement concerning any agreements to conduct informal discovery:

Parties have not agreed to conduct informal discovery, but will remain open to consider that possibility.

- e. Statement concerning any other agreements or procedures to reduce discovery and other litigation costs, including the use of a unified exhibit numbering system:

The parties consent to electronic service pursuant to Fed. R. Civ. P. 5(b)(2)(E).

- f. Statement as to whether the parties anticipate that their claims or defenses will involve extensive electronically stored information, or that a substantial amount of disclosure or discovery will involve information or records maintained in electronic form.

The parties anticipate that this case will likely involve discovery of electronically stored information (“ESI”). The parties will negotiate a proposed order governing the handling and production of ESI.

- g. Statement summarizing the parties' discussions regarding the possibilities for promptly settling or resolving the case.

The parties agree to have ongoing discussions in an effort to resolve the case.

7. CONSENT

All parties have not consented to the exercise of jurisdiction of a magistrate judge.

8. CASE PLAN AND SCHEDULE

- a. Deadline to join parties:
- b. Deadline to serve Infringement Contentions, Claim Chart(s), and produce accompanying documents: **April 4, 2018**
- c. Deadline to serve Response to Infringement Contentions and produce accompanying documents: The parties have agreed to forgo the Response to Infringement Contentions and Response to Invalidity Contentions.

Invalidity Contentions

- d. Deadline to serve Invalidity Contentions and Claim Chart(s) and produce accompanying items of prior art: **June 4, 2018**
- e. Deadline to serve Response to Invalidity Contentions and Claim Chart(s) and produce accompanying documents: The parties have agreed to forgo the Response to Invalidity Contentions and Response to Infringement Contentions.

Opinion of Counsel

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