

1 **ALVERSON, TAYLOR,**
 2 **MORTENSEN & SANDERS**
 3 KURT R. BONDS, ESQ.
 Nevada Bar No. 6228
 4 ADAM R. KNECHT, ESQ.
 Nevada Bar No. 13166
 5 7401 W. Charleston Boulevard
 Las Vegas, NV 89117
 6 (702) 384-7000
efile@alversontaylor.com
 7 *Attorneys for Plaintiff*

8 UNITED STATES DISTRICT COURT
 9 DISTRICT OF NEVADA

10 * * *

11 VOIP-PAL.COM, INC., a Nevada corporation,
 12
 13 Plaintiff,
 14 v.
 15 APPLE, INC., a California corporation,
 16
 17 Defendants.

CASE NO.: 2:16-cv-00260-RFB-VCF

**SECOND AMENDED COMPLAINT
 FOR PATENT INFRINGEMENT**

[JURY DEMAND]

18 Plaintiff, Voip-Pal.com, Inc.'s ("VPLM") Second Amended Complaint against Defendant
 19 Apple, Inc., ("Apple"), alleges infringement of U.S. Patent No. 8,542,815 ("the '815 patent"), and its
 20 continuation patent, U.S. Patent No. 9,179,005 ("the '005 patent"). VPLM further complains and
 21 alleges as follows:

22 **THE NATURE OF THE ACTION**

- 23
- 24 1. VPLM is a leader in Voice-over-Internet Protocol ("VoIP") technology and owns a
 portfolio of VoIP-related patents and patent applications.
 - 25 2. On September 24, 2013, the '815 patent entitled "Producing Routing Messages for
 26 Voice Over IP Communications" was duly and legally issued with Clay Perreault, Steve Nicholson,
 27 Rod Thomson, Johan Emil Viktor Bjorsell, and Faud Arafa as the named inventors after full and fair
 28

ALVERSON, TAYLOR, MORTENSEN & SANDERS
 LAWYERS
 7401 WEST CHARLESTON BOULEVARD
 LAS VEGAS, NEVADA 89117-1401
 (702) 384-7000

1 examination. VPLM is the owner of all rights, title, and interest in and to the '815 patent and
2 possesses all rights of recovery under the '815 patent. A copy of the '815 patent is attached as

3 **Exhibit A.**

4 3. On November 3, 2015, the '005 patent entitled "Producing Routing Messages for
5 Voice Over IP Communications" was duly and legally issued with Clay Perreault, Steve Nicholson,
6 Rod Thomson, Johan Emil Viktor Bjorsell, and Faud Arafa as the named inventors after full and fair
7 examination. VPLM is the owner of all rights, title, and interest in and to the '005 patent and
8 possesses all rights of recovery under the '005 patent. A copy of the '005 patent is attached as

9 **Exhibit B.**

10 4. VPLM's patents represent fundamental advancements to Internet Protocol ("IP")
11 based communication, including improved functioning, call classification, call routing and reliability
12 for VoIP, messaging, and IP-based transmission of video, photographs and mixed media
13 communications.

14 5. Apple employs VPLM's innovative technology and products, features, and designs,
15 and has widely distributed infringing products and/or services that have undermined VPLM's
16 marketing and monetization efforts. Instead of incorporating non-infringing technology into its
17 products and services, Apple has employed and has incorporated VPLM's patented communication
18 classification and routing technology, in violation of VPLM's valuable intellectual property rights.

19 **PARTIES**

20 6. Plaintiff, VoIP-Pal.com, Inc. ("VPLM") is a Nevada corporation with its principal
21 place of business located 10900 NE 4th Street, Suite 2300, Bellevue, Washington 98004.

22 7. Defendant, Apple Inc. ("Apple") is a California corporation with its principal place of
23 business at 1 Infinite Loop, Cupertino, California 95014. On information and belief, Apple regularly
24 conducts and transacts business in the District of Nevada and throughout the United States, and, as
25 set forth below, has committed and continues to commit, tortious acts of patent infringement within
26 the District of Nevada.

27 8. As a result of Apple's infringement as alleged herein, between May 2014 and
28

December 2015, VPLM provided numerous notices to Apple in connection with its violation of

1 VPLM's patent rights. *See Exhibit C*, Correspondence to Apple. Despite the notices, Apple has
 2 infringed and continues to infringe VPLM's patents.

3 JURISDICTION AND VENUE

4 9. This action arises under the patent laws of the United States, i.e., 35 U.S.C. § 1 *et seq.*
 5 This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337, and 1338.

6 10. This Court has personal jurisdiction over Apple because it has committed and
 7 continues to commit acts of infringement in violation of 35 U.S.C. § 271 by placing infringing
 8 products and services into the stream of commerce, either directly or through subsidiaries and/or
 9 intermediaries, with the knowledge or understanding that such products are sold in the District of
 10 Nevada. The acts by Apple cause injury to VPLM within this District. Upon information and belief,
 11 Plaintiff alleges that the Apple derives substantial revenue from the sale of infringing products
 12 within this District, has expanded its market share through its use of infringing products within this
 13 District, has engaged in this infringement with the expectation that their actions will have
 14 consequences within this District, and derives substantial revenue from interstate and international
 15 commerce.

16 11. Venue is proper within this District under 28 U.S.C. § 1391(b), (c), and § 1400(b)
 17 because Apple maintains a regular and established place of business and offers products and/or
 18 services for sale in Nevada and have related computing infrastructure located in Nevada. For
 19 example, on information and belief, Apple has located large data centers and extensive cloud
 20 computing infrastructure in or near Reno, Nevada. Furthermore, venue is proper in that Apple has
 21 and continues to infringe VPLM's patents causing harm to VPLM in Nevada, including via said data
 22 centers and cloud computing infrastructure in Nevada. Also, VPLM is incorporated in Nevada.

23 FACTUAL ALLEGATIONS

24 **A. Apple's Infringement of VPLM'S Patents**

25 12. VPLM has protected its innovative designs and technologies through a broad range
 26 of intellectual property rights. Among the patents that VPLM has been awarded are the '815 patent
 27 and '005 patent to which VPLM owns all rights, title, and interest.

1 Concerning the '815 Patent and the '005 Patent), VPLM is informed and believes, and on that basis
 2 alleges that Apple's practices directly and indirectly employ and infringe certain claims of the '815
 3 patent and the '005 patent by utilizing a caller dialing profile comprising a plurality of calling
 4 attributes to establish network classification criteria for routing calls/messages.

5 14. VPLM is informed and believes, and on that basis alleges that Apple engages in the
 6 following specific infringing practices:

7 **B. Asserted Claim No. 1 regarding Apple's iMessage (the '815 patent)**

8 15. Apple provides, supports and/or operates messaging technology, including iMessage,
 9 an instant messaging service supported by Apple's Messages application and computing
 10 infrastructure that allows smartphone and desktop users to send messages including text, images,
 11 video and audio to other users. Apple's messaging, including the iMessage application, runs on
 12 Apple desktop computers, laptops, tablets and mobile devices running OS X, iOS and watchOS
 13 operating systems. Apple directly and/or indirectly practices certain claims of the '815 patent as
 14 illustrated in Chart 1 of Exhibit D by utilizing a caller dialing profile comprising a plurality of calling
 15 attributes to establish network classification criteria for its messaging systems.

16 16. In particular, devices running the iMessage application initiate a communication
 17 between a caller and a callee. The callee may be an Apple subscriber or a non-subscriber. In the case
 18 that the callee is an Apple subscriber, the communication is sent using iMessage. On the other hand,
 19 if the user is not an Apple subscriber or if iMessage is not available, the communication is sent using
 20 SMS/MMS. Apple's messaging system directly and/or indirectly practices certain claims of the '815
 21 patent in order to determine the classification of the communication between the caller and callee,
 22 and, subsequently, how the communication should be routed.

23 **C. Asserted Claim No. 2 regarding Apple's iMessage (the '005 patent)**

24 17. Apple manufacturers, supports and operates a messaging platform (the "Apple
 25 Messaging System") that includes Apple desktop computers, laptops, tablets and mobile devices,
 26 software applications running on such devices and servers associated with iMessage, an instant
 27 messaging service, and associated computing infrastructure. The Apple Messaging System allows
 28

1 Apple practices certain claims of the '005 patent as illustrated in Chart 2 of Exhibit D.

2 18. The Apple Messaging System allows devices to initiate a communication between a
3 caller, or a first participant, and a callee, or a second participant, which may be an Apple subscriber
4 or a non-subscriber. A profile that includes attributes is used as part of the process that classifies a
5 communication that directly and/or indirectly practices certain claims of the '005 patent.

6 **D. Asserted Claim No. 3 regarding Apple's WiFi Calling (the '815 patent)**

7 19. Apple manufactures and supports devices and infrastructure related to a calling
8 platform ("Apple WiFi Calling") that includes Apple desktop computers, laptops, tablets and mobile
9 devices, software applications running on such devices and associated infrastructure including
10 servers operated by wireless carriers that allow calls and text messages to be placed and received
11 over WiFi networks. Apple induces the infringement of certain claims of the '815 patent as
12 illustrated in Chart 3 of Exhibit D.

13 20. Apple WiFi Calling allows an Apple device to initiate a call between a caller and a
14 callee using a carrier assisted voice over IP ("VoIP") system and the callee may be a Wi-Fi Calling
15 subscriber of the carrier or a non-subscriber. A profile that includes calling attributes is used as part
16 of the process that classifies a call or text message.

17 21. Apple also provides and/or supports WiFi Calling on desktop computers, laptops,
18 tablets and mobile devices. In the case of WiFi Calling, an Apple device initiates a call between a
19 caller and a callee using a carrier based VoIP system. The callee may be a subscriber of the carrier or
20 a non-subscriber. Apple directly and/or indirectly practices certain claims of the '815 patent by
21 utilizing a caller dialing profile comprising a plurality of calling attributes to establish network
22 classification criteria for its WiFi calling system.

23 **E. Asserted Claim No. 4 regarding Apple's WiFi Calling (the '005 patent)**

24 22. Apple also provides and/or supports devices and infrastructure related to a calling
25 platform ("Apple WiFi Calling") including desktop computers, laptops, tablets and mobile devices
26 and associated communications and computing infrastructure such as servers in data centers. In the
27 case of WiFi Calling, an Apple device initiates a call or text message between a caller and a callee
28 using a carrier based VoIP system. The callee may be a Wi-Fi Calling subscriber of the carrier or a

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