

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

**SMARTFLASH LLC and  
SMARTFLASH TECHNOLOGIES  
LIMITED**

**Plaintiffs,**

**vs.**

**APPLE INC., ROBOT  
ENTERTAINMENT, INC.,  
KINGISLE ENTERTAINMENT, INC.,  
and GAME CIRCUS LLC,**

**Defendants.**

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**Civil Action No. 6:13-cv-447**

**JURY TRIAL DEMANDED**

**PLAINTIFFS' FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiffs Smartflash LLC and Smartflash Technologies Limited file this Original Complaint against Defendants Apple Inc., Robot Entertainment, Inc., KingsIsle Entertainment, Inc., and Game Circus LLC for patent infringement under 35 U.S.C. § 271 and allege, based on their own personal knowledge with respect to their own actions and based upon information and belief with respect to all others' actions, as follows:

**THE PARTIES**

1. Plaintiff Smartflash LLC is a limited liability corporation organized and existing under the laws of the State of Texas, and maintains its principal place of business at 100 E. Ferguson, Suite 406, Tyler, Texas, 75702. Smartflash LLC maintains a website at [www.smartflashllc.com](http://www.smartflashllc.com).

2. Plaintiff Smartflash Technologies Limited is a limited company organized and existing under the laws of the British Virgin Islands, and maintains a principal place of business on the island of Tortola.
3. Defendant Apple Inc. (“Apple”) is a California corporation with a principal place of business at 1 Infinite Loop, Cupertino, California 95014. Apple has designated CT Corporation System, 350 N. St. Paul Street, Suite 2900, Dallas, Texas 75201 as its agent for service of process.
4. Defendant Robot Entertainment, Inc. (“Robot Entertainment”) is a Delaware corporation with a principal place of business at 5055 W. Park Blvd., Ste. 600, Plano, Texas 75093. Robot Entertainment has designated CT Corporation System, 350 N. St. Paul St., Ste. 2900, Dallas, Texas 75201 as its agent for service of process.
5. Defendant KingsIsle Entertainment, Inc. (“KingsIsle”) is a Texas corporation with a principal place of business at 2745 Dallas Parkway, Suite 620, Plano, Texas 75093. KingsIsle has designated David Nichols, 2745 Dallas Parkway, Suite 620, Plano, Texas 75093 as its agent for service of process.
6. Defendant Game Circus LLC (“Game Circus”) is a limited liability corporation organized and existing under the laws of the State of Texas with a principal place of business at 15400 Knoll Trail Drive, Suite 230, Dallas, Texas 75248. Game Circus has designated Kim L. Lawrence, 5720 LBJ Freeway, Suite 470, Dallas, Texas 75240 as its agent for service of process.

#### **JURISDICTION AND VENUE**

7. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.* This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

8. This Court has personal jurisdiction over Apple, Robot Entertainment, KingsIsle, and Game Circus (“Defendants”). Defendants conduct business and have committed acts of patent infringement and/or have induced acts of patent infringement by others in this district and/or have contributed to patent infringement by others in this district, the State of Texas, and elsewhere in the United States.
9. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b) because, among other things, the Defendants are subject to personal jurisdiction in this district, the Defendants have regularly conducted business in this judicial district, and certain of the acts complained of herein occurred in this judicial district.

**PATENTS-IN-SUIT**

10. On February 26, 2008, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 7,334,720 (the “’720 patent”) entitled “Data Storage and Access Systems.” A true and correct copy of the ’720 patent is attached hereto as Exhibit A.
11. On May 17, 2011, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 7,942,317 (the “’317 patent”) entitled “Data Storage and Access Systems.” A true and correct copy of the ’317 patent is attached hereto as Exhibit B.
12. On October 11, 2011, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 8,033,458 (the “’458 patent”) entitled “Data Storage and Access Systems.” A true and correct copy of the ’458 patent is attached hereto as Exhibit C.
13. On November 22, 2011, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 8,061,598 (the “’598 patent”) entitled “Data Storage and Access Systems.” A true and correct copy of the ’598 patent is attached hereto as Exhibit D.

14. On February 21, 2012, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 8,118,221 (the “’221 patent”) entitled “Data Storage and Access Systems.” A true and correct copy of the ’221 patent is attached hereto as Exhibit E.
15. On December 25, 2012, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 8,336,772 (the “’772 patent”) entitled “Data Storage and Access Systems.” A true and correct copy of the ’772 patent is attached hereto as Exhibit F.
16. Smartflash LLC, together with Smartflash Technologies Limited,<sup>1</sup> owns all rights, title, and interest in and to the ’720, ’317, ’458, ’598, ’221, and ’772 patents (the “patents-in-suit”) and possesses all rights of recovery.

### **FACTUAL ALLEGATIONS**

17. The patents-in-suit generally cover a portable data carrier for storing data and managing access to the data via payment information and/or use status rules. The patents-in-suit also generally cover a computer network (i.e., a server network) that serves data and manages access to data by, for example, validating payment information.
18. In or around the year 2000, Patrick Racz, one of the co-inventors of the patents-in-suit, met with various personnel of Gemplus (now Gemalto S.A.) to discuss the technology claimed in the patents-in-suit. Mr. Augustin Farrugia was one of the people at Gemplus who learned of the technology of the patents-in-suit.
19. Mr. Farrugia subsequently joined Apple and is currently a Senior Director at Apple Inc.
20. iTunes is an Apple application that supports the purchase, download, organization and playback of digital audio and video files and is available for both Mac and Windows-based computers.

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<sup>1</sup> Smartflash Technologies Limited joins as a co-plaintiff in this lawsuit only to avoid a dispute as to whether it should be added for standing purposes.

21. iTunes Store is an Apple service that allows customers to discover, purchase, rent, and download applications and other digital content.
22. iTunes is integrated with the iTunes Store.
23. Apple sells and delivers digital content and applications through the iTunes Store, which includes Apple's App Store and iBookstore.
24. The Mac App Store is an Apple service that allows Apple's customers to purchase, download and install Mac applications.
25. Apple's end-user customers can use the App Store app on their portable Apple devices, such as the iPhone, iPad, iPad Mini and iPod Touch, to purchase and download digital content and applications.
26. An application developer or publisher can use Apple's in-application payment functionality to collect payment for enhanced functionality or additional content usable by the application.
27. Apple provides its in-application payment functionality through its Store Kit framework.
28. Apple's Store Kit connects to the App Store on behalf of an application to securely process payments from the user.
29. Apple's Store Kit prompts the user to authorize the payment and then notifies the application that called Store Kit so that the application can provide items the user purchased.
30. An application developer or publisher can use Apple's iAd advertising platform to deliver ads to users.
31. Apple sells the ads through its iAd advertising platform and serves such ads to iAd enabled apps.

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