

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

E-WATCH, INC. ET AL.,

Plaintiffs,

v.

APPLE, INC., ET AL.

HTC CORPORATION AND
HTC AMERICA, INC.,

Defendants.

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2:13-cv-1061
LEAD CASE

2:13-CV-01063

**PLAINTIFFS' DISCLOSURE OF ASSERTED CLAIMS AND
PRELIMINARY INFRINGEMENT CONTENTIONS AND
ACCOMPANYING DOCUMENT PRODUCTION (LOCAL P.R. 3-1 AND 3-2)
TO DEFENDANTS HTC CORPORATION AND HTC AMERICA, INC.**

Pursuant to CV-83, P.R. 3-1 and 3-2, Plaintiffs e-Watch, Inc. and e-Watch Corporation (collectively, "e-Watch"), by and through its undersigned attorneys, state as follows:

I.

DISCLOSURE OF ASSERTED CLAIMS AND INFRINGEMENT CONTENTIONS

(A) ***Each claim of each patent in suit that is allegedly infringed by each opposing party;***

Based on information presently available to e-Watch and the status of its investigation, e-Watch alleges infringement of certain claims of U.S. Patent No. 7,365,871 (the "871 patent") and U.S. Patent No. 7,643,168 (the "168 patent") by defendants HTC Corporation and HTC America, Inc. (collectively, "HTC"). The specific asserted patent and associated claims relative to HTC are individually enumerated in the claim charts attached hereto. e-Watch reserves the right to amend and/or supplement the identification of asserted claims as discovery progresses, in response to the Court's claim construction and otherwise in accordance with the Local Patent Rules and the Court's Docket Control Order.

(B) ***Separately for each asserted claim, each accused apparatus, product, device, process, method, act, or other instrumentality ("Accused Instrumentality") of each opposing party of which the party is aware. This identification shall be as specific as possible. Each product, device, or apparatus which, when used, allegedly results in the practice of the claimed method or process;***

Based on information presently available to e-Watch and the status of its investigation, e-Watch provides the Attachments hereto, including claim charts identifying each Accused Instrumentality for each asserted claim. e-Watch reserves the right to amend and/or supplement the identification of each Accused System as discovery progresses, in response to the Court's claim construction and otherwise in accordance with the Local Patent Rules and the Court's Docket Control Order.

- (C) ***A chart identifying specifically where each element of each asserted claim is found within each Accused Instrumentality, including for each element that such party contends is governed by 35 U.S.C. § 112(6), the identity of the structure(s), act(s), or material(s) in the Accused Instrumentality that performs the claimed function;***

The attachments hereto reflect the present infringement contentions of e-Watch based on information reasonably available to it as of this date. e-Watch reserves the right to seek to amend, supplement or narrow these contentions as discovery progresses, in response to the Court's claim construction and otherwise in accordance with the Local Patent Rules and the Court's Docket Control Order.

- (D) ***Whether each element of each asserted claim is claimed to be literally present or present under the doctrine of equivalents in the Accused Instrumentality;***

Based on the information currently available to e-Watch, each element of each asserted claim appears to be literally present. To the extent any element is not found to be literally present, e-Watch asserts an equivalent element is present having insubstantial differences. Following discovery regarding the defendants' products, including confidential information, source code and technical specifications pertaining to the Accused System, e-Watch reserves the right to seek leave to amend or supplement its allegations under the doctrine of equivalents. e-Watch further reserves the right to amend and/or supplement its contentions relative to the doctrine of equivalents in response to the Court's claim construction and otherwise in accordance with the Local Patent Rules and the Court's Docket Control Order.

- (E) ***For any patent that claims priority to an earlier application, the priority date to which each asserted claim is entitled; and***

The asserted claims of the '871 patent and the '168 patent are entitled to a priority date of January 12, 1998 based on U.S. Application No. 09/006,073.

- (F) ***If a party claiming patent infringement wishes to preserve the right to rely, for any purpose, on the assertion that its own apparatus, product, device, process, method, act or other instrumentality practices the claimed invention, the party must identify, separately for each asserted claim, each such apparatus, product, device, process, method, act, or other instrumentality that incorporates or reflects that particular claim.***

Not applicable.

Dated: April 4, 2014

Respectfully submitted,

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**ATTORNEYS FOR PLAINTIFFS
e-WATCH, INC. AND
e-WATCH CORPORATION**

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of April 2014, I served a true and correct copy of the foregoing document on all counsel of record in accordance with the Federal Rules of Civil Procedure as indicated below.

/s/ Christopher V. Goodpastor

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