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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

**COMPLAINT FOR PATENT
INFRINGEMENT**

[JURY DEMAND]

18 Plaintiff, Voip-Pal.com, Inc.’s (“VPLM”) Complaint against Defendant Apple, Inc.,
 19 (“Apple”), alleges infringement of U.S Patent No. 8,542,815 (“the ‘815 patent”, a copy of which is
 20 attached hereto as **Exhibit A**), and its continuation patent, U.S Patent No. 9,179,005 (“the ‘005
 21 patent”, a copy of which is attached hereto as **Exhibit B**). VPLM further complains and alleges as
 22 follows:

23 **THE NATURE OF THE ACTION**

24 1. VPLM is a technical leader in the broadband Voice-over-Internet Protocol (“VoIP”)
 25 market with the ownership and development of a portfolio of leading edge VoIP patent applications.
 26
 27
 28

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1 from the sale of infringing products within this District, has expanded its market share through its
 2 use of infringing products within this District, has engaged in this infringement with the expectation
 3 that their actions will have consequences within this District, and derives substantial revenue from
 4 interstate and international commerce.

5 9. Venue is proper within this District under 28 U.S.C. § 1391(b) and (c) because Apple
 6 maintains a permanent place of business and offers products and/or services for sale in Nevada.
 7 Furthermore, venue is proper in that Apple has and continues to infringe VPLM patents causing
 8 harm to VPLM in Nevada.

9 **FACTUAL ALLEGATIONS**

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

11 10. VPLM has protected its innovative designs and cutting-edge technologies through a
 12 broad range of intellectual property rights. Among the patents that VPLM has been awarded are the
 13 '815 patent and '005 patent to which VPLM owns all rights, title, and interest.

14 11. As detailed in the attached **Exhibit D** (Asserted Claims and Infringement Contentions
 15 Concerning the '815 Patent and the '005 Patent), VPLM is informed and believes, and on that basis
 16 alleges that Apple's practices directly and indirectly employ and infringe certain claims of the '815
 17 patent and the '005 patent by utilizing a caller dialing profile comprising a plurality of calling
 18 attributes to form network classification criteria.

19 12. VPLM is informed and believes, and on that basis alleges that Apple engages in the
 20 following specific infringing practices:

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

22 13. Apple supports and operates messaging, including iMessage, an instant messaging
 23 service supported by Apple's Messages application that allows smartphone and desktop users to send
 24 messages including text, images, video and audio to other users. Apple's messaging, including the
 25 iMessage application, runs on Apple desktop computers, laptops, tablets and mobile devices running
 26 OS X, iOS and watchOS operating systems. Apple directly and/or indirectly practices certain claims
 27 of the '815 patent as illustrated in Chart 1 of Exhibit D by utilizing a caller dialing profile
 28 comprising a plurality of calling attributes to form network classification criteria to support its

1 messaging systems.

2 14. In particular, devices running the iMessage application initiate a communication
3 between a caller and a callee. The callee may be an Apple subscriber or a non-subscriber. In the case
4 that the callee is an Apple subscriber, the communication is sent using iMessage. On the other hand,
5 if the user is not an Apple subscriber or if iMessage is not available, the communication is sent using
6 SMS/MMS. Apple's messaging system directly and/or indirectly practices certain claims of the '815
7 patent in order to determine the classification of a user, and, subsequently, how the call should be
8 routed.

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

10 15. Apple manufactures, supports and operates a messaging platform (the "Apple
11 Messaging System") that includes Apple desktop computers, laptops, tablets and mobile devices,
12 software applications running on such devices and servers associated with iMessage, an instant
13 messaging service. The Apple Messaging System allows smartphone and desktop users to send
14 messages including text, images, video and audio to others. Apple practices certain claims of the
15 '005 patent as illustrated in Chart 2 of Exhibit D.

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

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

21 17. Apple manufactures and supports devices related to a calling platform ("Apple WiFi
22 Calling") that includes Apple desktop computers, laptops, tablets and mobile devices, software
23 applications running on such devices and servers operated by wireless carriers that allow calls to be
24 placed over WiFi networks. Apple induces the infringement of certain claims of the '815 patent as
25 illustrated in Chart 3 of Exhibit D.

26 18. Apple WiFi Calling allows an Apple device to initiate a call between a caller and a
27 callee using a carrier assisted voice over IP ("VoIP") system and the callee may be a subscriber of the
28

1 that classifies a call.

2 19. Apple also supports WiFi Calling on desktop computers, laptops, tablets and mobile
3 devices. In the case of WiFi Calling, an Apple device initiates a call between a caller and a callee
4 using a carrier based VoIP system. The callee may be a subscriber of the carrier or a non-subscriber.

5 Apple directly and/or indirectly practices certain claims of the '815 patent by utilizing a caller
6 dialing profile comprising a plurality of calling attributes to form network classification criteria to
7 support its WiFi calling system.

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

9 20. Apple also supports "WiFi Calling" on desktop computers, laptops, tablets and
10 mobile devices. In the case of WiFi Calling, an Apple device initiates a call between a caller and a
11 callee using a carrier-based VoIP system. The callee may be a subscriber of the carrier or a non-
12 subscriber. Apple directly and/or indirectly practices certain claims of the '005 patent by utilizing a
13 caller dialing profile comprising a plurality of calling attributes to form network classification criteria
14 to support its WiFi calling system as illustrated in Chart 4 of Exhibit D.

15 21. Apple's infringement of the '815 patent and the '005 patent provides Apple with
16 unique functionality for its products at the expense of VPLM's protected intellectual property.
17 Rather than innovate and develop its own technology for it classification and routing of Public to
18 Public telephony, Private to Private telephony, Public to Private and Private to Public telephony,
19 messaging and media transfers, Apple has employed VPLM's technology, including its routing and
20 classification systems.

21 22. Apple continues to choose to infringe VPLM's patent rights through its caller
22 attribute classification and routing systems, including at least Apple's Messaging and WiFi
23 communication services.

24 23. Apple has not obtained permission or a license from VPLM to use its inventions as
25 identified in the '815 patent and the '005 patent.

26 24. Furthermore, the '815 patent and '005 patent are only two patents in a suite of ten
27 related patents. *See Exhibit E*, VPLM Active Patents as of January 1, 2016. VPLM preserves the
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