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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

\* \* \*

VOIP-PAL.COM, INC., a Nevada corporation,

Plaintiff,

v.

APPLE, INC., a California corporation,

Defendants.

CASE NO.: 2:16-CV-00260

**COMPLAINT FOR PATENT  
INFRINGEMENT**

**[JURY DEMAND]**

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

**THE NATURE OF THE ACTION**

1. VPLM is a technical leader in the broadband Voice-over-Internet Protocol ("VoIP") market with the ownership and development of a portfolio of leading edge VoIP patent applications.

2. VPLM's patents represent fundamental advancements to the prior art of Internet Protocol ("IP") communication, including improved functioning, routing and reliability for VoIP, messaging, and IP transmission of video, photographs and mixed media.

3. Apple employs VPLM's innovative technology and products, features, and designs, and has widely distributed infringing products that have undermined VPLM's marketing efforts. Instead of pursuing independent product development, Apple employed VPLM's innovative caller attribute classification and routing product design, in violation of VPLM's valuable intellectual property rights.

### **PARTIES**

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

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

6. As a result of Apple's infringement as alleged herein, between May 2014 and December 2015, VPLM provided numerous notices to Apple in connection with its violation of VPLM's patent rights. *See Exhibit C*, Correspondence to Apple. Despite the notices, Apple has infringed and continues to infringe VPLM's patents.

### **JURISDICTION AND VENUE**

7. This action arises under 35 U.S.C. § 101 et seq. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337, and 1338.

8. This Court has personal jurisdiction over Apple because it has committed and continues to commit acts of infringement in violation of 35 U.S.C. § 271 by placing infringing products and services into the stream of commerce, with the knowledge or understanding that such products are sold in the District of Nevada. The acts by Apple cause injury to VPLM within this District. Upon information and belief, Plaintiff alleges that the Apple derives substantial revenue

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

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

### **FACTUAL ALLEGATIONS**

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

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

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

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

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

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

messaging systems.

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

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

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

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

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

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

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

carrier or a non-subscriber. A profile that includes calling attributes is used as part of the process

that classifies a call.

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

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

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

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

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

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

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

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

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