

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

PAPST LICENSING GMBH & CO. KG,

Plaintiff,

v.

APPLE, INC.,

Defendant.

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Civil Action No. 6:15-cv-1095

Jury Trial Demanded

ORIGINAL COMPLAINT

Plaintiff Papst Licensing GmbH & Co., KG (“Papst Licensing” or “Plaintiff”) files this Complaint against Apple, Inc. (“Apple” or “Defendant”) for infringement of U.S. Patent Nos. 6,473,399 (the “399 Patent”); 8,504,746 (the “746 Patent”); 8,966,144 (“144 Patent”); and 9,189,437 (the “437 Patent”) (collectively, the “Patents”).

I. PARTIES

1. Plaintiff Papst Licensing is a company existing under the laws of the Federal Republic of Germany, with its principal place of business located at Bahnhofstrasse 33, 78112 St. Georgen, Germany.

2. Upon information and belief, Defendant Apple, Inc. is a corporation organized under the laws of the State of California, with its principal places of business located at 1 Infinite Loop, Cupertino, CA 95014. Apple, Inc. also has a place of business at 12545 Riata Vista Circle, Austin, Texas 78727. Upon information and belief, Defendant Apple, Inc. is authorized to do business in Texas. Apple, Inc. may be served by serving its registered agent CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136.

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II. JURISDICTION AND VENUE

3. This is an action for patent infringement which arises under 35 U.S.C. §§ 271, 281, 284 and 285. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§1331 and 1338(a).

4. This Court has personal jurisdiction over Apple, and venue is proper in this Court pursuant to 28 U.S.C. §§1391(b), (c), and 1400. This Court has personal jurisdiction over Apple because, among other things, Apple has established minimum contacts within the forum such that the exercise of jurisdiction over Apple will not offend traditional notions of fair play and substantial justice. For example, Apple has placed products that practice and/or embody the claimed inventions of the Patents into the stream of commerce with the reasonable expectation and/or knowledge that purchasers and users of such products were located within this district. In addition, Apple has sold, advertised, marketed, and distributed products in this district that practice the claimed inventions of the Patents. Apple derives substantial revenue from the sale of infringing products distributed within the district, and/or expects or should reasonably expect its actions to have consequences within the district, and derive substantial revenue from interstate and international commerce.

III. FACTUAL BACKGROUND

5. The name Papst has been closely associated with patents and the protection of intellectual property for over seventy years. Hermann Papst was an engineer and inventor who was responsible for over four hundred patents in a variety of technical fields. Mr. Hermann Papst's licensure of a patent pertaining to loudspeakers enabled him to launch Papst-Motoren GmbH & Co. KG—a business that generated over six hundred patents on in-house products such as small electric motors and cooling fans. In 1992, Papst-Motoren's patent portfolio was sold to

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Papst Licensing, a company founded by Mr. Hermann Papst's son, Mr. Georg Papst. Papst Licensing is a patent licensing company protecting its own and others' intellectual property rights. After Hermann Papst's death in 1981 and the passing of Georg Papst in 2012, the family business is now run by the third generation of Papsts.

6. The '399 Patent was filed on March 3, 1998 and issued on October 22, 2002. The '746 Patent was filed on September 27, 2010 and issued on August 6, 2013. The '144 Patent was filed on August 24, 2006 and issued on February 24, 2015. The '437 Patent was filed on August 24, 2006 and issued on November 17, 2015. The '399, '746, '144 and '437 Patents are generally directed towards methods and systems for the transfer of data and in particular to interface devices for communication between a computer or host device and a data transmit/receive device from which data is to be acquired or with which two-way communication is to take place.

7. Papst Licensing acquired the Patents through its predecessor-in-interest, Labortechnik Tasler GmbH—a pioneer and leader in the area of interface devices and software.

8. Plaintiff Papst Licensing has obtained all substantial right and interest to the Patents, including all rights to recover for all past and future infringements thereof.

9. On or around August 29, 2007, Papst Licensing notified Apple of certain Papst Licensing patents, specifically including the '399 Patent and its infringement thereof. The parties exchanged correspondence thereafter until mid-2010 regarding Apple's infringement.

10. On information and belief, Apple has monitored Papst's patent prosecution activities at least since being notified of its infringement of the '399 Patent and thus has had actual or constructive knowledge of the '746, '144 and '437 Patents. In all events, Apple has knowledge of the '746, '144 and '437 Patents by virtue of service of this complaint.

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11. Apple has infringed and continues to infringe the Papst Patents by making, selling, offering for sale, importing, and using products and software in an infringing manner, including but not limited to Apple's iPad, iPod and iPhone products, as well as any other products operating in a substantially similar manner. Moreover, Apple provides its customers with the accused software and instructs its customers to use the software in an infringing manner, including through its website at <https://support.apple.com/manuals/>.

12. In addition, Apple knowingly, actively induced and continues to knowingly actively induce (or is willfully blind to the) infringement of one or more of the Patents within this district by making, using, offering for sale, and selling infringing products, as well as by contracting with others to use, market, sell, and offer to sell infringing products, all with knowledge of the asserted Patents, and their claims, with knowledge that their customers will use, market, sell, and offer to sell infringing products in this district and elsewhere in the United States, and with the knowledge and specific intent to encourage and facilitate infringing sales and use of the products by others within this district and the United States by creating and disseminating promotional and marketing materials, instructional materials, and product manuals, and technical materials related to the infringing products.

13. Moreover, Apple knowingly contributed to the infringement of one or more of the Patents by others in this district, and continues to contribute to the infringement of one or more of the Patents by others in this district by selling or offering to sell components of infringing products in this district, which components constitute a material part of the inventions of the Patents, knowing of the Patents and their claims, knowing those components to be especially made or especially adapted for use to infringe one or more of the Patents, and knowing that those

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components are not staple articles or commodities of commerce suitable for substantial non-infringing use.

IV. PATENT INFRINGEMENT

COUNT I — INFRINGEMENT OF U.S. PATENT NO. 6,473,399

14. Papst Licensing is the assignee of the '399 Patent, entitled "Flexible Interface For Communication Between A Host And An Analog I/O Device Connected To The Interface Regardless The Type Of The I/O Device," and holds all substantial rights in the same. Among other rights, Papst Licensing maintains the exclusive right to exclude others, the exclusive right to enforce, sue and recover damages for past and future infringements, and the exclusive right to settle any claims of infringement.

15. The '399 Patent is valid and enforceable.

16. Apple has directly infringed and continues to infringe one or more claims of the '399 Patent in this judicial district and elsewhere in the United States by, among other things, making, having made, importing, using, offering for sale, and/or selling the claimed system and methods of the '399 Patent. At a minimum, Apple has been, and now is, infringing claims of the '399 Patent by making, importing and/or using infringing systems and/or methods. Apple's infringing products include, but are not limited to, Apple's iPad, iPod and iPhone product lines that are compliant with or use the protocol specifications Picture Transfer Protocol ("PTP") and/or Media Transfer Protocol ("MTP") and therefore use and/or are capable of using said protocols when connected to a host computer (e.g., via a Universal Serial Bus connection, Bluetooth wireless connection and/or another physical layer connection where supported) ("'399 Infringing Products"). Papst Licensing alleges that each and every element is literally present in

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