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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

18 CREATIVE TECHNOLOGY LTD.,
 19 a Singapore Corporation,

20 Plaintiff,

21 v.

22 APPLE COMPUTER, INC.,
 23 a California Corporation,

24 Defendant.

Case No. **06-03218**

**COMPLAINT FOR PATENT
 INFRINGEMENT**

BZ

DEMAND FOR JURY TRIAL

Sony Corp., et al., v. Creative
 Technology Ltd., IPR2017-00595
EXHIBIT
Creative-2021

COMPLAINT FOR PATENT INFRINGEMENT

CASE NO. _____

1 Plaintiff Creative Technology Ltd. hereby pleads the following claim for patent
2 infringement against Defendant Apple Computer, Inc. (“Defendant”), and alleges as follows:

3 **THE PARTIES**

4 1. Plaintiff Creative Technology Ltd. is a Singapore corporation with its principal
5 place of business located at 31 International Business Park, Creative Resource, Singapore
6 609921. Its wholly owned subsidiary, Creative Labs, Inc., is a California corporation with its
7 principal place of business located at 1901 McCarthy Boulevard, Milpitas, CA 95035.

8 2. Creative Technology Ltd. and Creative Labs, Inc. (collectively, “Creative”) are
9 leading global suppliers of digital entertainment products. Creative was one of the first
10 companies to invest in the research, development and commercialization of portable digital media
11 players, commonly known as MP3 players.

12 3. On information and belief, Defendant Apple Computer, Inc. is a California
13 Corporation with its principal place of business located at 1 Infinite Loop, Cupertino, CA 95014.

14 4. On information and belief, Defendant makes, sells, offers for sale in the United
15 States, and/or imports into the United States, portable digital media players.

16 **JURISDICTION AND VENUE**

17 5. This is a civil action for willful patent infringement arising under the patent laws
18 of the United States, 35 U.S.C. § 1 *et seq.* This Court has subject matter jurisdiction of this action
19 under 28 U.S.C. §§ 1331 and 1338(a).

20 6. Venue is proper in this district under 28 U.S.C. §§ 1391(b), 1391(c) and
21 1400(b) because, among other reasons, Defendant is subject to personal jurisdiction in this
22 judicial district and has committed acts of willful infringement in this judicial district.

23 7. On information and belief, Defendant has placed infringing devices into the stream
24 of commerce by shipping those products into this judicial district or knowing that the devices
25 would be shipped into this judicial district, and such products have been used and sold in this
26 judicial district.

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1 **INTRADISTRICT ASSIGNMENT**

2 8. This intellectual property action belongs to the excepted categories under Civil
3 Local Rule 3-2(c). Thus, this action should be assigned on a district-wide basis.

4 **THE PATENT**

5 9. On August 9, 2005, United States Letters Patent No. 6,928,433 entitled
6 "Automatic Hierarchical Categorization of Music by Metadata" (the "'433 Patent") was duly and
7 legally issued to Creative Technology Ltd. Since that date, Creative Technology Ltd. has been
8 and continues to be the owner of the entire right, title and interest in and to the '433 Patent. A
9 true and correct copy of the '433 Patent is attached hereto as Exhibit 1 and incorporated herein.

10 **FIRST CAUSE OF ACTION**

11 **(Infringement of U.S. Patent No. 6,928,433)**

12 10. Paragraphs 1 through 9 are incorporated by reference as if fully stated herein.

13 11. Defendant has infringed, and is currently infringing, the '433 Patent, in violation
14 of 35 U.S.C. § 271 et seq. (including Sections (a), (b), (c) and (f)), directly, indirectly,
15 contributorily, and by inducement of and action with others, regarding making, using, selling,
16 offering to sell in the United States, and/or importing into the United States products that embody
17 the patented invention, including, without limitation, the iPod, iPod Nano, and iPod Mini.
18 Defendant has had actual notice and knowledge of the '433 Patent.

19 12. Defendant induces infringement of the '433 Patent by actively inducing its
20 customers in the U.S. to operate iPods, iPod Nanos and iPod Minis in direct infringement of the
21 '433 Patent. Defendant engages in those acts despite its actual notice and knowledge of the '433
22 Patent.

23 13. The iPods, iPod Nanos and iPod Minis sold by Defendant are specifically
24 configured to access and display music loaded by the user in ways that infringe the '433 Patent.
25 The iPods, iPod Nanos and iPod Minis are not staple articles of commerce, and Defendant knows
26 or should know that those players have no substantial non-infringing uses. Defendant engages in
27 those acts despite its actual notice and knowledge of the '433 Patent.
28

1 14. Defendant's infringement of the '433 Patent has been and is willful and
2 intentional. This is an exceptional case pursuant to 35 U.S.C. § 285.

3 15. Creative has been injured and damaged by Defendant's infringement of the '433
4 Patent. Defendant's infringement has caused, and will continue to cause, irreparable harm to
5 Creative, for which Creative has no adequate remedies at law, unless and until enjoined by this
6 Court.

7 **RELATED ACTION**

8 16. On May 15, 2006, Creative filed a Complaint against Defendant under Section 337
9 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, before the U.S. International Trade
10 Commission. The Complaint is based on the unlawful importation into the U.S., the sale for
11 importation, and/or the sale within the U.S. after importation, by Defendant and others on behalf
12 of Defendant, of portable digital media players (*e.g.*, iPods, iPod Nanos and iPod Minis) that
13 infringe the '433 Patent. A true and correct copy of the public version of the Complaint is
14 attached hereto as Exhibit 2.

15 **PRAYER FOR RELIEF**

16 WHEREFORE, Creative Technology Ltd. prays for a judgment as follows:

- 17 A. That Defendant has infringed the '433 Patent;
- 18 B. That Defendant's infringement of the '433 Patent is willful;
- 19 C. That Defendant, its officers, agents, servants, employees, directors, attorneys, and
20 all persons in active concert or participation with any of them, and their successors and assigns be
21 preliminarily and permanently enjoined from infringement of the '433 Patent under 35 U.S.C.
22 § 283;
- 23 D. That Creative Technology Ltd. be awarded all damages adequate to compensate
24 Creative Technology Ltd. for Defendant's infringement of the '433 Patent, and that such damages
25 be trebled under 35 U.S.C. § 284 and awarded to Creative Technology Ltd. with prejudgment
26 interest;
- 27
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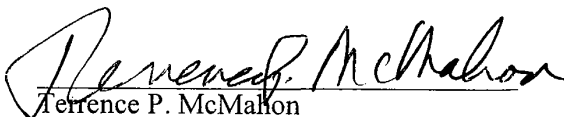
1 E. That this case be adjudged an exceptional case under 35 U.S.C. § 285, and that
2 Creative Technology Ltd. be awarded its attorneys' fees, costs, and expenses incurred in this
3 action; and

4 F. That Creative Technology Ltd. be awarded such other and further relief as the
5 Court deems just and proper.

6 Dated: May 15, 2006

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

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9 By: 
10 Terrence P. McMahon

11 Attorneys for Plaintiff Creative Technology Ltd.

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