

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

FINTIV, INC.

**Plaintiff,**

v.

APPLE INC.,

**Defendant.**

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**Civil Action No.: 1:19-01238-ADA**

**JURY TRIAL DEMANDED**

**PLAINTIFF FINTIV, INC.’S FIRST AMENDED AND SUPPLEMENTAL RESPONSES  
AND OBJECTIONS TO DEFENDANT APPLE INC.’S  
FIRST SET OF INTERROGATORIES TO FINTIV, INC. (NOS. 1, 3, 4, 5, 6, 8, 9, 11, 12,  
14 & 16)**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Plaintiff, Fintiv, Inc. (“Fintiv” or “Plaintiff”) hereby provides its First Amended and Supplemental Responses to Defendant Apple Inc.’s (“Apple” or “Defendant”) First Set of Interrogatories to Fintiv (Nos. 1, 3, 4, 5, 6, 8, 9, 11, 12, 14 & 16):

**GENERAL OBJECTIONS**

1. All General Objections are hereby incorporated into each specific response. Any objection or lack of objection to any portion of an interrogatory is not to be deemed an admission.
2. Fintiv objects to each and every definition, instruction, and/or interrogatory to the extent that it purports to impose duties or obligations upon Fintiv in excess of or different from the rules and obligations imposed by the Federal Rules of Civil Procedure, the Local Rules for the Western District of Texas, and any other rules or applicable law.
3. Fintiv objects to each and every definition, instruction, and/or interrogatory as

Fintiv is not currently aware of any license agreements, settlement agreements, covenants not to sue, releases or dismissals related to the '125 Patent. Other than this litigation, there are no complaints related to the '125 Patent.

Fintiv refers Apple to Fintiv's Initial Disclosures, served November 14, 2019, which lists, for example, Mike Love and Charlie Wigg as persons with knowledge regarding Fintiv's business activities, commercialization, and licensing activities as they relate to the '125 Patent.

Discovery and Fintiv's investigation in this case are ongoing, and Fintiv expressly reserves the right to amend and/or supplement this response, if necessary, as further information is discovered in this matter.

**SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 6:**

Fintiv incorporates by reference its objections and responses to Interrogatory No. 6 (above). Subject to the General and Specific Objections, Fintiv responds as follows:

Based on Fintiv's investigation to date and Fintiv's interpretation of the information requested by this interrogatory, Fintiv is not aware of efforts to monetize the '125 Patent.

Discovery and Fintiv's investigation in this case are ongoing, and Fintiv expressly reserves the right to amend and/or supplement this response, if necessary, as further information is discovered in this matter.

**INTERROGATORY NO. 6:**

Describe in detail any Fintiv Communications with Apple, including when and how You first provided actual notice of the Asserted Patent and any alleged infringement of the Asserted Patent to Apple, including but not limited to all facts and circumstances relating to the statements reported by Forbes on March 25, 2019 (available at <https://www.forbes.com/sites/nathanvardi/2019/03/25/once-hot-startup-at-center-of-investment-fraud-allegations-moves-to-enforce-it-patents/#2b69c748796c>) concerning the lawsuit against Apple in which Adolfo Salume, Fintiv's chairman, stated that Fintiv "[had] a private negotiation...with Apple" before suing Apple, and identify all Documents and Things (by Bates number) that You allege provided any notice and identify all Documents and Things (by Bates number) and all Persons with knowledge concerning the foregoing.

**RESPONSE TO INTERROGATORY NO. 6:**

Fintiv incorporates by reference its General Objections as if fully set forth herein. Fintiv objects to this interrogatory as overbroad, unduly burdensome, oppressive, and not proportional to the needs of the case because it is unrelated and not relevant to the claims and defenses of this action. Fintiv objects to this interrogatory vague, ambiguous, calling for speculation, and subject to multiple interpretations in its use of the terms “actual notice.” Fintiv further objects to this interrogatory as vague, overbroad, oppressive, unreasonably burdensome, and disproportionate to the needs of this case as it purports to require Fintiv to identify “all Persons with knowledge,” describe “all facts and circumstances,” and “[d]escribe in detail any Fintiv Communications.” Fintiv objects to this interrogatory as overbroad, unduly burdensome, oppressive, not proportional to the needs of the case to the extent it seeks “all Documents and Things.” Fintiv objects to this interrogatory as compound to the extent it contains discrete subparts that each count separately toward the total number of interrogatories allowed by the Court’s Agreed Order Governing Proceedings (Dkt. 39). Fintiv objects to this interrogatory to the extent it seeks discovery of information or material that is outside the possession, custody, or control of Fintiv. Fintiv objects to this interrogatory as it is not limited in time and/or scope to information relevant to the present litigation. Fintiv objects to this interrogatory on the grounds that it purports to require information or material that is already in Apple’s possession, known or disclosed to Apple, or which is equally available to Apple independently of Fintiv. Fintiv objects to this interrogatory to the extent it seeks information that is protected by the attorney-client privilege, the attorney work-product immunity, settlement privilege and/or any other applicable privilege or immunity from discovery. Fintiv hereby applies all such privileges and/or immunities.

Subject to, and without waiving the foregoing objections, Fintiv responds as follows:

Discovery and Fintiv's investigation in this case are ongoing, and Fintiv expressly reserves the right to amend and/or supplement this response, if necessary, as further information is discovered in this matter.

**SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 8:**

Fintiv incorporates by reference its objections and responses to Interrogatory No. 8 (above). Subject to the General and Specific Objections, Fintiv responds as follows:

Based on Fintiv's investigation to date, Fintiv is not aware of any direct communications between Fintiv and Apple prior to December 21, 2018 (the filing of Fintiv's Original Complaint) regarding infringement of the '125 Patent.

Discovery and Fintiv's investigation in this case are ongoing, and Fintiv expressly reserves the right to amend and/or supplement this response, if necessary, as further information is discovered in this matter.

**INTERROGATORY NO. 7:**

Describe in detail the time, cost, effort, or other investment that was made or spent to develop the alleged inventions claimed by the Asserted Patent, including without limitation: identification of the dates or time periods in which time, cost, effort, or other investment was expended, and a breakdown by month, quarter, or other available time period of the time and costs incurred, and identify all Documents and Things (by Bates number) and all Persons with knowledge concerning the foregoing.

**RESPONSE TO INTERROGATORY NO. 7:**

Fintiv incorporates by reference its General Objections as if fully set forth herein. Fintiv objects to this interrogatory as overbroad, unduly burdensome, oppressive, and not proportional to the needs of the case to the extent it calls for "a breakdown by month, quarter, or other available time period of the time and costs incurred." Fintiv objects to this interrogatory vague, ambiguous, calling for speculation, and subject to multiple interpretations in its use of the terms "cost," "effort," "investment," "made," and "spent." Fintiv objects to this interrogatory as overbroad,

Dated: February 24, 2020

RESPECTFULLY SUBMITTED,

By: /s/ Andy Tindel

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