

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

OPTIS WIRELESS TECHNOLOGY, LLC,
OPTIS CELLULAR TECHNOLOGY, LLC,
UNWIRED PLANET, LLC, UNWIRED
PLANET INTERNATIONAL LIMITED, AND
PANOPTIS PATENT MANAGEMENT, LLC,

Plaintiffs,

v.

APPLE INC.,

Defendant

Civil Action No. 2:19-cv-66-JRG

JURY TRIAL

**PLAINTIFFS OPTIS WIRELESS TECHNOLOGY, LLC, OPTIS CELLULAR
TECHNOLOGY, LLC, AND PANOPTIS PATENT MANAGEMENT, LLC'S P.R. 3-1
AND 3-2 DISCLOSURE OF ASSERTED CLAIMS, INFRINGEMENT CONTENTIONS,
AND ACCOMPANYING DOCUMENT PRODUCTION**

Plaintiffs Optis Wireless Technology, LLC, Optis Cellular Technology, LLC, Unwired Planet, LLC, Unwired Planet International Limited, and PanOptis Patent Management, LLC (collectively, "Plaintiffs" or "PanOptis") hereby submit their disclosure of asserted claims and infringement contentions and accompanying document production pursuant to local Patent Rules 3-1 and 3-2 to Defendant Apple Inc. ("Apple" or "Defendant"), with respect to United States Patent Nos. 8,005,154, 8,019,332, 8,385,284, 8,411,557, 9,001,774, 8,102,833, and 8,989,290 ("Patents-in-Suit").

PanOptis' investigation is ongoing, and discovery is in its early stages. These disclosures are based on information available to PanOptis at this time. PanOptis reserves its rights to supplement or modify the contentions and disclosure herein, particularly after discovery of documents and other discovery regarding Defendant's Accused Instrumentalities. PanOptis also

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reserves the right to assert additional claims of the Patents-in-Suit, accuse different instrumentalities, or identify alternative literal and/or equivalent infringing elements in Defendant's Accused Instrumentalities.

I. ASSERTED CLAIMS

Pursuant to P.R. 3-1(a), PanOptis asserts that Defendant has infringed and continues to infringe at least the following claims:

- U.S. Patent No. 8,005,154 – Claims 33-34, 37-38
- U.S. Patent No. 8,019,332 – Claims 1-10
- U.S. Patent No. 8,385,284 – Claims 1-5, 8, 10-12, 14-18, 21, 23-25, 27-29
- U.S. Patent No. 8,411,557 – Claims 1-6, 9-10
- U.S. Patent No. 9,001,774 – Claims 6-10
- U.S. Patent No. 8,102,833 – Claims 1-14
- U.S. Patent No. 8,989,290 – Claims 10-13

PanOptis reserves the right to seek leave of the Court to amend this list of asserted claims, particularly in view of further discovery or investigation and the Court's claim construction.

II. ACCUSED INSTRUMENTALITIES

Pursuant to P.R. 3-1(b) PanOptis presently identifies the following Apple products, of which PanOptis is aware, as "Accused Instrumentalities" under all applicable subsections of 35 U.S.C. §271 with respect to each asserted claim as follows:

- All Asserted Patents and Claims: iPad (3rd generation), iPad mini, iPad (4th generation), iPad Air, iPad mini 2 with Retina display, iPad Air 2, iPad mini 3,

iPad Pro (12.9-inch), iPad mini 4, iPad Pro (9.7-inch), iPad (5th generation), iPad Pro (12.9-inch) (2nd generation), iPad Pro (10.5-inch), iPad (6th generation), iPad Pro 11-inch, iPad Pro 12.9-inch (3rd generation), iPad Air (3rd generation), iPad mini (5th generation), iPhone 5, iPhone 5c, iPhone 5s, iPhone 6, iPhone 6 Plus, iPhone 6s, iPhone 6s Plus, iPhone SE, iPhone 7, iPhone 7 Plus, iPhone 8, iPhone 8 Plus, iPhone X, iPhone XS, iPhone XS Max, iPhone XR, Apple Watch Series 4. For iPads and Apple Watches, where cellular functionality is sold as an option, only the products sold with cellular functionality are accused.

- All Asserted Claims of U.S. Patent Nos. 8,385,284; 8,411,557; 8,019,332; and 8,102,833: Apple Watch Series 3 when sold with cellular functionality, in addition to the accused instrumentalities listed in the paragraph above.

These identifications are based on a preliminary understanding of information currently available to PanOptis, and PanOptis reserves the right to supplement these identifications as discovery proceeds.

III. CLAIM CHARTS

Pursuant to P.R. 3-1(c) PanOptis provides the attached charts that identify where each limitation of each asserted claim is found in representative proof for each of the Accused Instrumentalities.¹ Known names and/or model numbers corresponding to the Accused Instrumentalities are identified in reference to each of the asserted claims set forth in the attached claim charts. Non-limiting examples from exemplary iPhones and iPads are used to illustrate the application of the claims to the Accused Instrumentalities. Similar documentation to that

¹ The references provided in the attached charts may be directed to particular releases of a given 3GPP or other technical specification. It should be understood that references and contentions are exemplary in nature and do not limit infringement assertions to only those releases.

identified in the chart is identified for the other Accused Instrumentalities in Appendix A. PanOptis accuses products having the same or similar structures and/or features identified in the representative claim charts and exhibits, including any versions of listed models. PanOptis reserves the right to identify additional Accused Instrumentalities, names and model numbers, particularly in light of further discovery.

These infringement contentions are prepared with public information and have not been prepared with the benefit of discovery. Plaintiffs reserve the right to amend these contentions, including adding and/or amending a doctrine of equivalents analysis for any claim element of any asserted claim, as discovery progresses. Plaintiffs further reserve the right to update, amend, or supplement these contentions and/or to add Accused Instrumentalities, standard, or chipset information, based on information received by Plaintiffs or otherwise produced by Apple, Qualcomm, Intel, or any other entity, in this litigation. Such information may include, but is not limited to, data sheets, design specifications, source code, testing information, reference designs, implementation and utilization information, and/or schematics. **Plaintiffs' citation of portions of the 3GPP LTE standard herein should not be interpreted to limit Plaintiffs' infringement proof in expert reports or at trial in any way.** Plaintiffs' citation of portions of the 3GPP LTE standard herein provides detailed notice of Plaintiffs' theory of infringement, but Plaintiffs intend to rely on additional evidence including, but not limited to, data sheets, design specifications, source code, testing information, reference designs, implementation and utilization information, and/or schematics as proof of infringement in expert reports and at trial.

IV. ACTS OF INFRINGEMENT

While P.R. 3-1 does not specify identifying or detailing the nature of infringing acts under 35 U.S.C. § 271, PanOptis outlines here exemplary acts of infringement without limitation.

For the method claims in the claim charts, when Apple, its customers, retailers, or servicers, and/or other users turn on and use the Accused Instrumentalities in the U.S., or when the Accused Instrumentalities are tested in the U.S., for cellular LTE transmissions, the claimed methods are performed in the U.S. and thus directly infringed under 35 U.S.C. §271(a). The claimed methods are also performed and thus directly infringed under 35 U.S.C. §271(a) when the Accused Instrumentalities are activated as part of design and development activities (e.g. interoperability, compliance, certification, reliability and quality control testing), and/or otherwise operated by Apple or other users of the Accused Instrumentalities, for cellular LTE transmissions. Apple is liable therefor directly and indirectly.

For example, Apple is a direct infringer under 35 U.S.C. §271(a) of the method claims when the method is performed on the Accused Instrumentalities, because the Accused Instrumentalities are structured and programmed by Apple to perform the infringing methods in ordinary intended use in cellular transmissions. Apple thusly directs and controls performance of the claimed methods in the US and is directly responsible therefor.

Additionally, because Apple makes and sells the Accused Instrumentalities to perform the claimed methods in ordinary intended use in cellular transmissions, Apple is also liable as an inducer under 35 USC §271(b) for the performance of the claimed methods. Moreover, technical and/or user documentation is generally provided by Apple with the Accused Instrumentalities themselves, available on Apple's website, provided at Apple conferences and trade shows, in advertisements or otherwise, directly or indirectly to the user, that instruct, describe, educate, encourage, and/or explain how to operate the Accused Instrumentalities for cellular LTE transmissions, thus inducing infringement with Apple's knowledge under 35 U.S.C. § 271(b). *See, e.g.,* <https://www.apple.com/iphone/LTE/>.

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