

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

RFCyber CORP.,

Plaintiff,

v.

APPLE, INC.

Defendant.

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Case No. 6:21-cv-00916

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, RFCyber Corp. (“RFCyber” or “Plaintiff”), files this original Complaint against Defendant Apple, Inc. (“Apple” or “Defendant”), for patent infringement under 35 U.S.C. § 271 and alleges as follows:

THE PARTIES

1. RFCyber is a Texas corporation with a place of business at 600 Columbus Avenue, Suite 106, Waco, Texas 76701. RFCyber is the owner of all right, title, and interest in and to, or is the exclusive licensee with the right to sue for U.S. Patent Nos. 8,118,218, 9,189,787, 9,240,009, 10,600,046, and 11,018,724 (the “Patents-in-Suit” or “Asserted Patents”).

2. Defendant Apple, Inc. is a corporation organized and existing under the laws of California, with one or more regular and established places of business in this District at least at 12545 Riata Vista Circle, Austin, Texas 78727; 12801 Delcour Drive, Austin, Texas 78727; 6800 W Parmer Lane, Austin, Texas 78729, and 3121 Palm Way, Austin, Texas 78758. Apple may be served with process through its registered agent, the CT Corp System, at 1999 Bryan St., Ste. 900 Dallas, Texas 75201-3136. In November 2019, Apple stated that it had approximately 7,000 employees in Austin and that it expected to open, in 2022, a \$1 billion, 3 million-square-

foot campus with capacity for 15,000 employees. *See*

<https://www.apple.com/newsroom/2019/11/apple-expands-in-austin/>. Apple is registered to do business in the State of Texas and has been since at least May 16, 1980.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1, et seq. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1332, 1338, and 1367.

4. The amount in controversy exceeds \$75,000.

5. This Court has specific and personal jurisdiction over Defendant consistent with the requirements of the Due Process Clause of the United States Constitution and the Texas Long Arm Statute. Upon information and belief, Defendant has sufficient minimum contacts with the forum because Defendant has physical locations and transacts substantial business in the State of Texas and in this Judicial District. Further, Defendant has, directly or through subsidiaries or intermediaries, committed and continues to commit acts of patent infringement in the State of Texas and in this Judicial District as alleged in this Complaint, as alleged more particularly below.

6. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§ 1400(b) and 1391(b) and (c) because Defendant is subject to personal jurisdiction in this Judicial District, has committed acts of patent infringement in this Judicial District, and has a regular and established place of business in this Judicial District. Defendant, through its own acts, makes, uses, sells, and/or offers to sell infringing products within this Judicial District, regularly does and solicits business in this Judicial District, and has the requisite minimum contacts with the Judicial District such that this venue is a fair and reasonable one.

PATENTS-IN-SUIT

7. On February 21, 2012, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 8,118,218 (the “’218 Patent”) entitled “Method and Apparatus for Providing Electronic Purse.” A true and correct copy of the ’218 Patent is attached as Exhibit A.

8. On November 17, 2015, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 9,189,787 (the “’787 Patent”) entitled “Method and Apparatus for Conducting E-Commerce and M-Commerce.” A true and correct copy of the ’787 Patent is attached as Exhibit B.

9. On January 19, 2016, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 9,240,009 (the “’009 Patent”) entitled “Mobile Devices for Commerce Over Unsecured Networks.” A true and correct copy of the ’009 Patent is attached as Exhibit C.

10. On January March 24, 2020, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 10,600,046 (the “’046 Patent”) entitled “Method and Apparatus for Mobile Payments.” A true and correct copy of the ’046 Patent is attached as Exhibit D.

11. On May 25, 2021, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 11,018,724 (the “’724 Patent”) entitled “Method and Apparatus for Emulating Multiple Cards in Mobile Devices.” A true and correct copy of the ’724 Patent is attached as Exhibit E

12. RFCyber is the sole and exclusive owner of all right, title and interest to and in, or is the exclusive licensee with the right to sue for, the ’218, ’787, ’009, ’046, and ’724 Patents (together, the “Patents-in-Suit”), and holds the exclusive right to take all actions necessary to

enforce its rights to the Patents-in-Suit, including the filing of this patent infringement lawsuit. RFCyber also has the right to recover all damages for past, present, and future infringement of the Patents-in-Suit and to seek injunctive relief as appropriate under the law.

INFRINGEMENT ALLEGATIONS

13. The technologies of the Patents-in-Suit were variously invented by Liang Seng Koh, Hsin Pan, Xiangzhen Xie, Futong Cho, and Fuliang Cho. The Patents-in-Suit generally cover apparatus and methods for enabling secure contactless payment with a portable device. In one exemplary embodiment, a smart card module including a secure element may emulate a payment card over near field communications (“NFC”). For example, users may select one of a plurality of payment cards stored in a memory of the secure element, and carry out a transaction via NFC at a point of service (“POS”). In another embodiment, the device may securely conduct transactions over an open network with a payment server. By facilitating the settlement of charges using an NFC mobile device to read off data pertaining to an electronic invoice, the inventions of the Patents-in-Suit provide significant time-savings, particularly in situations where a payment process would otherwise involve more than one contact between a merchant and consumer.

14. Apple has manufactured, used, marketed, distributed, sold, offered for sale, and exported from and imported into the United States devices and software that infringe the Patents-in-Suit. Apple has distributed variants of Apple Pay that have included functionality to emulate a payment card and settle a transaction via NFC and/or MST at least since October 2014.¹ Apple Pay is operable on a range of Apple devices, including at least all devices from the iPhone 6, iPhone 6 Plus, and above, including, at least all variants of the following Apple devices: iPhone

¹ See <https://www.apple.com/newsroom/2014/09/09Apple-Announces-Apple-Pay/>

6, iPhone 6 Plus, iPhone SE, iPhone 7, iPhone 7Plus, iPhone 8, iPhone 8 Plus, iPhone X, iPhone 11, iPhone 12, iPad Pro, iPad Air, iPad, and iPad mini models with Touch ID or Face ID, Apple Watch Series 1 and later, Mac models with Touch ID, Mac computers with Apple Silicon that are paired with a Magic Keyboard with Touch ID, and all Apple devices released since October 2014.² The current and previous versions of Apple Pay and devices running Apple Pay, alone and together, are non-limiting instances of the Accused Products. The Accused Products include, for example, the representative iPhone X running Apple Pay. The Accused Products practice the claims of the Patents-in-Suit to improve the shopping experience of their users, and to improve Apple's position in the market.

15. Apple's infringement of the Patents-in-Suit is willful. Apple continues to commit acts of infringement despite a high likelihood that its actions constitute infringement, and Apple knew or should have known that its actions constituted an unjustifiably high risk of infringement.

16. RFCyber has at all times complied with the marking provisions of 35 U.S.C. § 287 with respect to the Patents-in-Suit. On information and belief, any prior assignees and licensees have also complied with the marking provisions of 35 U.S.C. § 287.

COUNT I
(Infringement of the '218 Patent)

17. Paragraphs 1 through 16 are incorporated herein by reference as if fully set forth in their entireties.

18. RFCyber has not licensed or otherwise authorized Apple to make, use, offer for sale, sell, or import any products that embody the inventions of the '218 Patent.

19. Apple infringes, contributes to the infringement of, and/or induces infringement of the '218 Patent by making, using, selling, offering for sale, distributing, exporting from,

² <https://support.apple.com/en-us/HT208531>

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