

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

LOGANTREE LP

Plaintiff,

v.

APPLE, INC.,

Defendant.

CIVIL ACTION NO. 6:21-cv-00397

JURY DEMAND

PLAINTIFF'S ORIGINAL COMPLAINT

1. Plaintiff LoganTree LP (“LoganTree”) files this, its Original Complaint for patent infringement. Plaintiff asserts claims for patent infringement of U.S. Patent No. 6,059,576 (“the ‘576 Patent”), as reexamined, against Defendant Apple, Inc. (“Apple” or “Defendant”), under 35 U.S.C. § 271, *et seq.* In support thereof, LoganTree would respectfully show the Court the following:

I. PARTIES

2. Plaintiff LoganTree LP (“Plaintiff” or LoganTree”) is a partnership organized under the laws of the state of Nevada. LoganTree’s sole general partner is Gulfstream Ventures, LLC (“Gulfstream”), a limited liability company organized under the laws of the state of Nevada. Theodore and Anne Brann are the owners and sole managing members of Gulfstream, and their address is P.O. Box 2345, Boerne, Texas 78006.

3. Defendant Apple, Inc. is a corporation incorporated in California, with its principal place of business at One Apple Park Way, Cupertino, California 95014. Apple can be served with

process by serving their registered agent CT Corporation System at 1999 Byran St., Suite 900, Dallas, Texas 75201-3136.

4. Apple sells and offers to sell products and services throughout the United States, including in this judicial district, and introduces products and services into the stream of commerce that incorporate infringing technology knowing that they would be sold in this judicial district and elsewhere in the United States.

II. JURISDICTION AND VENUE

5. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has general and specific personal jurisdiction over Apple because Apple is present within and/or has sufficient minimum contacts with the State of Texas and the Western District of Texas pursuant to the Due Process Clause of the United States Constitution and the law of Texas. Apple has purposefully availed itself of the privileges of conducting business in the State of Texas and in the Western District of Texas by entering into contracts with Texas businesses and by developing and producing the infringing products in and through Texas businesses. Apple has sought protection and benefit from the laws of the State of Texas. Moreover, Apple has purposefully and voluntarily placed infringing products in the stream of commerce with the expectation that its products will be purchased by end users in the State of Texas and in the Western District of Texas. Apple has committed the tort of patent infringement within the State of Texas and within the Western District of Texas. Finally, Plaintiff's causes of action arise directly from Apple's business contacts and other activities in the State of Texas and in the Western District of Texas.

7. More specifically, Apple directly and/or through intermediaries (including distributors, retailers, and others) ships, distributes, offers for sale, sells, and/or advertises its products in the United States, the State of Texas, and the Western District of Texas, including but not limited to the Accused Products identified below. Apple solicits customers in the State of Texas and in the Western District of Texas. Apple has customers who are residents of the State of Texas and the Western District of Texas and who use Apple’s products and services, including the Accused Products, in the State of Texas and in the Western District of Texas. Apple derives substantial revenue from goods and service provided to individuals in Texas and in the Western District of Texas.

8. Venue is proper in the Western District of Texas under 28 U.S.C. § 1400(b). Defendant Apple has committed acts of patent infringement in the State of Texas and in the Western District of Texas and has a regular and established place of business in the State of Texas and the Western District of Texas. *See TC Heartland LLC v. Kraft Foods Grp. Brands LLC*, 137 S. Ct. 1514 (2017). Moreover, Apple has transacted business in this district, and has directly and/or indirectly committed and/or induced acts of patent infringement in this district.

III. THE PATENT-IN-SUIT

9. On May 9, 2000, the United States Patent and Trademark Office (“PTO”) duly and lawfully issued the ‘576 Patent, entitled “Training and Safety Device, System and Method to Aid in Proper Movement During Physical Activity,” after a full and fair examination. A true and correct copy of the ‘576 Patent is attached hereto as Exhibit A.

10. On March 17, 2015, following a reexamination requested by LoganTree, the PTO issued a reexamination certificate for the ‘576 Patent, bearing U.S. Patent No. 6,059,576 C1 (“the ‘576 Reexamination Certificate”). A true and correct copy of the ‘576 Reexamination Certificate

is attached hereto as Exhibit B. The ‘576 Patent as reexamined is referred to as the “Reexamined ‘576 Patent.”

11. The named inventor of the ‘576 Patent is Theodore L. Brann.

12. Mr. Brann assigned all right, title, and interest in the ‘576 Patent to LoganTree. LoganTree possess all rights of recovery under the ‘576 Patent and the Reexamined ‘576 Patent, including the exclusive right to sue for infringement and recover past damages.

IV. THE REEXAMINATION

13. The ‘576 Patent sets forth three independent claims—one each for the device, system, and method of the invention described above—along with twenty-six dependent claims. *Id.* at 17–18. On March 17, 2015, following a reexamination requested by LoganTree, the PTO issued the ‘576 Reexamination Certificate reaffirming the patentability of all of the ‘576 Patent claims, as amended, and further determining that an additional 156 dependent claims are patentable, for a total of 185 patented claims. Ex. B. Claims 1, 13, and 20 of the Reexamined ‘576 Patent are independent claims, and the remaining 182 claims are dependent on Claims 1, 13, or 20.

14. As stated in Claim No. 1 of the ‘576 Reexamination Certificate, the patented “device” consists of:

A portable, self-contained device for monitoring movement of body parts during physical activity, said device comprising:

a movement sensor capable of measuring data associated with unrestrained movement in any direction and generating signals indicative of said movement;

a power source;

a microprocessor connected to said movement sensor and to said power source, said microprocessor capable of receiving, interpreting, storing and responding to said movement data based on user-defined operational parameters, *detecting a first user-defined event based on the movement data and at least one of the user-defined operational parameters regarding the movement data, and storing first event*

information related to the selected first user-defined event along with the first time stamp information reflecting a time at which the movement data causing the first user-defined event occurred;

at least one user input connected to said microprocessor for controlling the operation of said device;

a real-time clock connected to said microprocessor; memory for storing said movement data; and

an output indicator connected to said microprocessor for signaling the occurrence of user-defined events;

wherein said movement sensor measures the angle and velocity of said movement.

Id. at 3.¹

15. Claim 13 (the “System Claim”) defines the patented “system” to comprise the Claim 1 device when connected via a “download device” to “a computer running a program capable of interpreting” the data gathered by the Claim 1 device.

16. Claim 13 of the Reexamined ‘576 Patent is for: “A system to aid in training and safety during physical activity, said system comprising:

A portable, self-contained movement measuring device, said movement measuring device further comprising:

A movement sensor capable of measuring data associated with unrestrained movement in any direction and generating signals indicative of said movement;

A power source;

A microprocessor connected to said movement sensor and to said power source, said microprocessor capable of receiving, interpreting, storing and responding to said movement data based on user-defined operational parameters, detecting a first user-defined event based on the movement data and at least one of the user-defined operational parameters regarding the movement data, and storing first event information related to the selected first user-defined event along with the first time stamp information reflecting a time at which the movement data causing the first user-defined event occurred;

¹ The text in italics “indicates additions made to the patent” as a result of the reexamination. *Id.* at 3.

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