

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

AIRE TECHNOLOGY LTD.,

Plaintiff,

v.

APPLE INC.,

Defendant.

Case No. 6:21-cv-01101-ADA

JURY TRIAL DEMANDED

**PLAINTIFF'S PRELIMINARY DISCLOSURE OF ASSERTED CLAIMS AND
INFRINGEMENT CONTENTIONS TO DEFENDANT APPLE INC.**

Aire Technology Ltd. ("Plaintiff" or "Aire") submits the following Preliminary Disclosure of Asserted Claims and Infringement Contentions to Defendant Apple Inc. ("Defendant" or "Apple"). This disclosure is based on the information available to Aire as of the date of this disclosure, and Aire reserves the right to amend this disclosure to the full extent consistent with the Court's Rules and Orders.

I. Asserted Claims

Aire asserts that Apple has infringed and continue to infringe at least the following claims of Aire's patents (collectively, the "Asserted Claims"):

A. U.S. Patent No. 8,581,706 ("the '706 Patent"): Claims 1, 2, 3, 11, 12, 16, 18, and 20.

B. U.S. Patent No. 8,205,249 ("the '249 Patent"): Claims 1-12.

C. U.S. Patent No. 8,174,360 ("the '360 Patent"): Claims 1, 2, 3, 8, 9, 10, 11, and 15.

Aire reserves the right to seek leave of court to add, delete, substitute, or otherwise amend this list of asserted claims should further discovery, the Court's claim construction, or other circumstances so merit.

II. Accused Products

Aire contends that the Asserted Claims are infringed by the various apparatuses used, made, sold, offered for sale, or imported into the United States by Apple (the “Accused Products”). The Accused Products include at least the following, as well as products with reasonably similar functionality, and all varieties of these products:

- **’706 and ’360 Patents:** iPhone 6, 6 Plus, 6S, 6S Plus, SE (first and second generation), 7, 7 Plus, 8, 8 Plus, X, XR, XS, XS Max, 11, 11 Pro, 11 Pro Max, 12, 12 mini, 12 Pro, 12 Pro Max, 13, 13 mini, 13 Pro, 13 Pro Max, Watch Series 1, Watch Series 2, Watch Series 3, Watch Series 4, Watch Series 5, Watch SE, Watch Series 6, and Watch Series 7.
- **’249 Patent:** iPhone 6, 6 Plus, 6S, 6S Plus, SE (first and second generation), 7, 7 Plus, 8, 8 Plus, X, XR, XS, XS Max, 11, 11 Pro, 11 Pro Max, 12, 12 mini, 12 Pro, 12 Pro Max, 13, 13 mini, 13 Pro, and 13 Pro Max.

Aire reserves the right to amend this list of accused instrumentalities, as well as other information contained in this document and the exhibits hereto, to incorporate new information learned during the course of discovery, including, but not limited to, the inclusion of newly released products, versions, or any other equivalent devices ascertained through discovery. Further, to the extent any accused infringing products have gone through or will go through name changes, but were or will be used or sold with the same accused features, earlier corresponding products under different names also are accused.

III. Claim Charts

Claim charts identifying a location of every element of every asserted claim of the asserted Aire Patents within accused products are attached hereto as Exhibits A-C. Aire’s analysis of the

Accused Products is based on limited publicly available information and based on Aire's own investigation prior to any discovery in this action. In an effort to focus the issues, Aire identifies exemplary evidence for each claim limitation. The evidence cited for a particular limitation should be considered in light of the additional evidence cited for the other claim limitations. Aire reserves the right to rely on evidence cited for any particular limitation of an asserted claim for any other limitation asserted for that claim. Unless otherwise indicated, the information provided that corresponds to each claim element is considered to indicate that each claim element is found within each of the different variations of each respective Accused Products described above.

Aire reserves the right to amend these claim charts, as well as other information contained in this document and the exhibits hereto. Aire further reserves the right to amend these claim charts to incorporate new information learned during the course of discovery, including, but not limited to, information that is not publicly available or readily discernible without discovery or undue burden.

IV. Literal Infringement / Doctrine of Equivalents

Aire asserts that Apple infringes the asserted claims listed above under at least 35 U.S.C. § 271(a), (b), (c), and/or (f). Aire contends that Apple has directly infringed and continues to directly infringe the asserted claims by making, using, offering for sale, selling, and importing into the United States the Accused Products. Aire also contends that Apple (i) induces end users of the Accused Products to directly infringe the Asserted Claims and (ii) contributes to end users' direct infringement of the Asserted Claims. Aire asserts that, under the proper construction of the asserted claims and their claim terms, the limitations of the asserted claims of the asserted Aire patents are literally present in the accused products, as set forth in the claim charts attached hereto as Exhibits A-C. Aire contends that any and all elements found not to be literally infringed are

infringed under the doctrine of equivalents because the differences between the claimed inventions and the accused instrumentalities, if any, are insubstantial.

Aire's contention is that each limitation is literally met, and necessarily also would be met under the doctrine of equivalents because there are no substantial differences between the Accused Products and the claims, in function, way, or result. If Apple attempts to argue that there is no infringement literally and also no infringement under doctrine of equivalents and attempts to draw any distinction between the claimed functionality and the functionality in the Accused Products, then Aire reserves its right to rebut the alleged distinction as a matter of literal infringement and/or as to whether any such distinction is substantial under the doctrine of equivalents.

Aire reserves the right to amend its Infringement Contentions as to literal infringement or infringement under the doctrine of equivalents in light of new information learned during the course of discovery and the Court's claim construction.

V. Priority Dates

The Asserted Claims are entitled to a priority date of at least the following:

A. U.S. Patent No. 8,581,706: Each asserted claim of the '706 Patent is entitled to at least a priority date of June 12, 2006.

B. U.S. Patent No. 8,205,249: Each asserted claim of the '249 Patent is entitled to at least a priority date of October 24, 2002.

C. U.S. Patent No. 8,174,360: Each asserted claim of the '360 Patent is entitled to at least a priority date of July 30, 2003.

VI. Identification of Instrumentalities Practicing the Claimed Inventions

At this time, Aire is not relying on any assertion that any of its own instrumentalities practice the claims of the Asserted Patents.

VII. Document Production Accompanying Disclosure

Aire submits the following Document Production Accompanying Disclosure, along with an identification of the categories to which each of the documents corresponds.

Aire is presently unaware of any documents sufficient to evidence any discussion with, disclosure to, or other manner of providing to a third party, or sale of or offer to sell, the inventions recited in the Asserted Claims of the asserted patents prior to the application date or priority date for the asserted patents. A diligent search continues for documents and Aire reserves the right to supplement this response.

Aire is presently unaware of documents regarding the conception, reduction to practice, design, and development of each claimed invention of the asserted patents, which were created before the date of application for the asserted patents or the priority date identified above. A diligent search continues for documents and Aire reserves the right to supplement this response.

Aire identifies the following documents as being the file histories for the Asserted Patents:
AIRE-APPLE-00000035 - AIRE-APPLE-00001549.

Dated: January 20, 2022

Respectfully submitted,

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