

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

HAPTIC, INC.,

Plaintiff,

v.

APPLE, INC.,

Defendant.

Civil Action No. 1-23-cv-01351

JURY TRIAL REQUESTED

**PLAINTIFF HAPTIC INC.'S RESPONSE IN OPPOSITION TO APPLE'S RULE
12(b)(6) MOTION**

TABLE OF CONTENTS

	Page
I. Introduction.....	1
II. Legal Standard	3
III. Argument	3
A. Haptic’s Complaint States a Claim for Direct Infringement.	3
1. Apple’s Claim Construction Arguments Are Premature and Should Be Rejected.....	4
2. Even if the Court Addressed Claim Construction Issues, Apple’s Construction Improperly Inserts the Word “Directly” into the Claim Language.....	5
3. Haptic Did Not Disavow the Claim Scope During Prosecution.	8
4. Apple’s Back Tap Feature Infringes the ’738 Patent, Even Under Apple’s Strained Claim Construction.	10
B. Haptic Has Sufficiently Pleaded Contributory Infringement Based on Apple’s Sales and Monetization of HomeKit and HomeKit Certified Devices.....	12
IV. Conclusion	14

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>3M Innovative Properties Co. v. Tredegar Corp.</i> , 725 F.3d 1315 (Fed. Cir. 2013).....	8
<i>Apple Inc. v. AliveCor, Inc.</i> , 2023 WL 4091287 (N.D. Cal. 2023)	14
<i>Ashcroft v. Iqbal</i> , 556 U.S. 662 (2009).....	3
<i>Cont'l Circuits LLC v. Intel Corp.</i> , 915 F.3d 788 (Fed. Cir. 2019).....	8
<i>Crane Co. v. Sandenvendo Am., Inc.</i> , 2009 WL 1586704, at *12 (E.D. Tex. June 5, 2009).....	7
<i>Glaston Corp. v. Salem Fabrication Techs. Grp.</i> , 2022 WL 16901987 (M.D.N.C. 2022).....	14
<i>In re Bill of Lading Transmission & Processing Sys. Pat. Litig.</i> , 681 F.3d 1323 (Fed. Cir. 2012).....	4
<i>In re Varma</i> , 816 F.3d 1352 (Fed. Cir. 2016).....	10
<i>Liqui-Box Corp. v. Scholle IPN Corp.</i> , 449 F. Supp. 3d 790 (N.D. Ill. 2020)	8
<i>Mel NavIP LLC v. Toyota Motor N. Am., Inc.</i> , No. 2:22-CV-00152-JRG, 2023 WL 1766266 (E.D. Tex. Feb. 3, 2023)	4
<i>Nalco Co. v. Chem-Mod, LLC</i> , 883 F.3d 1337 (Fed. Cir. 2018).....	3, 4, 5
<i>SimpleAir, Inc. v. Sony Ericsson Mobile Comm's AB</i> , 820 F.3d 419 (Fed. Cir. 2016).....	8
<i>Thorner v. Sony Computer Ent. Am. LLC</i> , 669 F.3d 1362 (Fed. Cir. 2012).....	10
Statutes	
35 U.S.C. § 271(c)	12

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McGraw-Hill Dictionary of Scientific and Technical Terms.....7

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Plaintiff Haptic, Inc. (“Haptic”) submits this Response in Opposition to Defendant Apple, Inc.’s (“Apple”) Rule 12(b)(6) Motion to Dismiss for Failure to State a Claim, (ECF No. 13).

Apple improperly asks the Court to resolve claim construction disputes at the motion-to-dismiss stage, inserts the word “directly” into the claim language, and attempts to import limitations based on prosecution statements that do not “clearly and unmistakably” disavow the claims’ scope. In short, Apple attempts to rewrite the patent in suit. Even under Apple’s strained claim construction assumptions, Haptic’s complaint adequately alleges infringement against Apple’s Back Tap feature.

The Court should deny Apple’s Motion.

I. Introduction

This case involves Apple’s infringement of U.S. Patent No. 9,996,738 (’738 Patent) titled “System and Method for Controlling a Terminal Device.” The ’738 Patent generally covers a tap-based control system that converts a surface into a controller for a terminal device. The control system includes a housing, a sensor, a mounting surface, a sensor, and a terminal device. The functionality disclosed in the ’738 Patent allows users to control devices through tap gestures on an ordinary surface. Claim 1 of the ’738 Patent reads:

A control system comprising:

a housing having an engagement means for a mounting surface;

a sensor contained within said housing, said sensor forming an interactive zone defined by a range of said sensor, said sensor being comprised of an accelerometer, said interactive zone being aligned with said mounting surface and overlaying said mounting surface outside a perimeter of said housing, said sensor being in a fixed position relative to said engagement means, wherein a contact interaction associated with said mounting surface within said interactive zone is detected by said sensor as data signals, said contact interaction being comprised of an impact on said mounting surface, said data signals being comprised of vibration data of said contact interaction;

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