

**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-1351-DII

JURY TRIAL DEMANDED

Plaintiff's Preliminary Infringement Contentions

Pursuant to the Joint Federal Rule of Civil Procedure 26 Report (Dkt. 40), Plaintiff Haptic, Inc. (hereinafter "Haptic") hereby serves its Preliminary Infringement Contentions and disclosure of priority date to Defendant Apple Inc. (hereinafter "Apple"). Haptic expressly reserves all objections relative to their use, for any purpose, and does not waive any applicable privileges with respect to the information disclosed herein or accompanying document productions.

Haptic makes this disclosure to the best of its present ability and without the benefit of discovery. Haptic's investigation is ongoing, and this disclosure is based on information reasonably available to Haptic as of this date. Haptic reserves the right to supplement or amend these disclosures, its contentions in this case, and its document productions pursuant to these disclosures consistent with the Federal Rules of Civil Procedure, Local Rules, and Court Orders. By making these disclosures, Haptic does not waive any applicable privilege, work product, or other protection, and reserves the right to object to the production or admissibility of any information provided herein.

I. PRELIMINARY INFRINGEMENT CONTENTIONS

The preliminary infringement contentions set forth herein, including without limitation the claim charts attached hereto as **Exhibits A and B**, which are fully incorporated by reference herein,

identify, based on publicly available information, and upon information and belief, where in the iPhone 8, 8 Plus, X, XS, XS Max, XR, 11, 11 Pro, 11 Pro Max, SE, SE2, SE3, 12, 12 Mini, 12 Pro, 12 Pro Max, 13, 13 Mini, 13 Pro, 13 Pro Max, 14, 14 Plus, 14 Pro, 14 Pro Max, 15, 15 Plus, 15 Pro, and 15 Pro Max models (“Accused Products”) each element of claims 1, 2, 4, 5, and 9 (“Asserted Claims”) of U.S. Patent No. 9,996,738 (“738 Patent” or “Asserted Patent”) are found within the Accused Products.

The documents, identification of Accused Products, and other evidence cited in these charts are exemplary, and not intended to be exhaustive. Haptic’s identifications in these preliminary infringement contentions, including without limitation, its identifications of exemplary Asserted Claims, Accused Products, and the infringing features in the exemplary Accused Products, and/or the theories of infringement, are based upon information known to Haptic at the time of these preliminary infringement contentions. Haptic reserves the right to supplement and/or amend these preliminary infringement contentions based on information not known to Haptic at the time of service of its preliminary infringement contentions and/or that is otherwise later discovered by Haptic after service of its preliminary infringement contentions, including without limitation, supplementation and/or amendment of Haptic’s contentions to identify, refine, modify, amend, and/or supplement the identified Accused Products, locations of the infringing feature(s) in the Accused Products, and/or the theories of infringement provided herein.

These preliminary infringement contentions shall not limit Haptic’s right to assert any position it deems appropriate at any later date as to infringement, validity, claim construction, or any other issue in this litigation. Nor shall they be deemed an admission or contention as to the scope or interpretation of any claim term.

Haptic contends that Defendant Apple infringes the Asserted Claims of the Asserted Patent under 35 U.S.C. § 271(a) by making, using, offering to sell, and/or selling in the United States and/or importing into the United States at least the following iPhone models (“Accused Products”), either literally and/or under the doctrine of equivalents, as set out in Exhibits A and B: iPhone 8, iPhone 8 Plus, iPhone X, iPhone XS, iPhone XS Max, iPhone XR, iPhone 11, iPhone 11 Pro, iPhone 11 Pro Max, iPhone SE, iPhone SE2, iPhone SE3, iPhone 12, iPhone 12 Mini, iPhone 12 Pro, iPhone 12 Pro Max, iPhone 13, iPhone 13 Mini, iPhone 13 Pro, iPhone 13 Pro Max, iPhone 14, iPhone 14 Plus, iPhone 14 Pro, iPhone 14 Pro Max, iPhone 15, iPhone 15 Plus, iPhone 15 Pro, and iPhone 15 Pro Max.

Apple contributes to infringement of the Asserted Patent under 35 U.S.C. § 271(c) by providing the Accused Products within the United States, knowing that the products practice the claimed invention, that they are especially made or adapted for use in infringing the Asserted Patent, and that they are not staple articles or commodities of commerce capable of substantial non-infringing use. Apple’s infringement is further detailed in the Complaint (Dkt. 1), which is hereby incorporated by reference in its entirety

Haptic reserves the right to supplement its position as to infringement following further discovery and/or claim construction, including new information or knowledge regarding the structure, function, operation, implementation, and process of manufacturing the Accused Products.

These contentions are preliminary and are based on Haptic’s research and investigation to date and materials in the public domain. Discovery has not yet commenced. Defendant’s preliminary invalidity contentions have not yet been served. Claim construction proceedings have not yet commenced. Haptic reserves the right to supplement or amend these contentions in light

of discovery, invalidity contentions, alleged prior art, claim construction, and/or any other additional information provided by Defendant.

II. DISCLOSURE OF PRIORITY DATE

Haptic provides the following disclosure regarding the priority date for the Asserted Claims of the Asserted Patent. As an initial matter, Haptic notes that the Asserted Patent is subject to the First-to-File provisions of the America Invents Act (“AIA”). Haptic reserves the right to amend this disclosure should new information and knowledge regarding the conception, reduction to practice and/or priority dates of the Asserted Claims of the Asserted Patent come to light during discovery. Haptic further intends to rely on testimony by the inventors, experts, and other witnesses deposed in this matter concerning conception, diligence, and reduction to practice of the Asserted Claims of the Asserted Patent, including testimony at any hearing or the trial of this matter.

The priority date of the Asserted Patent is February 13, 2015. The Asserted Patent was assigned U.S. patent application number 15/043,283 upon filing on February 12, 2016 and issued on June 12, 2018 as U.S. Patent No. 9,996,738. The Asserted Patent claims the benefit of U.S. provisional application number 62/115,769, filed February 13, 2015.

The file histories for the above-referenced U.S. patent applications are being concurrently produced as follows:

Application Number	BATES Range
15/043,283 (the Asserted Patent)	HAPTIC_00000016–HAPTIC_00000203
62/115,769 (provisional application to the Asserted Patent)	HAPTIC_00000204–HAPTIC_00000261

Haptic reserves the right to supplement this production to the extent discovery or its investigations reveal additional documents.

Dated: March 18, 2024

Respectfully submitted,

SUSMAN GODFREY LLP

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