

# EXHIBIT 12

Apple's Invalidation Contentions Under Patent Rule 3-3  
 Exhibit D-14

**INVALIDITY OF U.S. PATENT NO. 9,467,838 (the "838 patent")**

**by**

**FORCE XXI BATTLE COMMAND, BRIGADE AND BELOW ("FBCB2")**

As explained in the cover pleading to Apple's invalidity contentions, Plaintiff has not and cannot demonstrate that the '838 patent is entitled to a priority date earlier than October 31, 2014, the effective filing date of Appl. No. 14/027,410. On information and belief, the FBCB2 system (including at least FBCB2 software versions 3.2, 3.3, and 3.4 and hardware made by Litton and Paravant) was in public use and/or available to the public no later than March 21, 2003, and was made available by the U.S. Army. The FBCB2 system, as set forth in this chart, anticipates the asserted claims of the '838 patent at least under pre-AIA 35 U.S.C. §§ 102(a) and (g)(2) (and AIA 35 U.S.C. §§ 102(a)(1)), and/or renders the asserted claims obvious under 35 U.S.C. § 103 either alone, in combination with the general knowledge of one of ordinary skill in the art, and/or in combination with the references identified in Apple's invalidity contentions, including as set forth in this chart. On information and belief, the FBCB2 system is described at least in the following documents and other materials cited in this chart:

- *Force XXI Battle Command Brigade and Below-Blue Force Tracking (FBCB2-BFT). A Case Study in the Accelerated Acquisition of a Digital Command and Control System during Operations Enduring Freedom and Iraqi Freedom*, by James L. Conatser and Vincent E. Grizio, dated December 2005 and retrieved from <http://www.dtic.mil/dtic/tr/fulltext/u2/a443273.pdf> on November 21, 2017 ("Conatser") (APL-AGIS\_00012804 - APL-AGIS\_00012876).
- *Blue Force Tracking The Afghanistan and Iraq Experience and Its Implications for the U.S. Army*, by Richard J. Dunn, III, stamped with a copyright dated 2003 and retrieved from <http://www.northropgrumman.com/AboutUs/AnalysisCenter/Documents/pdfs/BFT-Afghanistan-and-Iraq-Exper.pdf> on November 21, 2017 ("Dunn") (APL-AGIS\_00012877 - APL-AGIS\_00012896).
- *FORCE XXI BATTLE COMMAND, BRIGADE AND BELOW (FBCB2)*, retrieved from <https://web.archive.org/web/20170204113146/http://www.dote.osd.mil/pub/reports/FY1999/pdf/army/99fbc2.pdf> on November 21, 2017 ("99FBCB2") (APL-AGIS\_00012800 - APL-AGIS\_00012803).

Apple reserves the right to further supplement its contentions and evidence concerning the FBCB2 system as discovery proceeds, including by citation to additional materials or other evidence describing the operation of the system.