IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

MAXELL, LTD., **Plaintiff,** **vs.** **APPLE INC.,** **Defendant.**	Civil Action No. 5:19-cv-00036-RWS **JURY TRIAL DEMANDED**

DEFENDANT APPLE INC.'S MOTION FOR PARTIAL DISMISSAL OF PLAINTIFF'S COMPLAINT FOR FAILURE TO STATE A CLAIM

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Pages

Cases

TABLE OF AUTHORITIES
(continued)

Pages

Statutes

I. INTRODUCTION

The Court should dismiss Maxell's claims of indirect and willful infringement because Maxell did not allege facts to plausibly show that Apple had the requisite "specific intent" to induce infringement or that Apple knew of its alleged infringement of the asserted patents before Maxell filed this suit.[1] Instead, repeating the same form for each of the ten asserted patents, Maxell premises its indirect and willful infringement claims solely on two allegations: (1) Apple was "on notice" of each asserted patent through pre-suit interactions with Maxell; and (2) Apple gave its users online "instructions" regarding their general use of its accused products. These allegations amount to little more than conclusory statements that do not meet Maxell's burden to plead indirect and pre-suit willful infringement.

First, the Complaint fails to allege facts sufficient to support a reasonable inference that Apple specifically intended to cause others to infringe Maxell's patents—a required element of induced infringement. Maxell alleges only that Apple "instructs its customers through at least user guides or websites." *See, e.g.*, Complaint at ¶ 27. These allegations, even if true, do not explain how Apple's "user guides or websites" reveal a specific intent to cause infringement. Rather, they only demonstrate Apple's intent to market and support its products. Thus, Maxell has not stated a valid induced infringement claim under Rule 12(b)(6).

Second, for the '586 patent, the Complaint fails to plausibly allege that Apple knew—before this lawsuit—that this patent even existed. Specifically, Maxell's alleged pre-suit interactions with Apple all predate the '586 patent's issuance, yet the Complaint alleges that Apple

[1] The patents asserted in this case are Patent Nos. 6,748,317 ("the '317 patent"); 6,580,999 ("the '999 patent"); 8,339,493 ("the '493 patent"); 7,116,438 ("the '438 patent"); 6,408,193 ("the '193 patent"); 10,084,991 ("the '991 patent"); 6,928,306 ("the '306 patent"); 6,329,794 ("the '794 patent"); 10,212,586 ("the '586 patent"); and 6,430,498 ("the '498 patent") (collectively, "the asserted patents").

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.