

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

FINTIV, INC.,

Plaintiff,

v.

APPLE INC.,

Defendant.

§
§ **Civil Action No.: 1:21-cv-00896-ADA**
§
§
§ **JURY TRIAL DEMANDED**
§
§
§
§
§

NOTICE OF APPEAL¹

Pursuant to 28 U.S.C. § 1295, Fed. R. App. P. 3 and 4, and Fed. Cir. R. 3 and 4, notice is hereby given that Plaintiff Fintiv, Inc. (“Fintiv”) respectfully appeals to the United States Court of Appeals for the Federal Circuit from the District Court’s June 29, 2023 Final JUDGMENT (Dkt. 469) and from any and all other findings, determinations, conclusions, orders, opinions, decisions, judgments, and rulings leading up to that Final Judgment, including, without limitation, the District Court’s:

1. November 27, 2019 Claim Construction Order (Dkt. 86), March 17, 2022 Claim Construction Order and Memorandum in Support Thereof (Dkt. 424), and any supplemental Claim Construction Orders;
2. September 1, 2020 Hearing Transcript – Denying Plaintiff’s Motion For Leave To Amend Complaint, Including Claim of Willfulness, as Futile;
3. July 5, 2022 Order on Emergency Motion – Denying Plaintiff Fintiv, Inc.’s Motion for Sanctions [ECF No. 431] (Dkt. 441);

¹ This case was originally filed in the Waco Division on December 12, 2018 (Case No. 6:18-cv-372). On December 23, 2019, the case was transferred to the Austin Division (Case No. 1:19-cv-01238-ADA). Due to COVID issues, on September 8, 2021, the case was transferred back to the Waco Division (Case No. 6:21-cv-926). After the Federal Circuit granted Apple’s Writ of Mandamus, the case was moved back to the Austin Division on October 4, 2021 (Case No. 1:21-cv-00896) (current).

4. June 12, 2023 Sealed Order Concerning Pretrial Conference Motions – Denying Plaintiff Fintiv, Inc.’s *Daubert* Motion to Exclude Portions of the Rebuttal Expert Report of Lynne J. Weber, Ph.D. [ECF No. 278] (Dkt. 463);
5. June 12, 2023 Sealed Order Concerning Pretrial Conference Motions – Denying Plaintiff Fintiv, Inc.’s *Daubert* Motion to Exclude Portions of Dr. Lynne Weber’s Opening Expert Report and W. Christopher Bakewell’s Opening Expert Report [ECF 276] (Dkt. 463);
6. June 12, 2023 Sealed Order Concerning Pretrial Conference Motions – Denying Plaintiff Fintiv, Inc.’s Motion to Strike the Rule 26 Disclosure and Declaration, and Exclude Portions of the Testimony of Ahmer Kahn [ECF 262] (Dkt. 463);
7. June 12, 2023 Sealed Order Concerning Pretrial Conference Motions – Denying Plaintiff Fintiv, Inc.’s *Daubert* Motion to Exclude the Disclosure and Declaration and Testimony of Ahmer Khan [ECF 275] (Dkt. 463);
8. June 12, 2023 Sealed Order Concerning Pretrial Conference Motions – Denying Plaintiff Fintiv, Inc.’s *Daubert* Motion to Exclude Portions of the Expert Rebuttal Report and Testimony of W. Christopher Bakewell [ECF 277] (Dkt. 463);
9. June 12, 2023 Sealed Order Concerning Pretrial Conference Motions – Denying Plaintiff Fintiv, Inc.’s Motion to Strike and Exclude Portions of the Expert Rebuttal Report and Testimony of W. Christopher Bakewell [ECF 271] (Dkt. 463);
10. June 12, 2023 Sealed Order Concerning Pretrial Conference Motions – Granting-In-Part Motion to Exclude the Opinions of Fintiv’s Damages Expert Roy Weinstein [ECF 264] (Dkt. 463);
11. June 12, 2023 Sealed Order Concerning Pretrial Conference Motions – Denying Motion to Strike Portions of the Expert Rebuttal Report and Testimony of Henry Dreifus [ECF 263] (Dkt. 463);
12. June 12, 2023 Sealed Order Concerning Pretrial Conference Motions – Denying *Daubert* Motion to Exclude Portions of the Expert Rebuttal Report and Testimony

of Henry Dreifus [ECF 267] (Dkt. 463);

13. June 12, 2023 Sealed Order Concerning Pretrial Conference Motions – Denying Motion For Leave to Amend Infringement Contentions [ECF 218] (Dkt. 463);

14. June 12, 2023 Sealed Order Concerning Pretrial Conference Motions – Granting Motion for Judgment on the Pleadings as to Pre-Suit Indirect Infringement [ECF 208] (Dkt. 463); and

15. June 21, 2023 Order Granting Motion For Summary Judgment [ECF No. 270] (Dkt. 467).

DATED this 21st day of July, 2023.

RESPECTFULLY SUBMITTED,

By: /s/ Jonathan K. Waldrop
Raymond W. Mort, III
Texas State Bar No. 00791308
raymort@austinlaw.com
THE MORT LAW FIRM, PLLC
100 Congress Ave, Suite 2000
Austin, Texas 78701
Tel/Fax: (512) 865-7950

Jonathan K. Waldrop (CA Bar No. 297903)
(Admitted in this District)
jwaldrop@kasowitz.com
Darcy L. Jones (CA Bar No. 309474)
(Admitted in this District)
djones@kasowitz.com
Marcus A. Barber (CA Bar No. 307361)
(Admitted in this District)
mbarber@kasowitz.com
John W. Downing (CA Bar No. 252850)
(Admitted in this District)
jdowning@kasowitz.com
Heather S. Kim (CA Bar No. 277686)
(Admitted in this District)
hkim@kasowitz.com
ThucMinh Nguyen (CA Bar No. 304382)
(Admitted in this District)
tnguyen@kasowitz.com
KASOWITZ BENSON TORRES LLP
333 Twin Dolphin Drive, Suite 200
Redwood Shores, California 94065
Telephone: (650) 453-5170
Facsimile: (650) 453-5171

Paul G. Williams (GA Bar No. 764925)
(Admitted in this District)
pwilliams@kasowitz.com
KASOWITZ BENSON TORRES LLP
1230 Peachtree Street N.E., Suite 2445
Atlanta, Georgia 30309
Telephone: (404) 260-6080
Facsimile: (404) 260-6081

Attorneys for Plaintiff
FINTIV, INC.

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing instrument was served or delivered electronically via email to Apple's counsel of record, on this 21st day of July, 2023.

/s/ Jonathan K. Waldrop

Jonathan K. Waldrop