

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

GESTURE TECHNOLOGY PARTNERS,
LLC,

Plaintiff,

v.

APPLE INC.,

Defendant.

Case No. 6:21-cv-00121-ADA

Jury Trial Demanded

**DEFENDANT APPLE INC.'S ANSWER TO ORIGINAL COMPLAINT
FOR PATENT INFRINGEMENT**

Defendant Apple Inc. (“Apple”) answers Plaintiff Gesture Technology Partners, LLC’s (“Plaintiff” or “Gesture”) Original Complaint for Patent Infringement (“Complaint”) as follows.

PARTIES

1. Apple is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 1 of the Complaint, and therefore denies them.

2. Apple admits the allegations in Paragraph 2 of the Complaint, but denies that venue in this District is convenient. Apple reserves the right to seek transfer to a more appropriate or convenient forum.

JURISDICTION AND VENUE

3. Apple repeats and incorporates each and every response to the allegations in Paragraphs 1-2 as if fully set forth herein.

4. Apple admits that Plaintiff’s Complaint purports to arise under the United States patent laws. Apple admits that this Court has subject matter jurisdiction over patent law claims. Apple denies infringement and any and all relief Plaintiff is seeking.

5. Apple does not contest at this time, and solely for the purpose of the present litigation, whether venue over it properly lies in this District, but Apple denies that venue in this District is convenient and Apple reserves the right to seek transfer to a more appropriate or convenient forum. The remaining allegations in Paragraph 5 constitute conclusions of law and no response of Apple is required; to the extent an answer is required, Apple denies the allegations.

6. Apple does not contest at this time, and solely for the purpose of the present litigation, whether Apple is subject to this Court's specific and general personal jurisdiction. The remaining allegations in Paragraph 6 constitute conclusions of law and no response of Apple is required; to the extent an answer is required, Apple denies the allegations.

7. Apple admits that it sells and offers for sale its products and services, including those accused in the Complaint, to customers and potential customers in Texas, including in this District. The remaining allegations in Paragraph 7 constitute conclusions of law and no response of Apple is required; to the extent an answer is required, Apple denies the allegations. Apple also denies that venue in this District is convenient, and Apple reserves the right to seek transfer to a more appropriate or convenient forum.

8. Apple admits that it has a retail store at 2901 S. Capital of Texas Highway, Austin, Texas 78746 and that Apple may be served with process through a registered agent for service in Texas by way of CT Corporation System at 1999 Bryant Street, Suite 900, Dallas, Texas 75201. Whether such facilities constitute a "regular and established place of business in this District" involves a question of statutory interpretation, and thus, Apple denies that allegation and the remaining allegations in Paragraph 8 of the Complaint.

9. Apple denies the allegations of Paragraph 9 of the Complaint.

10. Apple admits that the Apple press release dated December 13, 2018 states that the company's facilities in Austin at the time "accommodate[d] 6,200 staff," but denies that witnesses with relevant knowledge are located in this District. Apple denies the remaining allegations of Paragraph 10. Apple further denies that venue in this District is convenient, and Apple reserves the right to seek transfer to a more appropriate or convenient forum.

11. Apple admits that the Apple press release dated November 20, 2019 states that the company's Austin facility at the time employed approximately 7,000 individuals, but denies that witnesses with relevant knowledge are located in this District. Apple denies the remaining allegations of Paragraph 11 of the Complaint. Apple further denies that venue in this District is convenient, and Apple reserves the right to seek transfer to a more appropriate or convenient forum.

THE TECHNOLOGY

12. Apple repeats and incorporates each and every response to the allegations in Paragraphs 1-11 as if fully set forth herein.

13. Apple is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 13 of the Complaint, and therefore denies them.

14. Apple is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 14 of the Complaint, and therefore denies them.

15. Apple is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 15 of the Complaint, and therefore denies them.

16. Apple is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 16 of the Complaint, and therefore denies them.

17. Apple denies the allegations of Paragraph 17 of the Complaint.

18. Apple is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 18 of the Complaint, and therefore denies them.

DISCUSSIONS WITH APPLE

19. Apple denies the allegations of Paragraph 19 of the Complaint.

20. Apple admits that it purchased patents from Dr. Pryor in the past, but denies the remaining allegations of Paragraph 20 of the Complaint.

21. Apple is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 21 of the Complaint, and therefore denies them.

22. Apple denies the allegations of Paragraph 22 of the Complaint.

23. Apple admits that Apple sent a letter to Dr. Pryor's counsel on December 5, 2016 but denies the remaining allegations of Paragraph 23 of the Complaint.

24. Apple denies the allegations of Paragraph 24 of the Complaint.

25. Apple denies infringement and any and all relief Plaintiff is seeking, and on that basis, denies the allegations of Paragraph 25 of the Complaint.

THE ACCUSED PRODUCTS

26. Apple repeats and incorporates each and every response to the allegations in Paragraphs 1-25 as if fully set forth herein.

27. Apple denies the allegations of Paragraph 27 of the Complaint.

EXAMPLES OF APPLE'S MARKETING OF THE ACCUSED FEATURES

28. Apple is unable to determine from the description in Paragraph 28 the precise features to which Plaintiff is referring, and therefore denies the allegations in Paragraph 28 of the Complaint.

29. Apple denies the allegations of Paragraph 29 of the Complaint.

30. Apple admits that it offers a Face ID feature, but denies that this feature infringes any claim of the Asserted Patents or that Plaintiff is entitled to any of the relief it seeks. Apple denies the remaining allegations of Paragraph 30 of the Complaint.

31. Apple admits that it offers a Face ID feature, but denies that this feature infringes any claim of the Asserted Patents or that Plaintiff is entitled to any of the relief it seeks. Apple denies the remaining allegations of Paragraph 31 of the Complaint.

32. Apple admits that it offers a Smart HDR feature, but denies that this feature infringes any claim of the Asserted Patents or that Plaintiff is entitled to any of the relief it seeks. Apple denies the remaining allegations of Paragraph 32 of the Complaint.

33. Apple admits that it offers an Attention Aware feature, but denies that this feature infringes any claim of the Asserted Patents or that Plaintiff is entitled to any of the relief it seeks. Apple denies the remaining allegations of Paragraph 33 of the Complaint.

COUNT I
[ALLEGED] INFRINGEMENT OF U.S. PATENT NO. 8,194,924

34. Apple repeats and incorporates each and every response to the allegations in Paragraphs 1-33 as if fully set forth herein.

35. Apple admits that U.S. Patent No. 8,194,924 (the “’924 patent”) lists the issue date on the face of the patent as June 5, 2012 and that what appears on its face to be a copy of the ’924 patent is attached to the Complaint as Exhibit A. Apple denies that the ’924 patent was properly issued. Apple is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 35 of the Complaint, and therefore denies them.

36. Apple admits that the ’924 patent is titled “Camera Based Sensing in Handheld, Mobile, Gaming or Other Devices.” Apple denies the remaining allegations of Paragraph 36 of the Complaint.

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