

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

CPC PATENT TECHNOLOGIES PTY LTD.,

Plaintiff,

v.

APPLE INC.,

Defendant.

Case No. 6:21-cv-00165-ADA

**JURY TRIAL DEMANDED**

**APPLE INC.'S MOTION TO DISMISS COMPLAINT PURSUANT TO RULE 12(B)(6)**

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Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendant Apple Inc. respectfully moves the Court to dismiss Plaintiff CPC Patent Technologies Pty Ltd.'s complaint for failing to specify the factual basis for its infringement allegations.

## INTRODUCTION

CPC's barebones complaint should be dismissed because it fails to serve its fundamental purpose: to provide fair notice of the factual basis for its infringement allegations to Apple. While CPC accuses Apple of directly and indirectly infringing a single claim in each of the Asserted Patents, the complaint contains *no facts* supporting key limitations in each Asserted Patent. More specifically, CPC's complaint lacks any support for the '039 Patent's "dependent upon the received card information" limitation, as well as the '208 Patent's and '705 Patent's "number of said entries and a duration of each said entry" limitations. Thus, CPC does not plausibly allege that Apple directly infringes any claim of the Asserted Patents.

CPC's indirect infringement claims are similarly defective. In addition to the deficiencies in CPC's direct infringement pleading, these claims suffer from a lack of any factual support with respect to the necessary intent. CPC offers only boilerplate indirect infringement language. CPC's failure to plead with any specificity provides an additional basis for dismissing those claims. Thus, CPC does not plausibly allege that any third party indirectly infringes any claim of the Asserted Patents.

Finally, CPC's claim for past damages must be dismissed because it fails to allege any facts showing that it has complied with the patent statute's marking requirement, which is a necessary element of an infringement claim for past damages.

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