

**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 FOR LACK OF STANDING**

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## I. INTRODUCTION

The plaintiff in this case, CPC, does not have legal title to own the patents-in-suit. At the time of the purported assignment to CPC, the assignor had *already* assigned the patents to someone else. This case must therefore be dismissed for lack of standing, which is a legal issue for the Court to decide.

## II. FACTUAL BACKGROUND

### A. The Asserted Patents Were Originally Assigned to Securicom

Plaintiff CPC Patent Technologies Pty Ltd. (“CPC”) asserts three patents (“the Asserted Patents”) in this case against Apple Inc. (“Apple”).<sup>1</sup> ECF 1 [Complaint]. The sole named inventor of each of the Asserted Patents is Christopher Burke, who currently resides in Hong Kong and has no current affiliation with CPC. Kete Decl. ¶ 2. Around the time of his work on the Asserted Patents, Mr. Burke was involved with several companies, including Securicom NSW Pty Limited (an Australian entity) (“Securicom”), Microlatch Pty Limited (an Australian entity) (“Microlatch Australia”), and Microlatch Limited (a UK entity) (“Microlatch UK”).<sup>2</sup> Ex. 1 [8/14/2020 Supreme Court of NSW Decision] at ¶ 53); Ex. 2 [10/7/2016 Charter Pacific Presse Release] at 1. These three entities together formed the Microlatch Group (collectively, “Microlatch/Securicom”). Ex. 2 [10/7/2016 Charter Pacific Press Release] at 1. According to public documents, Microlatch/Securicom was at one time a product company that worked on the “design, development and manufacture of mobile biometrics solutions” with technology focused on use of biometrics with “RF (Radio Frequency), NFC (Near Field Communication), and Bluetooth payment technology for secure access to mobile computing devices.” *Id.* at 2.

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<sup>1</sup> The Asserted Patents are U.S. Patent Nos. 8,620,039 (“the ’039 patent”), 9,269,208 (“the ’208 patent”), and 9,665,705 (“the ’705 patent”).

<sup>2</sup> Today, Mr. Burke is affiliated with another Microlatch entity based in Hong Kong called Microlatch Limited (“Microlatch Hong Kong”).

Mr. Burke originally assigned each of the Asserted Patents to Securicom. First, Mr. Burke filed the application for the '039 patent on February 12, 2008 (Application No. 12/063,650). Ex. 3 ['039 Patent] at 1. The prosecution history lists Securicom as assignee, and on August 21, 2008, an assignment of the application from Mr. Burke to Securicom was recorded with the United States Patent and Trademark Office ("USPTO"). Ex. 4 ['039 File History] at 6; Ex. 5 [Assignment Records]. On December 31, 2013, the '039 patent issued listing Securicom as assignee. Ex. 3 ['039 Patent] at 1. Second, Mr. Burke filed the application for the '208 patent on August 10, 2012 (Application No. 13/572,166). Ex. 6 ['208 Patent] at 1. The prosecution history lists Securicom as assignee, and on February 23, 2016, the '208 patent issued listing Securicom as assignee. *Id.*; Ex. 7 ['208 File History] at 1. Finally, Mr. Burke filed the application for the '705 patent on January 19, 2016 (Application No. 15/000,818). Ex. 8 ['705 Patent] at 1. The prosecution history again lists Securicom as assignee, and on May 30, 2017, the '705 patent issued listing Securicom as assignee. *Id.*; Ex. 9 ['705 File History] at 2.

**B. Mr. Burke Became Involved with Charter Pacific Around 2016**

At some point around 2016, Mr. Burke became involved with an Australian investment company called Charter Pacific Corporation Limited ("Charter Pacific"). Charter Pacific is the parent company of Plaintiff CPC. ECF 1 [Complaint] ¶ 16. Charter Pacific was interested in investing in and/or acquiring Microlatch/Securicom. On June 17, 2016, Charter Pacific announced that it had entered into a non-binding term sheet under which Charter Pacific would acquire a 100% interest in Microlatch/Securicom, which would include Microlatch/Securicom's patent portfolio. Ex. 2 [10/7/2016 Charter Pacific Press Release] at 1. On October 7, 2016, Charter Pacific announced that it had executed a Share Purchase Agreement with Microlatch/Securicom. *Id.* In a section of the announcement titled "commercialisation," Charter Pacific described its plans to license the Microlatch/Securicom patent portfolio, including by approaching "potential

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