

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

AIRE TECHNOLOGY LTD.,

Plaintiff,

v.

APPLE INC.,

Defendant.

Case No. 6:21-cv-01101-ADA

JURY TRIAL DEMANDED

**DECLARATION OF DREW B. HOLLANDER
IN SUPPORT OF PLAINTIFF AIRE TECHNOLOGY LTD.'S
MOTION TO AMEND INFRINGEMENT CONTENTIONS**

I, Drew B. Hollander, hereby declare under the penalty of perjury as follows:

1. I am an attorney at B.C. Law Group, P.C., counsel of record for Aire Technology Ltd. (“Aire”). I am one of the attorneys responsible for representing Aire in this matter. I have personal knowledge of all facts stated in this declaration and if called as a witness, could and would competently testify to these facts. I respectfully submit this declaration in support of Aire’s Motion to Amend Preliminary Infringement Contentions.

2. During Summer 2022, Apple made its new “Tap to Pay” feature available to certain retailers and merchants, which allows a retailer or merchant to use an Apple iPhone as a payment terminal in the same way as a traditional credit card payment terminal. *See, e.g.,* <https://www.nfcw.com/2022/06/06/377358/square-to-let-merchants-begin-testing-contactless-payment-acceptance-on-iphone-with-apples-tap-to-pay/>; <https://www.nfcw.com/2022/07/14/377977/us-merchants-begin-accepting-in-store-contactless-payments-on-apple-iphones/>. Indeed, Square has only integrated the feature into its payment application as September 28, 2022. *See* <https://9to5mac.com/2022/09/28/tap-to-pay-on-iphone-square/>.

3. After learning that Apple’s Tap to Pay feature was beginning to be employed by select retailers and merchants in Summer 2022, Aire promptly investigated the operation of the feature and its use in real-world transactions to ensure that the feature worked in the manner that Apple advertised (*i.e.*, that the feature infringed claim 13). This was the first time Aire was able to investigate the real-world use of Apple’s Tap to Pay feature.

4. Immediately thereafter, Aire drafted a claim chart mapping claim 13 of the ’249 Patent and shared that chart with Apple on September 8, 2022. Attached hereto as Exhibit 1 is a true and correct copy of the claim 13 claim chart sent to Apple on September 8, 2022.

5. On September 8, 2022, Aire also asked whether Apple opposed Aire's forthcoming motion to amend its preliminary infringement contentions to add claim 13 of the '249 Patent. Despite the parties' best efforts to avoid burdening the Court with motion practice, Apple indicated on September 28 that it opposed Aire's supplement and Aire promptly filed the instant motion. Attached hereto as Exhibit 2 is a true and correct copy of the September 8 and 28, 2022 emails (and intervening emails) between D. Hollander (counsel for Aire) and A. Radsch (counsel for Apple).

6. During the parties September 23, 2022 meet and confer, Aire indicated to Apple that it would not oppose an extension of the final invalidity contentions deadline to provide time for Apple to prepare its invalidity contentions for claim 13 of the '249 Patent. On the same meet and confer, Aire explained to Apple that it would not object to briefing additional terms not found in the claims already asserted (and briefed) prior to the Court's May 16 Markman hearing.

7. Attached hereto as Exhibit 3 is a true and correct copy of exhibit B ('249 Patent claim chart) of Aire's January 20, 2022 preliminary infringement contentions.

Executed on this 30th day of September, 2022 in New York, NY.

/s/ Drew B. Hollander

Drew B. Hollander

CERTIFICATE OF SERVICE

I certify that this document is being served upon counsel of record for Defendant on September 30, 2022 via electronic service.

/s/ Brett E. Cooper

Brett E. Cooper