

**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 ANDREW T. RADSCH IN SUPPORT OF  
DEFENDANT APPLE INC.'S RESPONSE TO  
PLAINTIFF AIRE TECHNOLOGY LTD.'S MOTION TO  
AMEND PRELIMINARY INFRINGEMENT CONTENTIONS**

I, Andrew T. Radsch, hereby declare and state as follows:

1. I am an active member in good standing of the bars of California and New York, and am admitted *pro hac vice* in the above-captioned case.

2. I am an attorney and partner at the law firm of Ropes & Gray LLP, counsel for Defendant Apple Inc. (“Apple”) in this litigation.

3. I provide this declaration in support of Apple’s Response to Plaintiff Aire Technology Ltd.’s (“Aire”) Motion to Amend Preliminary Infringement Contentions.

4. The statements in this declaration are based upon my personal knowledge. If called to testify as a witness in this matter, I could and would testify competently and truthfully to each of the statements in this declaration under oath.

5. Attached hereto as **Exhibit 1** is a true and correct copy of a February 8, 2022 Press Release from Apple titled “Apple empowers businesses to accept contactless payments through Tap to Pay on iPhone,” available at <https://www.apple.com/newsroom/2022/02/apple-unveils-contactless-payments-via-tap-to-pay-on-iphone/>.

6. Attached hereto as **Exhibit 2** is a true and correct copy of a March 3, 2022 email from Steve Ravel, counsel for Apple in the above-captioned matter, to the clerks of this Court regarding a procedural dispute in this matter.

7. On June 15, 2022, Apple filed three IPR petitions on the asserted claims for the three patents in this case, including an IPR challenging U.S. Pat. No. 8,205,249 (the “’249 patent”). *See Apple Inc. v. Aire Technology, Ltd.*, IPR2022-01135, Pap. 1 (P.T.A.B. June 15, 2022) (challenging the twelve claims of the ’249 patent currently asserted in this case); *Apple Inc. v. Aire Technology, Ltd.*, IPR2022-01136, Pap. 1 (P.T.A.B. June 15, 2022) (challenging the eight claims of U.S. Pat. No. 8,581,706 currently asserted in this case); *Apple Inc. v. Aire*

*Technology, Ltd.*, IPR2022-01137, Pap. 1 (P.T.A.B. June 15, 2022) (challenging the eight claims of U.S. Pat. No. 8,174,360 currently asserted in this case).

8. Pursuant to this Court's scheduling orders in this matter (*e.g.* D.I. No. 23), after Apple's February 8, 2022 announcement of Tap to Pay on iPhone, the parties have complied with several deadlines in this matter, including completing claim construction briefing and claim construction-related discovery, including expert depositions. Apple took the depositions of Aire's two claim construction expert declarants on June 29, 2022—Dr. Michael C. Brogioli, Ph.D. and Dr. Hugh Smith, Ph.D. Aire took the depositions of Apple's two claim construction expert declarants on July 25, 2022—Dr. Michael Caloyannides, Ph.D. and Dr. John Black, Ph.D.

9. Both parties have served and responded to discovery requests in this action. Aire served its First Set of Requests for Production, containing 51 separate requests, on July 19, 2022. Apple served its objections and responses on August 18, 2022. Apple served its First Set of Requests for Production, containing 49 separate requests, on August 3, 2022. Aire served its objections and responses on September 2, 2022.

10. Aire served its First Set of Interrogatories, containing 12 separate interrogatories (not including subparts), on July 19, 2022. Apple served its objections and responses on August 18, 2022. Aire served its Second Set of Interrogatories, containing a 13th interrogatory (not including subparts), on July 28, 2022. Apple served its objections and responses on August 29, 2022. Apple served its First Set of Interrogatories, containing 13 separate interrogatories, on August 3, 2022. Aire served its objections and responses on September 2, 2022.

11. I understand that, on or about July 19, 2022, Aire served or attempted to serve a subpoena on NXP Semiconductors requesting documents and deposition testimony. In September and early October of 2022, Apple served subpoenas on third parties dormakaba USA,

Inc., Thales USA, Inc., Visa, Inc., MasterCard Int'l, Inc., International Technologies and Systems Corporation (d/b/a ID TECH), and Sequent Software, Inc.—each subpoena requesting documents and deposition testimony directed to, *inter alia*, prior art.

12. Apple has collected and made available for inspection a significant amount of source code, starting in April 2022, and supplemented that production with additional source code from at least one third party, in July 2022, in response to requests from Aire for that source code in view of its infringement contentions.

13. On several occasions, the parties have met and conferred about the scope of discovery, including on at least August 5 and October 6, 2022.

14. Aire first informed Apple it intended to seek leave to amend its Preliminary Infringement Contentions to assert claim 13 of the '249 patent on September 8, 2022. *See* D.I. 63-4 at 11.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 7, 2022



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Andrew T. Radsch