

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

AMENDED COMPLAINT FOR PATENT INFRINGEMENT
AGAINST APPLE INC.

This is an action for patent infringement arising under the Patent Laws of the United States of America, 35 U.S.C. § 1 *et seq.*, in which Plaintiff Aire Technology Limited (“Plaintiff” or “Aire”) makes the following allegations against Defendant Apple Inc. (“Defendant” or “Apple”):

INTRODUCTION

1. This complaint arises from Apple’s unlawful infringement of the following United States patents owned by Plaintiff, which relate to improvements in Near Field Communication (NFC) and secure digital payment solutions: United States Patent Nos. 8,581,706 (“the ’706 Patent”), 8,205,249 (“the ’249 Patent”), and 8,174,360 (“the ’360 Patent”) (collectively, the “Asserted Patents”).

PARTIES

2. Plaintiff Aire Technology Limited is a limited liability company organized and existing under the law of Ireland, with its principal place of business at The Hyde Building, Suite 23, The Park, Carrickmines, Dublin 18, Ireland. Aire is the sole owner by assignment of all rights,

title, and interest in the Asserted Patents, including the right to recover damages for past, present, and future infringement.

3. On information and belief, Defendant Apple Inc. is a publicly traded corporation organized under the laws of the State of California, with its principal place of business at One Apple Park Way, Cupertino, CA 95014. Apple may be served with process through its registered agent, CT Corporation System, at 330 North Brand Boulevard, Suite 700, Glendale, CA 91203.

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Apple in this action because Apple has committed acts within this District giving rise to this action and has established minimum contacts with this forum such that the exercise of jurisdiction over Apple would not offend traditional notions of fair play and substantial justice. Apple, directly and through subsidiaries or intermediaries, has committed and continues to commit acts of infringement in this District by, among other things, importing, offering to sell, and selling products that infringe the Asserted Patents.

6. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400(b). Apple is registered to do business in Texas, and upon information and belief, Apple has transacted business in this District and has committed acts of direct and indirect infringement in this District by, among other things, making, using, offering to sell, selling, and importing products that infringe the Asserted Patents. Apple has regular and established places of business in this District, including at 12545 Riata Vista Cir., Austin, Texas 78727; 12801 Delcour Dr., Austin, Texas 78727; and

3121 Palm Way, Austin, Texas 78758.¹ Apple also has posted job listings for engineer positions related to NFC and/or Apple Pay in Austin, Texas, which is a job that concerns the implementation of the inventions contained in the Asserted Patents.²

THE ASSERTED PATENTS

7. On November 12, 2013, the United States Patent and Trademark Office issued U.S. Patent No. 8,581,706 (“the ’706 Patent”), entitled “Data storage medium and method for contactless communication between the data storage medium and a reader,” after full and fair examination. Plaintiff is the assignee of all rights, title, and interest in and to the ’706 Patent and possesses all rights of recovery under the ’706 Patent, including the right to recover damages for past, present, and future infringement. The ’706 Patent is valid and enforceable. A true and correct copy of the ’706 Patent is attached hereto as Exhibit 1.

8. On June 19, 2012, the United States Patent and Trademark Office issued U.S. Patent No. 8,205,249 (“the ’249 Patent”), entitled “Method for carrying out a secure electronic transaction using a portable data support,” after full and fair examination. Plaintiff is the assignee of all rights, title, and interest in and to the ’249 Patent and possesses all rights of recovery under the ’249 Patent, including the right to recover damages for past, present, and future infringement. The ’249 Patent is valid and enforceable. A true and correct copy of the ’249 Patent is attached hereto as Exhibit 2.

¹ See, e.g., <https://www.apple.com/newsroom/2019/11/apple-expands-in-austin/>; <https://www.google.com/maps/place/Apple+Inc./@30.4324406,-97.7359733,15z/data=!4m5!3m4!1s0x0:0x5852421ec4ac410c!8m2!3d30.4322558!4d-97.7359386>; <https://www.apple.com/retail/domainnorthside/>.

² See, e.g., <https://jobs.apple.com/en-us/details/200292503/nfc-uwf-field-design-engineer?team=HRDWR>; <https://jobs.apple.com/en-us/details/200299202/software-engineer-apple-pay?team=SFTWR>.

9. On May 8, 2012, the United States Patent and Trademark Office issued U.S. Patent No. 8,174,360 (“the ’360 Patent”), entitled “Communication apparatus for setting up a data connection between intelligent devices,” after full and fair examination. Plaintiff is the assignee of all rights, title, and interest in and to the ’360 Patent and possesses all rights of recovery under the ’360 Patent, including the right to recover damages for past, present, and future infringement. The ’360 Patent is valid and enforceable. A true and correct copy of the ’360 Patent is attached hereto as Exhibit 3.

APPLE’S INFRINGEMENT

10. The allegations provided below are exemplary and without prejudice to Plaintiff’s infringement contentions provided pursuant to the Court’s scheduling order and local rules. Plaintiff’s claim construction contentions regarding the meaning and scope of the claim terms will be provided under the Court’s scheduling order and local rules. As detailed below, each element of at least one claim of each of the Asserted Patents is literally present in the accused products. To the extent that any element is not literally present, each such element is present under the doctrine of equivalents. Plaintiff’s analysis below should not be taken as an admission that the preamble is limiting. While publicly available information is cited below, Plaintiff may rely on other forms of evidence to prove infringement, including evidence that is solely in the possession of Apple and/or third parties.

11. The accused products include at least the following products, as well as products with reasonably similar functionality, including all Plus and Max sub-models. Identification of the accused products will be provided in Plaintiff’s infringement contentions pursuant to the Court’s scheduling order and local rules. Apple imports, uses, makes, offers for sale, and sells in the United States the following products that support NFC and/or mobile payment applications,

such as Apple Pay, that infringe at least one claim of the Asserted Patents: iPhone 6, 6 Plus, 6S, 6S Plus, SE (first and second generation), 7, 7 Plus, 8, 8 Plus, X, XR, XS, XS Max, 11, 11 Pro, 11 Pro Max, 12, 12 mini, 12 Pro, 12 Pro Max, 13, 13 mini, 13 Pro, 13 Pro Max, 14, 14 Plus, 14 Pro, 14 Pro Max, Watch Series 1, Watch Series 2, Watch Series 3, Watch Series 4, Watch Series 5, Watch SE, Watch Series 6, Watch Series 7, Watch Series 8, Watch Ultra, and Watch SE (second generation) (the “Accused Products”). See <https://support.apple.com/en-us/HT208531>.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 8,581,706

12. Plaintiff realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

13. Apple has been and is now directly infringing the '706 Patent, literally and/or under the doctrine of equivalents, in violation of 35 U.S.C. § 271(a), including by making, using, selling, and/or offering for sale in the United States or importing into the United States infringing products, including at least the Accused Products identified above. The Accused Products satisfy all of the claim limitations of one or more claims of the '706 Patent, including but not limited to claim 11.

14. Claim 11 of the '706 Patent recites a “contactlessly communicating portable data carrier.” To the extent the preamble is limiting, the Accused Products each include a portable data carrier that is capable of contactless communication through the use of Near Field Communication (NFC) technology. For example, Apple advertises that the Accused Products support NFC:

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