

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

**ERICSSON INC. and  
TELEFONAKTIEBOLAGET LM  
ERICSSON,**

**Plaintiffs,**

**v.**

**APPLE INC.,**

**Defendant.**

**CIVIL ACTION NO. 2:15-cv-290**

**JURY TRIAL DEMANDED**

**ORIGINAL COMPLAINT**

Plaintiffs Ericsson Inc. and Telefonaktiebolaget LM Ericsson (singularly or collectively, “Ericsson”) file this Original Complaint for Patent Infringement against Apple Inc. (“Apple”) and allege as follows:

**NATURE OF THE ACTION**

1. Apple infringes many of Ericsson’s patents through the manufacture and sale of its iPhone, iPad, and other products. Apple’s products infringe Ericsson’s patented innovations that relate to many different aspects of Apple’s products, including the user interfaces, the operating systems, the location services, the applications, the cellular connectivity, the wireless LAN connectivity, and the Bluetooth connectivity. As a whole, Ericsson’s patented inventions enable Apple to sell smaller, more efficient, more capable, and more appealing products.

2. The patents at issue in this lawsuit relate to Ericsson’s innovations in location services and Global Position System (“GPS”) technology on mobile devices. Without GPS technology and Ericsson’s inventions incorporated therein, smartphones and other mobile

devices would not be able to provide the constant on-the-go access to location information that we are accustomed to today. The ability for a customer to know exactly where he is at any given time is critical in the modern world because it can save time, money, and even one's life. Ericsson's technical advancements in the field of location-based services have helped make this ability a reality on mobile devices operating on mobile networks. Location services provide better user experience and more personalized information to increase value to users. In addition, location information allows for higher quality and more convenient services provided by the safety and security sector, logistics and tracking companies, public transportation and urban planning developers, and even federal, state, and local governments.

### **THE PARTIES**

3. Since 1876, Ericsson has pioneered communications technology in pursuit of its mission to connect everyone, wherever they may be. The work of more than twenty-five thousand Ericsson research and development ("R&D") employees produced innovations fundamental to how phones, smartphones, and mobile devices connect seamlessly using cellular networks worldwide and offer a diverse and easy-to-use range of features and applications. As a result of its extensive research and development efforts, Ericsson has been awarded more than thirty-five thousand patents worldwide.

4. Ericsson is widely viewed as a leading innovator in the field of cellular communications. For more than three decades, Ericsson has pioneered development of the modern cellular network. Every major mobile network operator in the world buys solutions or services from Ericsson, which manages networks serving more than one billion subscribers globally. Forty percent of all mobile calls are made through Ericsson systems. Ericsson's equipment is found in more than 180 countries.

5. Ericsson also is a world-leading innovator of wireless and wired communications technologies as a result of its decades of investment in R&D. Ericsson's inventions enable the communications capability of smartphones and other wireless devices around the world. Access to people and information is paramount in this fast-paced, information-driven environment, and Ericsson's innovations have helped shape how people gain access by enabling technologies such as GSM / GPRS / EDGE ("2G"), UMTS / WCDMA / HSPA(+) ("3G"), LTE ("4G"), Wi-Fi, and Bluetooth. Ericsson also has devoted R&D resources in innovating wired communications that enable faster and easier methods of connecting people.

6. The proliferation of smartphones demonstrates the importance of Ericsson's communication platform innovations. The iPhone is but one example of many beneficiaries of Ericsson's fundamental technologies. With more than two billion users of mobile telephony in the world, smartphones and other mobile devices with Ericsson's communication platform allow people to connect, increasing efficiency and improving users' experiences.

7. Ericsson has a long history of technical innovations, including the patents at issue in this lawsuit. Some of Ericsson's many accomplishments include:

- in 1878, Ericsson sold its first telephone;
- in 1977, Ericsson introduced the world's first digital telephone exchange;
- in 1981, Ericsson introduced its first mobile telephone system, NMT;
- in 1991, Ericsson launched 2G phones on the world's first 2G network;
- in 1994, Ericsson invented Bluetooth;
- in 2001, Ericsson made the world's first 3G call for Vodafone in the UK; and
- in 2009, Ericsson started the world's first 4G network and made the first 4G call.

8. Ericsson's innovation continues. Ericsson envisions a connected future, with more than three billion users and more than fifty billion connected devices, all of which will require better networks and greater capacity. Ericsson's culture of innovations is reflected in its investment of over 15% of budget in R&D annually, supporting its twenty-five thousand

employees striving to create a more interconnected world. Protection of intellectual property is necessary to address those free riding on Ericsson's patented inventions, allowing Ericsson to continue innovating its remarkable technologies.

9. Plaintiff Ericsson Inc. is a Delaware corporation with its principal place of business at 6300 Legacy Drive, Plano, Texas 75024.

10. Plaintiff Telefonaktiebolaget LM Ericsson is a corporation organized under the laws of the Kingdom of Sweden with its principal place of business at Torshamnsgatan 21, Kista, 164 83, Stockholm, Sweden.

11. Defendant Apple is a California corporation, with its principal place of business at 1 Infinite Loop, M/S 38-3TX, Cupertino, California 95014. Apple designs, manufactures, uses, imports into the United States, sells, and/or offers for sale in the United States smartphones, tablets, and other mobile computing devices. Apple further offers other wireless communication devices, computers, tablet computers, digital media players, and headphones. Apple's devices are marketed, offered for sale, and/or sold throughout the United States, including within this District.

### **JURISDICTION AND VENUE**

12. This is a civil action for patent infringement arising under the patent laws of the United States, Title 35, United States Code, including 35 U.S.C. §§ 271 and 281-285. Jurisdiction is conferred on this Court pursuant to 28 U.S.C. §§ 1331 and 1338(a). Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400(b).

13. This Court has personal jurisdiction over Apple. Apple has continuous and systematic business contacts with the State of Texas. Apple, directly or through subsidiaries or intermediaries (including distributors, retailers, and others), conducts its business extensively throughout Texas, by shipping, distributing, offering for sale, selling, and advertising (including

the provision of an interactive web page) its products and/or services in the State of Texas and the Eastern District of Texas. Apple, directly and through subsidiaries or intermediaries (including distributors, retailers, and others), has purposefully and voluntarily placed one or more of its infringing products and/or services into the stream of commerce with the intention and expectation that they will be purchased and used by consumers in the Eastern District of Texas. These infringing products and/or services have been and continue to be purchased and used by consumers in the Eastern District of Texas. Apple has committed acts of patent infringement within the State of Texas and, more particularly, within the Eastern District of Texas. Apple has also directed communications in connection with its negotiations with Ericsson into the Eastern District of Texas. Jurisdiction over Apple in this matter is also proper inasmuch as Apple has voluntarily submitted itself to the jurisdiction of the courts by commencing litigations within the State of Texas, by registering with the Texas Secretary of State's Office to do business in the State of Texas, and by appointing a registered agent.

#### **THE ERICSSON PATENTS**

14. On March 19, 2002, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 6,360,102 ("the '102 Patent"), entitled "System and Method for Defining A Subscriber Location Privacy Profile," to Theodore Havinis and David Boltz. Ericsson owns all rights to the '102 Patent necessary to bring this action. A true and correct copy of the '102 Patent is attached hereto as Exhibit 1 and incorporated herein by reference.

15. On August 13, 2002, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 6,433,735 ("the '735 Patent"), entitled "Mobile Terminal and System and Method for Determining the Geographic Location of a Mobile Terminal," to L. Scott Bloebaum and David McMahan. Ericsson owns all rights to the '735 Patent necessary to bring this action.

A true and correct copy of the '735 Patent is attached hereto as Exhibit 2 and incorporated herein by reference.

16. On March 18, 2003, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 6,535,815 (“the '815 Patent”), entitled “Position Updating Method for a Mobile Terminal Equipped with a Positioning Receiver,” to Leland Scott Bloebaum. Ericsson owns all rights to the '815 Patent necessary to bring this action. A true and correct copy of the '815 Patent is attached hereto as Exhibit 3 and incorporated herein by reference.

17. On April 22, 2003, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 6,553,236 (“the '236 Patent”), entitled “On Demand Location Function for Mobile Terminal,” to Gregory Dunko, Jon Lohr, Javor Kolev, and Edward V. Jolley. Ericsson owns all rights to the '236 Patent necessary to bring this action. A true and correct copy of the '236 Patent is attached hereto as Exhibit 4 and incorporated herein by reference.

18. On January 31, 2006, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 6,993,325 (“the '325 Patent”), entitled “Method for Facilitating Electronic Communications,” to Anders Waesterlid. Ericsson owns all rights to the '325 Patent necessary to bring this action. A true and correct copy of the '325 Patent is attached hereto as Exhibit 5 and incorporated herein by reference.

19. On December 12, 2006, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 7,149,534 (“the '534 Patent”), entitled “Peer to Peer Information Exchange for Mobile Communications Devices,” to L. Scott Bloebaum and Havish Koorapty. Ericsson owns all rights to the '534 Patent necessary to bring this action. A true and correct copy of the '534 Patent is attached hereto as Exhibit 6 and incorporated herein by reference.

20. The '102, '735, '815, '236, '325, and '534 Patents are collectively referred to as the Ericsson Patents-in-Suit.

21. Ericsson is the sole and exclusive owner of all rights, title, and interest to the Ericsson Patents-in-Suit necessary to bring this action, including the right to recover past and future damages. Ericsson has owned all rights to the Ericsson Patents-in-Suit necessary to bring this action throughout the period of Apple's infringement and still owns those rights to the Ericsson Patents-in-Suit. Apple is not currently licensed to practice the Ericsson Patents-in-Suit.

22. The Ericsson Patents-in-Suit are valid and enforceable.

23. Apple has imported into the United States, manufactured, used, marketed, offered for sale, and/or sold in the United States, smartphones, tablets, and other mobile communication devices, computers, digital media players, and accessories thereof that infringe the Ericsson Patents-in-Suit, or induce or contribute to the infringement of the Ericsson Patents-in-Suit.

24. Apple's accused devices ("the Apple Accused Products") which infringe one or more claims of the Ericsson Patents-in-Suit include, but are not limited to, Apple products with iOS, Mac OS (including OS X), and/or Apple applications, and other wireless communication devices, computers, tablet computers, and digital media players.

25. Apple has been placed on actual notice of at least some of the Ericsson Patents-in-Suit. At a minimum, in accordance with 35 U.S.C. § 287, Apple has had knowledge of the Ericsson Patents-in-Suit at least as early as the filing of this Original Complaint and/or the date this Original Complaint was served upon Apple. Further, Apple has participated in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the Ericsson Patents-in-Suit, and upon information and belief, Apple had knowledge of the Ericsson Patents-in-Suit based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may

have performed. Despite such notice, Apple continues to make, use, import into, market, offer for sale, and/or sell in the United States products that infringe the Ericsson Patents-in-Suit.

### **GENERAL ALLEGATIONS**

26. Apple has directly and indirectly infringed and continues to directly and indirectly infringe each of the Ericsson Patents-in-Suit by engaging in acts constituting infringement under 35 U.S.C. § 271(a), (b), and/or (c), including but not necessarily limited to one or more of making, using, selling and offering to sell, in this District and elsewhere in the United States, and importing into the United States, the Apple Accused Products.

27. Apple is doing business in the United States and, more particularly, in the Eastern District of Texas by making, using, selling, importing, and/or offering for sale the Apple Accused Products that infringe the patent claims involved in this action or by transacting other business in this District.

28. Many of the Apple Accused Products are devices that include an operating system and architecture that allow application software to be loaded, installed, and run on the Apple Accused Products. The applications—or “apps,” as Apple calls them—permit the expansion of an Apple Accused Product’s feature-set and a level of customization that is desirable to end users, and, in turn, drive the commercial success of the Apple Accused Products. Certain of these apps are developed and provided by Apple, while others are developed by third parties.

29. To facilitate the development and deployment of apps for the Apple Accused Products, Apple provides a Software Development Kit (“SDK”), instructions, and training to promote and further the development of apps both internally and by third parties. Apple provides instructions to developers concerning recommended or permitted user interface elements, actions, gestures, and other features (*e.g.*, multimedia playback), and makes available a variety of frameworks and other mechanisms by which a third-party developer may implement



features and functionality that are provided by Apple, such as in the iOS and/or Mac OS operating system (including lower-level layers).

30. Apple tightly controls the development of apps. A third-party developer, for example, must register as a member of Apple's "iOS Developer Program" and/or "Mac Developer Program" and pay Apple a membership fee before an app can be made available for download, installation, or use by end users. Apple exercises control over the sale, distribution, and installation of apps through technical and contractual means; the only authorized and technically-feasible means for obtaining, loading, or installing software on an Apple Accused Product is via Apple's "App Store" and/or "Mac App Store" platform and infrastructure. Before any app is released to the public, it is first reviewed by Apple to ensure compliance with Apple's various terms and conditions and programming requirements (including, for example, adherence to Apple's programming architecture, security, and user interface requirements).

31. Apple instructs and encourages end users to load, install, and run apps on the Apple Accused Products. For example, Apple provides directions in product documentation and tutorials. Apple employees instruct and encourage end users to load, install, and use apps on the Apple Accused Products, such as through Apple Retail Store interactions (including classes, workshops, One-to-One training, and personalized setup services, and ad hoc interactions) and technical support interactions (including via telephone, web chat, knowledge base, discussions, and in-store), each of which include instruction and encouragement to load, install, and use such apps.

32. Apple itself causes apps to be loaded, installed, and used on the Apple Accused Products, both before and after the sale of an Apple Accused Product to an end user. Apple employees load, install, and use apps on their own devices, as well as on customer devices.

Through infrastructure owned, maintained, and/or controlled by Apple, Apple causes apps to be installed on end users' devices, including by automatically downloading and/or updating the apps on the Apple Accused Products. Alternatively, Apple carries out the instructions of its end user customers to undertake the download and installation of application(s) on an end user's behalf.

33. Apple's advertising also encourages users to load, install, and use apps on the Apple Accused Products; indeed, Apple promotes the availability of apps as a reason for purchasing the Apple Accused Products. Apple advertising, such as television advertising, explicitly depicts a variety of apps in promoting the sale of the Apple Accused Products.

34. Apple realizes a financial benefit from the sale of apps via the App Store and/or Mac App Store, withholding approximately 30% of each sale. Apple retains a portion of the sale of "in app" sales, wherein features or content may be added or unlocked by an end-user via Apple's App Store and/or Mac App Store infrastructure. Apple also generates revenue from the sale and distribution of advertisements (such as "iAds") within apps. Apple's revenue from these is substantial, as are sales of the Apple Accused Products that result from the availability of the app ecosystem on the Apple Accused Products.

35. Apple similarly encourages users to update software, for example, the iOS and/or Mac OS operating system, installed on the Apple Accused Products after new versions are released. For example, Apple specifically prompts users to install compatible updated versions of the iOS and/or Mac OS operating system on their release, and also provides an indication that updates to the iOS and/or Mac OS operating system are available for download and installation from Apple. Apple advertises the benefits of such updates, and provides direction and assistance

in installing them. The installation of iOS and/or Mac OS and related updates constitutes a normal and customary use by an end user of the Accused Products.

36. Apple provides support for various user interface elements, features, interactions, and gestures that may be included in apps provided by Apple or by third-parties. Apple touts the benefits and value afforded by the Apple Accused Products' user interface. Apple provides instruction and encouragement regarding the use and implementation of such features, including in developer training and documents, and in documents, training, and support provided to end users (such as described herein).

## **COUNT I.**

### **CLAIM FOR PATENT INFRINGEMENT OF THE '102 PATENT**

37. Apple infringes, contributes to the infringement of, and/or induces infringement of the '102 Patent by making, using, selling, offering for sale, and/or importing into the United States products and/or methods covered by one or more claims of the '102 Patent including, but not limited to, at least the Apple Accused Products. The accused devices that infringe one or more claims of the '102 Patent include, but are not limited to, at least the Apple Accused Products. Further discovery may reveal additional infringing products.

38. The Apple Accused Products infringe one or more claims of the '102 Patent. Apple makes, uses, sells, offers for sale, and/or imports, in this District and elsewhere in the United States these devices and thus directly infringes the '102 Patent.

39. Apple indirectly infringes the '102 Patent, as provided in 35 U.S.C. § 271(b), by inducing infringement by others, such as manufacturers, resellers, developers, customers, and end-users, in this District and elsewhere in the United States. For example, manufacturers, resellers, developers, customers, and end-users of the Apple Accused Products directly infringe by making, using, selling, offering to sell, and/or importing the inventions claimed in the '102

Patent. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '102 Patent, and upon information and belief, Apple had knowledge of the '102 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '102 Patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

40. Apple's affirmative acts of: manufacturing, selling, distributing, and/or otherwise making available the Apple Accused Products; causing others to manufacture, sell, distribute, and/or make available the Apple Accused Products; and/or providing instructions, documentation, and/or other information regarding using the Apple Accused Products in the way Apple intends, including in-store technical support, online technical support, product manuals, online documentation, developer information, API documentation, and other information about the Apple Accused Products, induce Apple's manufacturers, resellers, developers, customers, and/or end-users to make, use, sell, and/or offer to sell the Apple Accused Products in the way that Apple intends, in order to directly infringe the '102 Patent. Apple has performed and continues to perform these affirmative acts with knowledge of the '102 Patent and with knowledge or willful blindness that the induced acts directly infringe the '102 Patent.

41. Apple also indirectly infringes the '102 Patent, as provided by 35 U.S.C. § 271(c), by contributing to direct infringement committed by others, such as manufacturers, resellers, developers, customers, and/or end-users, in this District and elsewhere in the United States. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '102 Patent, and upon information and belief, Apple had knowledge of the '102 Patent based on these discussions and any additional investigations of Ericsson's patent

portfolio that Apple may have performed. Apple also received notice of the '102 Patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

42. Apple's affirmative acts of selling and offering to sell, in this District and elsewhere in the United States, the Apple Accused Products and causing the Apple Accused Products to be manufactured, used, sold, and offered for sale contribute to Apple's manufacturers, resellers, developers, customers and/or end-users making, using, selling, and/or offering to sell the Apple Accused Products, such that the '102 Patent is directly infringed. The software that implements the invention of the '102 Patent within the Apple Accused Products are material to the invention of the '102 Patent, are not staple articles or commodities of commerce, have no substantial non-infringing uses, and are known by Apple to be especially made or especially adapted for use in infringement of the '102 Patent.

43. Apple's infringement of the '102 Patent has been and continues to be willful. Upon information and belief, Apple knew or should have known that it directly infringed and was causing others to directly infringe the '102 Patent. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '102 Patent, and upon information and belief, Apple had knowledge of the '102 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '102 Patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

44. Apple's continued infringement of the '102 Patent has damaged and will continue to damage Ericsson.

**COUNT II.**

**CLAIM FOR PATENT INFRINGEMENT OF THE '735 PATENT**

45. Apple infringes, contributes to the infringement of, and/or induces infringement of the '735 Patent by making, using, selling, offering for sale, and/or importing into the United States products and/or methods covered by one or more claims of the '735 Patent including, but not limited to, at least the Apple Accused Products. The accused devices that infringe one or more claims of the '735 Patent include, but are not limited to, at least the Apple Accused Products. Further discovery may reveal additional infringing products.

46. The Apple Accused Products infringe one or more claims of the '735 Patent. Apple makes, uses, sells, offers for sale, and/or imports, in this District and elsewhere in the United States these devices and thus directly infringes the '735 Patent.

47. Apple indirectly infringes the '735 Patent, as provided in 35 U.S.C. § 271(b), by inducing infringement by others, such as manufacturers, resellers, developers, customers, and end-users, in this District and elsewhere in the United States. For example, manufacturers, resellers, developers, customers, and end-users of the Apple Accused Products directly infringe by making, using, selling, offering to sell, and/or importing the inventions claimed in the '735 Patent. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '735 Patent, and upon information and belief, Apple had knowledge of the '735 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '735 Patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

48. Apple's affirmative acts of: manufacturing, selling, distributing, and/or otherwise making available the Apple Accused Products; causing others to manufacture, sell, distribute,

and/or make available the Apple Accused Products; and/or providing instructions, documentation, and/or other information regarding using the Apple Accused Products in the way Apple intends, including in-store technical support, online technical support, product manuals, online documentation, developer information, API documentation, and other information about the Apple Accused Products, induce Apple's manufacturers, resellers, developers, customers, and/or end-users to make, use, sell, and/or offer to sell the Apple Accused Products in the way that Apple intends, in order to directly infringe the '735 Patent. Apple has performed and continues to perform these affirmative acts with knowledge of the '735 Patent and with knowledge or willful blindness that the induced acts directly infringe the '735 Patent.

49. Apple also indirectly infringes the '735 Patent, as provided by 35 U.S.C. § 271(c), by contributing to direct infringement committed by others, such as manufacturers, resellers, developers, customers, and/or end-users, in this District and elsewhere in the United States. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '735 Patent, and upon information and belief, Apple had knowledge of the '735 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '735 Patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

50. Apple's affirmative acts of selling and offering to sell, in this District and elsewhere in the United States, the Apple Accused Products and causing the Apple Accused Products to be manufactured, used, sold, and offered for sale contribute to Apple's manufacturers, resellers, developers, customers and/or end-users making, using, selling, and/or offering to sell the Apple Accused Products, such that the '735 Patent is directly infringed. The software that implements the invention of the '735 Patent within the Apple Accused Products are

material to the invention of the '735 Patent, are not staple articles or commodities of commerce, have no substantial non-infringing uses, and are known by Apple to be especially made or especially adapted for use in infringement of the '735 Patent.

51. Apple's infringement of the '735 Patent has been and continues to be willful. Upon information and belief, Apple knew or should have known that it directly infringed and was causing others to directly infringe the '735 Patent. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '735 Patent, and upon information and belief, Apple had knowledge of the '735 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '735 Patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

52. Apple's continued infringement of the '735 Patent has damaged and will continue to damage Ericsson.

### **COUNT III.**

#### **CLAIM FOR PATENT INFRINGEMENT OF THE '815 PATENT**

53. Apple infringes, contributes to the infringement of, and/or induces infringement of the '815 Patent by making, using, selling, offering for sale, and/or importing into the United States products and/or methods covered by one or more claims of the '815 Patent including, but not limited to, at least the Apple Accused Products. The accused devices that infringe one or more claims of the '815 Patent include, but are not limited to, at least the Apple Accused Products. Further discovery may reveal additional infringing products.

54. The Apple Accused Products infringe one or more claims of the '815 Patent. Apple makes, uses, sells, offers for sale, and/or imports, in this District and elsewhere in the United States these devices and thus directly infringes the '815 Patent.



55. Apple indirectly infringes the '815 Patent, as provided in 35 U.S.C. § 271(b), by inducing infringement by others, such as manufacturers, resellers, developers, customers, and end-users, in this District and elsewhere in the United States. For example, manufacturers, resellers, developers, customers, and end-users of the Apple Accused Products directly infringe by making, using, selling, offering to sell, and/or importing the inventions claimed in the '815 Patent. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '815 Patent, and upon information and belief, Apple had knowledge of the '815 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '815 Patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

56. Apple's affirmative acts of: manufacturing, selling, distributing, and/or otherwise making available the Apple Accused Products; causing others to manufacture, sell, distribute, and/or make available the Apple Accused Products; and/or providing instructions, documentation, and/or other information regarding using the Apple Accused Products in the way Apple intends, including in-store technical support, online technical support, product manuals, online documentation, developer information, API documentation, and other information about the Apple Accused Products, induce Apple's manufacturers, resellers, developers, customers, and/or end-users to make, use, sell, and/or offer to sell the Apple Accused Products in the way that Apple intends, in order to directly infringe the '815 Patent. Apple has performed and continues to perform these affirmative acts with knowledge of the '815 Patent and with knowledge or willful blindness that the induced acts directly infringe the '815 Patent.

57. Apple also indirectly infringes the '815 Patent, as provided by 35 U.S.C. § 271(c), by contributing to direct infringement committed by others, such as manufacturers, resellers, developers, customers, and/or end-users, in this District and elsewhere in the United States. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '815 Patent, and upon information and belief, Apple had knowledge of the '815 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '815 Patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

58. Apple's affirmative acts of selling and offering to sell, in this District and elsewhere in the United States, the Apple Accused Products and causing the Apple Accused Products to be manufactured, used, sold, and offered for sale contribute to Apple's manufacturers, resellers, developers, customers and/or end-users making, using, selling, and/or offering to sell the Apple Accused Products, such that the '815 Patent is directly infringed. The software that implements the invention of the '815 Patent within the Apple Accused Products are material to the invention of the '815 Patent, are not staple articles or commodities of commerce, have no substantial non-infringing uses, and are known by Apple to be especially made or especially adapted for use in infringement of the '815 Patent.

59. Apple's infringement of the '815 Patent has been and continues to be willful. Upon information and belief, Apple knew or should have known that it directly infringed and was causing others to directly infringe the '815 Patent. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '815 Patent, and upon information and belief, Apple had knowledge of the '815 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed.

Apple also received notice of the '815 Patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

60. Apple's continued infringement of the '815 Patent has damaged and will continue to damage Ericsson.

#### **COUNT IV.**

##### **CLAIM FOR PATENT INFRINGEMENT OF THE '236 PATENT**

61. Apple infringes, contributes to the infringement of, and/or induces infringement of the '236 Patent by making, using, selling, offering for sale, and/or importing into the United States products and/or methods covered by one or more claims of the '236 Patent including, but not limited to, at least the Apple Accused Products. The accused devices that infringe one or more claims of the '236 Patent include, but are not limited to, at least the Apple Accused Products. Further discovery may reveal additional infringing products.

62. The Apple Accused Products infringe one or more claims of the '236 Patent. Apple makes, uses, sells, offers for sale, and/or imports, in this District and elsewhere in the United States these devices and thus directly infringes the '236 Patent.

63. Apple indirectly infringes the '236 Patent, as provided in 35 U.S.C. § 271(b), by inducing infringement by others, such as manufacturers, resellers, developers, customers, and end-users, in this District and elsewhere in the United States. For example, manufacturers, resellers, developers, customers, and end-users of the Apple Accused Products directly infringe by making, using, selling, offering to sell, and/or importing the inventions claimed in the '236 Patent. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '236 Patent, and upon information and belief, Apple had knowledge of the '236 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '236 Patent

as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

64. Apple's affirmative acts of: manufacturing, selling, distributing, and/or otherwise making available the Apple Accused Products; causing others to manufacture, sell, distribute, and/or make available the Apple Accused Products; and/or providing instructions, documentation, and/or other information regarding using the Apple Accused Products in the way Apple intends, including in-store technical support, online technical support, product manuals, online documentation, developer information, API documentation, and other information about the Apple Accused Products, induce Apple's manufacturers, resellers, developers, customers, and/or end-users to make, use, sell, and/or offer to sell the Apple Accused Products in the way that Apple intends, in order to directly infringe the '236 Patent. Apple has performed and continues to perform these affirmative acts with knowledge of the '236 Patent and with knowledge or willful blindness that the induced acts directly infringe the '236 Patent.

65. Apple also indirectly infringes the '236 Patent, as provided by 35 U.S.C. § 271(c), by contributing to direct infringement committed by others, such as manufacturers, resellers, developers, customers, and/or end-users, in this District and elsewhere in the United States. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '236 Patent, and upon information and belief, Apple had knowledge of the '236 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '236 Patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

66. Apple's affirmative acts of selling and offering to sell, in this District and elsewhere in the United States, the Apple Accused Products and causing the Apple Accused

Products to be manufactured, used, sold, and offered for sale contribute to Apple's manufacturers, resellers, developers, customers and/or end-users making, using, selling, and/or offering to sell the Apple Accused Products, such that the '236 Patent is directly infringed. The software that implements the invention of the '236 Patent within the Apple Accused Products are material to the invention of the '236 Patent, are not staple articles or commodities of commerce, have no substantial non-infringing uses, and are known by Apple to be especially made or especially adapted for use in infringement of the '236 Patent.

67. Apple's infringement of the '236 Patent has been and continues to be willful. Upon information and belief, Apple knew or should have known that it directly infringed and was causing others to directly infringe the '236 Patent. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '236 Patent, and upon information and belief, Apple had knowledge of the '236 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '236 Patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

68. Apple's continued infringement of the '236 Patent has damaged and will continue to damage Ericsson.

#### **COUNT V.**

#### **CLAIM FOR PATENT INFRINGEMENT OF THE '325 PATENT**

69. Apple infringes, contributes to the infringement of, and/or induces infringement of the '325 Patent by making, using, selling, offering for sale, and/or importing into the United States products and/or methods covered by one or more claims of the '325 Patent including, but not limited to, at least the Apple Accused Products. The accused devices that infringe one or

more claims of the '325 Patent include, but are not limited to, at least the Apple Accused Products. Further discovery may reveal additional infringing products.

70. The Apple Accused Products infringe one or more claims of the '325 Patent. Apple makes, uses, sells, offers for sale, and/or imports, in this District and elsewhere in the United States these devices and thus directly infringes the '325 Patent.

71. Apple indirectly infringes the '325 Patent, as provided in 35 U.S.C. § 271(b), by inducing infringement by others, such as manufacturers, resellers, developers, customers, and end-users, in this District and elsewhere in the United States. For example, manufacturers, resellers, developers, customers, and end-users of the Apple Accused Products directly infringe by making, using, selling, offering to sell, and/or importing the inventions claimed in the '325 Patent. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '325 Patent, and upon information and belief, Apple had knowledge of the '325 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '325 Patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

72. Apple's affirmative acts of: manufacturing, selling, distributing, and/or otherwise making available the Apple Accused Products; causing others to manufacture, sell, distribute, and/or make available the Apple Accused Products; and/or providing instructions, documentation, and/or other information regarding using the Apple Accused Products in the way Apple intends, including in-store technical support, online technical support, product manuals, online documentation, developer information, API documentation, and other information about the Apple Accused Products, induce Apple's manufacturers, resellers, developers, customers,

and/or end-users to make, use, sell, and/or offer to sell the Apple Accused Products in the way that Apple intends, in order to directly infringe the '325 Patent. Apple has performed and continues to perform these affirmative acts with knowledge of the '325 Patent and with knowledge or willful blindness that the induced acts directly infringe the '325 Patent.

73. Apple also indirectly infringes the '325 Patent, as provided by 35 U.S.C. § 271(c), by contributing to direct infringement committed by others, such as manufacturers, resellers, developers, customers, and/or end-users, in this District and elsewhere in the United States. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '325 Patent, and upon information and belief, Apple had knowledge of the '325 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '325 Patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

74. Apple's affirmative acts of selling and offering to sell, in this District and elsewhere in the United States, the Apple Accused Products and causing the Apple Accused Products to be manufactured, used, sold, and offered for sale contribute to Apple's manufacturers, resellers, developers, customers and/or end-users making, using, selling, and/or offering to sell the Apple Accused Products, such that the '325 Patent is directly infringed. The software that implements the invention of the '325 Patent within the Apple Accused Products are material to the invention of the '325 Patent, are not staple articles or commodities of commerce, have no substantial non-infringing uses, and are known by Apple to be especially made or especially adapted for use in infringement of the '325 Patent.

75. Apple's infringement of the '325 Patent has been and continues to be willful. Upon information and belief, Apple knew or should have known that it directly infringed and

was causing others to directly infringe the '325 Patent. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '325 Patent, and upon information and belief, Apple had knowledge of the '325 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '325 Patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

76. Apple's continued infringement of the '325 Patent has damaged and will continue to damage Ericsson.

## **COUNT VI.**

### **CLAIM FOR PATENT INFRINGEMENT OF THE '534 PATENT**

77. Apple infringes, contributes to the infringement of, and/or induces infringement of the '534 Patent by making, using, selling, offering for sale, and/or importing into the United States products and/or methods covered by one or more claims of the '534 Patent including, but not limited to, at least the Apple Accused Products. The accused devices that infringe one or more claims of the '534 Patent include, but are not limited to, at least the Apple Accused Products. Further discovery may reveal additional infringing products.

78. The Apple Accused Products infringe one or more claims of the '534 Patent. Apple makes, uses, sells, offers for sale, and/or imports, in this District and elsewhere in the United States these devices and thus directly infringes the '534 Patent.

79. Apple indirectly infringes the '534 Patent, as provided in 35 U.S.C. § 271(b), by inducing infringement by others, such as manufacturers, resellers, developers, customers, and end-users, in this District and elsewhere in the United States. For example, manufacturers, resellers, developers, customers, and end-users of the Apple Accused Products directly infringe by making, using, selling, offering to sell, and/or importing the inventions claimed in the '534



Patent. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '534 Patent, and upon information and belief, Apple had knowledge of the '534 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '534 Patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

80. Apple's affirmative acts of: manufacturing, selling, distributing, and/or otherwise making available the Apple Accused Products; causing others to manufacture, sell, distribute, and/or make available the Apple Accused Products; and/or providing instructions, documentation, and/or other information regarding using the Apple Accused Products in the way Apple intends, including in-store technical support, online technical support, product manuals, online documentation, developer information, API documentation, and other information about the Apple Accused Products, induce Apple's manufacturers, resellers, developers, customers, and/or end-users to make, use, sell, and/or offer to sell the Apple Accused Products in the way that Apple intends, in order to directly infringe the '534 Patent. Apple has performed and continues to perform these affirmative acts with knowledge of the '534 Patent and with knowledge or willful blindness that the induced acts directly infringe the '534 Patent.

81. Apple also indirectly infringes the '534 Patent, as provided by 35 U.S.C. § 271(c), by contributing to direct infringement committed by others, such as manufacturers, resellers, developers, customers, and/or end-users, in this District and elsewhere in the United States. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '534 Patent, and upon information and belief, Apple had knowledge of the '534 Patent based on these discussions and any additional investigations of Ericsson's patent

portfolio that Apple may have performed. Apple also received notice of the '534 Patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

82. Apple's affirmative acts of selling and offering to sell, in this District and elsewhere in the United States, the Apple Accused Products and causing the Apple Accused Products to be manufactured, used, sold, and offered for sale contribute to Apple's manufacturers, resellers, developers, customers and/or end-users making, using, selling, and/or offering to sell the Apple Accused Products, such that the '534 Patent is directly infringed. The software that implements the invention of the '534 Patent within the Apple Accused Products are material to the invention of the '534 Patent, are not staple articles or commodities of commerce, have no substantial non-infringing uses, and are known by Apple to be especially made or especially adapted for use in infringement of the '534 Patent.

83. Apple's infringement of the '534 Patent has been and continues to be willful. Upon information and belief, Apple knew or should have known that it directly infringed and was causing others to directly infringe the '534 Patent. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '534 Patent, and upon information and belief, Apple had knowledge of the '534 Patent based on these discussions and any additional investigations of Ericsson's patent portfolio that Apple may have performed. Apple also received notice of the '534 Patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

84. Apple's continued infringement of the '534 Patent has damaged and will continue to damage Ericsson.

### **DAMAGES**

85. As a result of Apple's acts of infringement, Ericsson has suffered actual and consequential damages; however, Ericsson does not yet know the full extent of the infringement

and its extent cannot be ascertained except through discovery and special accounting. To the fullest extent permitted by law, Ericsson seeks recovery of damages at least for reasonable royalties, unjust enrichment, and benefits received by Apple as a result of using the misappropriated technology. Ericsson further seeks any other damages to which Ericsson is entitled under law or in equity.

**ATTORNEYS' FEES**

86. Ericsson is entitled to recover reasonable and necessary attorneys' fees under applicable law

**DEMAND FOR JURY TRIAL**

87. Ericsson hereby demands a trial by jury on its claims for patent infringement.

**PRAAYER FOR RELIEF**

88. WHEREFORE, Ericsson respectfully requests that this Court enter judgment in its favor and grant the following relief:

- A. Adjudge that Apple infringes the Ericsson Patents-in-Suit;
- B. Adjudge that Apple's infringement of the Ericsson Patents-in-Suit was willful, and that Apple's continued infringement of these patents is willful;
- C. Award Ericsson damages in an amount adequate to compensate Ericsson for Apple's infringement of the Ericsson Patents-in-Suit, but in no event less than a reasonable royalty under 35 U.S.C. § 284;
- D. Award enhanced damages pursuant to 35 U.S.C. § 284;
- E. Award Ericsson pre-judgment and post-judgment interest to the full extent allowed under the law, as well as its costs;
- F. Enter an injunction enjoining Apple, and all others in active concert with Apple, from further infringement of the Ericsson Patents-in-Suit;

- G. In lieu of an injunction, award a mandatory future royalty payable on each future product sold by Apple that is found to infringe one or more of the patents asserted herein, and on all future products which are not colorably different from products found to infringe;
- H. Enter an order finding that this is an exceptional case and awarding Ericsson its reasonable attorneys' fees pursuant to 35 U.S.C. § 285;
- I. Order an accounting of damages;
- J. Award Ericsson its costs of suit; and
- K. Award such other relief as the Court may deem appropriate and just under the circumstances.

Dated: February 26, 2015.

Respectfully submitted,

**McKool Smith, P.C.**

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