

**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-292**

**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 connectivity and device management using mobile devices. Without the ability to connect devices and Ericsson’s inventions incorporated therein, smartphones and other mobile devices would not be

able to provide connection to and control of other devices remotely that we are accustomed to today. Connecting devices to a mobile phone running on a mobile network allows consumers to configure the device, install and update the device, monitor the device, control the device, conduct remote diagnostics, and provide remote customer troubleshooting. Ericsson's technical advancements in the field of connectivity and device management helped make this ability a reality on mobile devices operating on mobile networks.

3. The popularity and importance of connected devices is readily apparent from the proliferation of smartphones, such as the iPhone, and the applications they contain that allow connecting to and controlling other devices, such as televisions. With more than two billion users of mobile telephony in the world, smartphones and other mobile devices with connectivity capabilities provide better user experience and more value to consumers. In addition, connectivity and device management allows for the launch of new devices and services regardless of technology or vendor, and the ability to manage these devices over the complete device lifecycle in a cost efficient manner by providing remote support. Ericsson is an innovator in connectivity management and enables the connection of a variety of devices while simplifying the process and reducing the cost of connecting them.

### **THE PARTIES**

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

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

11. 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.

12. 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 that operate over various cellular standards, including 2G, 3G, and 4G. 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**

13. 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).

14. 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**

15. On August 13, 2002, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 6,433,512 (“the ’512 Patent”), entitled “Power Consumption Reporting by an Accessory of an Electronic Device,” to Jörgen Birkler, Kristina Ahlgren, Magnus Patrik Svensson, Heino Jean Wendelrup, and Christian Heyl. Ericsson owns all rights to the ’512 Patent necessary to bring this action. A true and correct copy of the ’512 Patent is attached hereto as Exhibit 1 and incorporated herein by reference.

16. On July 13, 2004, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 6,763,247 (“the ’247 Patent”), entitled “Portable Telecommunication Apparatus for Controlling an Electronic Utility Device,” to Magnus Hollstrom, Robert Hed, Patrik Olsson, Anders Edlund, Björn Ekelund, and Nils Rydbeck. Ericsson owns all rights to the ’247 Patent necessary to bring this action. A true and correct copy of the ’247 Patent is attached hereto as Exhibit 2 and incorporated herein by reference.

17. On November 22, 2005, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 6,968,365 (“the ’365 Patent”), entitled “Device and a Method for Operating an Electronic Utility Device From a Portable Telecommunication Apparatus,” to Magnus Hollström, Robert Hed, Patrik Olsson, and Magnus Tillgren. Ericsson owns all rights to the ’365 Patent necessary to bring this action. A true and correct copy of the ’365 Patent is attached hereto as Exhibit 3 and incorporated herein by reference.

18. On May 1, 2012, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 8,170,472 (“the ’472 Patent”), entitled “Arrangement and a Method in a Telephony System” to Tomas Andreason. Ericsson owns all rights to the ’472 Patent necessary to bring this action. A true and correct copy of the ’472 Patent is attached hereto as Exhibit 4 and incorporated herein by reference.

19. The '512, '247, '365, and '472 Patents are collectively referred to as the Ericsson Patents-in-Suit.

20. 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.

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

22. 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.

23. 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, including, but not limited to, Apple TV.

24. 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**

25. 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.

26. 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.

27. 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.

28. 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).

29. 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).

30. 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.

31. 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.

32. 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.

33. 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.

34. 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.

35. 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 '512 PATENT**

36. Apple infringes, contributes to the infringement of, and/or induces infringement of the '512 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 '512 Patent including, but not limited to, at least the Apple Accused Products. The accused devices that infringe one or more claims of the '512 Patent include, but are not limited to, at least the Apple Accused Products. Further discovery may reveal additional infringing products.

37. The Apple Accused Products infringe one or more claims of the '512 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 '512 Patent.

38. Apple indirectly infringes the '512 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 '512

Patent. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '512 Patent, and upon information and belief, Apple had knowledge of the '512 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 '512 Patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

39. 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 '512 Patent. Apple has performed and continues to perform these affirmative acts with knowledge of the '512 Patent and with knowledge or willful blindness that the induced acts directly infringe the '512 Patent.

40. Apple also indirectly infringes the '512 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 '512 Patent, and upon information and belief, Apple had knowledge of the '512 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 '512 Patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

41. 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 '512 Patent is directly infringed. The software that implements the invention of the '512 Patent within the Apple Accused Products are material to the invention of the '512 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 '512 Patent.

42. Apple's infringement of the '512 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 '512 Patent. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '512 Patent, and upon information and belief, Apple had knowledge of the '512 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 '512 Patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

43. Apple's continued infringement of the '512 Patent has damaged and will continue to damage Ericsson.

**COUNT II.**

**CLAIM FOR PATENT INFRINGEMENT OF THE '247 PATENT**

44. Apple infringes, contributes to the infringement of, and/or induces infringement of the '247 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 '247 Patent including, but not limited to, at least the Apple Accused Products. The accused devices that infringe one or more claims of the '247 Patent include, but are not limited to, at least the Apple Accused Products. Further discovery may reveal additional infringing products.

45. The Apple Accused Products infringe one or more claims of the '247 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 '247 Patent.

46. Apple indirectly infringes the '247 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 '247 Patent. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '247 Patent, and upon information and belief, Apple had knowledge of the '247 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 '247 Patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

47. 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 '247 Patent. Apple has performed and continues to perform these affirmative acts with knowledge of the '247 Patent and with knowledge or willful blindness that the induced acts directly infringe the '247 Patent.

48. Apple also indirectly infringes the '247 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 '247 Patent, and upon information and belief, Apple had knowledge of the '247 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 '247 Patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

49. 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 '247 Patent is directly infringed. The software that implements the invention of the '247 Patent within the Apple Accused Products are

material to the invention of the '247 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 '247 Patent.

50. Apple's infringement of the '247 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 '247 Patent. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '247 Patent, and upon information and belief, Apple had knowledge of the '247 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 '247 Patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

51. Apple's continued infringement of the '247 Patent has damaged and will continue to damage Ericsson.

### **COUNT III.**

#### **CLAIM FOR PATENT INFRINGEMENT OF THE '365 PATENT**

52. Apple infringes, contributes to the infringement of, and/or induces infringement of the '365 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 '365 Patent including, but not limited to, at least the Apple Accused Products. The accused devices that infringe one or more claims of the '365 Patent include, but are not limited to, at least the Apple Accused Products. Further discovery may reveal additional infringing products.

53. The Apple Accused Products infringe one or more claims of the '365 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 '365 Patent.

54. Apple indirectly infringes the '365 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 '365 Patent. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '365 Patent, and upon information and belief, Apple had knowledge of the '365 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 '365 Patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

55. 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 '365 Patent. Apple has performed and continues to perform these affirmative acts with knowledge of the '365 Patent and with knowledge or willful blindness that the induced acts directly infringe the '365 Patent.

56. Apple also indirectly infringes the '365 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 '365 Patent, and upon information and belief, Apple had knowledge of the '365 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 '365 Patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

57. 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 '365 Patent is directly infringed. The software that implements the invention of the '365 Patent within the Apple Accused Products are material to the invention of the '365 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 '365 Patent.

58. Apple's infringement of the '365 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 '365 Patent. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '365 Patent, and upon information and belief, Apple had knowledge of the '365 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 '365 Patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

59. Apple's continued infringement of the '365 Patent has damaged and will continue to damage Ericsson.

#### **COUNT IV.**

##### **CLAIM FOR PATENT INFRINGEMENT OF THE '472 PATENT**

60. Apple infringes, contributes to the infringement of, and/or induces infringement of the '472 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 '472 Patent including, but not limited to, at least the Apple Accused Products. The accused devices that infringe one or more claims of the '472 Patent include, but are not limited to, at least the Apple Accused Products. Further discovery may reveal additional infringing products.

61. The Apple Accused Products infringe one or more claims of the '472 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 '472 Patent.

62. Apple indirectly infringes the '472 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 '472 Patent. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '472 Patent, and upon information and belief, Apple had knowledge of the '472 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 '472 Patent

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

63. 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 '472 Patent. Apple has performed and continues to perform these affirmative acts with knowledge of the '472 Patent and with knowledge or willful blindness that the induced acts directly infringe the '472 Patent.

64. Apple also indirectly infringes the '472 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 '472 Patent, and upon information and belief, Apple had knowledge of the '472 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 '472 Patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

65. 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 '472 Patent is directly infringed. The software that implements the invention of the '472 Patent within the Apple Accused Products are material to the invention of the '472 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 '472 Patent.

66. Apple's infringement of the '472 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 '472 Patent. Apple has been involved in discussions with Ericsson regarding Ericsson's patent portfolio, which includes the '472 Patent, and upon information and belief, Apple had knowledge of the '472 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 '472 Patent as of the date this lawsuit was filed and/or the date this Original Complaint was served upon Apple.

67. Apple's continued infringement of the '472 Patent has damaged and will continue to damage Ericsson.

### **DAMAGES**

68. 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**

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

**DEMAND FOR JURY TRIAL**

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

**PRAYER FOR RELIEF**

71. 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.**

By: /s/ John B. Campbell

Mike McKool, Jr.

Texas State Bar No. 13732100

[mmckool@mckoolsmith.com](mailto:mmckool@mckoolsmith.com)

Douglas A. Cawley

Texas State Bar No. 0403550

[dcawley@mckoolsmith.com](mailto:dcawley@mckoolsmith.com)

Theodore Stevenson III

Texas State Bar No. 19196650

[tstevenson@mckoolsmith.com](mailto:tstevenson@mckoolsmith.com)

300 Crescent Court, Suite 1500

Dallas, Texas 75201

Telephone: (214) 978-4000

Facsimile: (214) 978-4044

Samuel F. Baxter

Texas State Bar No. 01938000

[sbaxter@mckoolsmith.com](mailto:sbaxter@mckoolsmith.com)

104 E. Houston Street, Suite 300

P.O. Box 0

Marshall, Texas 75670

Telephone: (903) 923-9000

Facsimile: (903) 923-9099

John B. Campbell, Lead Attorney

Texas State Bar No. 24036314

[jbcampbell@mckoolsmith.com](mailto:jbcampbell@mckoolsmith.com)

Kathy H. Li

Texas State Bar No. 24070142

[kli@mckoolsmith.com](mailto:kli@mckoolsmith.com)

Matthew Rappaport

Texas State Bar No. 24070472

[mrappaport@mckoolsmith.com](mailto:mrappaport@mckoolsmith.com)

Christopher J. Mierzejewski

Texas State Bar No. 24070270

[cmierzejewski@mckoolsmith.com](mailto:cmierzejewski@mckoolsmith.com)

300 W. Sixth Street, Suite 1700

Austin, Texas 78701

Telephone: (512) 692-8700

Facsimile: (512) 692-8744

**ATTORNEYS FOR PLAINTIFFS  
ERICSSON INC. and  
TELEFONAKTIEBOLAGET LM  
ERICSSON**