

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION**

LUXPRO CORPORATION, a Taiwanese corporation,)

Plaintiff,)

v.)

APPLE, INC. f/k/a Apple Computer, Inc.,)

Defendant.)

Civil Action No. 4:08-CV-04092-HFB

**DECLARATION OF THOMAS R. LA PERLE IN SUPPORT OF
DEFENDANT APPLE INC'S MOTION TO TRANSFER AND MOTION TO DISMISS**

I, Thomas R. La Perle, declare as follows:

I am an attorney licensed to practice law in the State of California. I am Senior Intellectual Property Counsel at Apple Inc. ("Apple"), the defendant in this action. I submit this declaration in support of Apple's motion to transfer this action to the Northern District of California and Apple's motion to dismiss the action. I make this declaration based on personal knowledge, except for those matters stated on information and belief. If called as a witness, I would testify to the facts set forth below.

1. Apple is a California corporation with its principal place of business in Cupertino, California, which is within the Northern District of California.

2. Apple does not maintain any offices in Arkansas. In paragraph 5 of the complaint, Luxpro alleges that Apple maintains “retail sales locations” in Arkansas. This is not correct. Apple does not operate any retail stores in Arkansas.

3. Within the United States, the overwhelming majority of documents relevant to Luxpro’s claims are located at Apple’s headquarters in Cupertino, California. Documents relevant to Luxpro’s claims are also located at the offices of Apple’s outside counsel in China and Germany, as well as in certain foreign offices of Apple and Apple affiliates. Apple is not aware of any documents relevant to Luxpro’s claims that are located in Arkansas.

4. Luxpro’s allegations concern legal actions taken by Apple, including filing litigation in Germany and Taiwan and sending cease and desist letters regarding Apple’s intellectual property. As a result, many of the Apple employees with knowledge relevant to the allegations are attorneys located at Apple’s headquarters in California and in certain foreign offices of Apple and Apple affiliates. The vast majority of Apple witnesses who are not attorneys and who possess information relevant to Luxpro’s claims reside in California; none resides in Arkansas. These witnesses include the following:

Anthony (“Tony”) Fadell. During the relevant time period, Mr. Fadell was Vice President, iPod Hardware. Mr. Fadell was responsible for hardware engineering for iPod products, including the first generation iPod shuffle (“iPod shuffle”). Mr. Fadell has knowledge about the design and engineering of iPod products, including iPod shuffle. Mr. Fadell resides within the Northern District of California.

Greg Joswiak. During the relevant time period, Mr. Joswiak was Vice President, iPod Product Marketing. Mr. Joswiak is knowledgeable about the design, engineering,

and marketing of the iPod shuffle. Mr. Joswiak resides within the Northern District of California.

Stan Ng. During the relevant time period, Mr. Ng was Director, iPod Product Marketing. Mr. Ng is knowledgeable about the design, engineering, and marketing of Apple's iPod products, including the iPod shuffle. Mr. Ng resides within the Northern District of California.

Jonathan Ive. During the relevant time period, Mr. Ive served as Vice President, Industrial Design until May 2005, and as Senior Vice President, Industrial Design thereafter. Mr. Ive is head of industrial development for all Apple products. Mr. Ive has knowledge about the design and material selection for Apple iPod products, including the iPod shuffle. Mr. Ive resides within the Northern District of California.

Andrew Hodge. During the relevant time period, Mr. Hodge was Engineering Director, iPod Division. Mr. Hodge is in charge of hardware engineering for iPod products, including iPod shuffle. Mr. Hodge has knowledge about iPod hardware engineering design and development. Mr. Hodge resides within the Northern District of California.

Bryan Roos. During the relevant time period, Mr. Roos was Engineering Program Manager for iPod shuffle. Mr. Roos has knowledge about the development, design, and engineering of the iPod shuffle. Mr. Roos resides within the Northern District of California.

David Tupman. During the relevant time period, Mr. Tupman was Manager, Hardware Engineering, iPod Division, and Engineering Director as of June 2005. Mr.

Tupman has knowledge about the hardware engineering for the iPod shuffle. Mr. Tupman resides within the Northern District of California.

Joseph Fisher. During the relevant time period, Mr. Fisher was an Engineer and Senior Scientist in the iPod Division. Mr. Fisher has knowledge about the hardware engineering for the iPod shuffle. Mr. Fisher resides within the Northern District of California.

Steve Zadesky. During the relevant time period, Mr. Zadesky was Engineering Manager, Product Design, iPod Division. Mr. Zadesky has knowledge about iPod shuffle hardware engineering design and development. Mr. Zadesky resides within the Northern District of California.

Brian Lynch. During the relevant time period, Mr. Lynch was an Engineer and Senior Scientist in the iPod Division. Mr. Lynch has knowledge about iPod shuffle hardware engineering design and development. Mr. Lynch resides within the Northern District of California.

5. Apple is not aware of any witnesses with relevant information who reside in Arkansas. Apple is also not aware of any events relevant to Luxpro's claims that occurred in Arkansas, or in any state in the United States other than California.

6. Attached as Exhibit 1 hereto is a true and correct copy of an injunction issued by the Ninth Panel of the Braunschweig Regional Court in Germany on March 14, 2005.

7. Attached as Exhibit 2 hereto is a true and correct copy of a translation of an injunction issued by the Ninth Panel of the Braunschweig Regional Court in Germany on March 14, 2005.

8. Attached as Exhibit 3 hereto is a true and correct copy of an injunction issued by the Regional Court of Shilin in Taiwan on August 18, 2005.

9. Attached as Exhibit 4 hereto is a true and correct copy of the translation of an injunction issued by the Regional Court of Shilin in Taiwan on August 18, 2005.

10. Attached as Exhibit 5 hereto is a true and correct copy of a picture showing a first generation Apple iPod shuffle and the "Super Shuffle" sold by Luxpro Corporation.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on December 18, 2008 in Cupertino, California.



Thomas R. La Perle

sf-2620754

CERTIFICATE OF SERVICE

I, Kevin A. Crass, hereby certify that on December 19, 2008, the foregoing was electronically filed with the Clerk which shall send notification of such filing to the following:

- **Richard A. Adams**
radams@pattonroberts.com,shicks@pattonroberts.com,mcosta@pattonroberts.com
- **Phillip N. Cockrell**
pcockrell@pattonroberts.com,kharris@pattonroberts.com
- **Patrick J. Conroy**
pconroy@shorechan.com,ldalton@shorechan.com
- **Jeremy Young Hutchinson**
jhutchinson@pattonroberts.com,kbraswell@pattonroberts.com
- **Glenn E. Janik**
gjanik@shorechan.com,ldalton@shorechan.com
- **Corey Darnell McGaha**
cmcgaha@pattonroberts.com,shicks@pattonroberts.com,mcosta@pattonroberts.com,ssre
balus@pattonroberts.com
- **Nicholas H. Patton**
nickpatton@texarkanalaw.com,mlong@texarkanalaw.com
- **Leisa B. Pearlman**
lpearlman@pattonroberts.com,shicks@pattonroberts.com,pdesantis@pattonroberts.com,k
garrett@pattonroberts.com
- **Patricia L. Peden**
ppeden@pedenlawfirm.com
- **Stuart Christopher Plunkett**
rpelletier@mofocom.com,splunkett@mofocom.com
- **James M. Pratt, Jr**
jamiepratt@cablelynx.com
- **Penelope A. Prevolos**
PPreovolos@mofocom.com,kfranklin@mofocom.com
- **Sean F. Rommel**
srommel@pattonroberts.com,shicks@pattonroberts.com,mcosta@pattonroberts.com,kgar
rett@pattonroberts.com

/s/ Kevin A. Crass
KEVIN A. CRASS (84029)
FRIDAY, ELDREDGE & CLARK, LLP
400 West Capitol Avenue, Suite 2000
Little Rock, Arkansas 72201-3522
Telephone: (501) 376-2011
Crass@fec.net
Attorneys for Defendant,
Apple Inc. f/k/a Apple Computer, Inc.