

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

3 EMBLAZE LTD.,

4 Plaintiff,

5 v.

6 APPLE INC., a California Corporation,

7 Defendant.

CASE NO. 4:11-cv-01079-SBA

**DECLARATION OF LISA A. FERRARI IN
SUPPORT OF PLAINTIFF EMBLAZE
LTD.'S UNOPPOSED MOTION TO AMEND
PLEADINGS**

HEARING DATE AND TIME:

April 10, 2012, at 1:00 p.m.

The Hon. Sandra Brown Armstrong

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1. I, Lisa A. Ferrari, Esq., am a member of the law firm of Cozen O'Connor, counsel for Plaintiff Emblaze Ltd. ("Emblaze"), and I make this Declaration in support of Emblaze's motion to amend the pleadings so as to file and serve a First Amended Complaint. On June 1, 2011, this Court granted a motion permitting me to appear *pro hac vice* in the above-captioned matter [D.E. 54]. I am familiar with the proceedings in this case and I make this statement based on my personal knowledge of the facts set forth herein.
 2. Emblaze filed a Complaint on July 28, 2010, in the Southern District of New York, alleging infringement by Defendant Apple Inc. ("Apple") of claims 9-12, 18-19, and 23 of Emblaze's U.S. Patent No. 6,389,473 ("the '473 Patent") [D.E. 1].
 3. Apple filed Defendant Apple Inc.'s Original Answer, Affirmative Defenses, and Counterclaims to Plaintiff's Original Complaint on September 10, 2010 [D.E. 7], and Emblaze filed a Reply to Counterclaims on October 1, 2010 [D.E. 11].
 4. On February 24, 2011, Judge P. Kevin Castel of the Southern District of New York issued a Memorandum and Order transferring this action to the Northern District of California [D.E. 24].
 5. This Court issued an Order Concerning September 15, 2011 Case Management Conference ("Scheduling Order") on September 21, 2011 [D.E. 68]. The Scheduling Order set a Markman schedule for claim construction proceedings, but did not set dates for the termination of fact

1 discovery, or for expert discovery unrelated to claim construction. The Order set December
2 15, 2011, as the deadline by which the parties must seek to amend the pleadings or join parties.

3 6. On October 21, 2011, Plaintiff Emblaze served its Patent Disclosures asserting Apple's
4 infringement of claims 1-2, 8-14, 21, 23-29, 36-38, and 40-41 of the '473 Patent. Apple served
5 its Invalidity Contentions on December 6, 2011.

6 7. Emblaze moves for leave to serve and file a First Amended Complaint for Patent Infringement
7 so as to (1) amend the list of claims of the '473 Patent that are asserted by Emblaze so as to
8 conform the allegations to which Emblaze has asserted in its recently filed Infringement
9 Contentions; (2) amends the products that Emblaze is accusing of infringement so as to
10 conform the allegations of the Complaint to what Emblaze has learned in its ongoing
11 investigation and from discovery thus far; (3) removes certain allegations concerning Apple's
12 presence in the Southern District of New York (no longer relevant now that the action has been
13 transferred to the Northern District of California); (4) updates the firm affiliation of counsel for
14 Emblaze and the change of the presiding court from the Southern District of New York to the
15 Northern District of California; and (4) makes other minor edits to the text.

16 8. Under the Scheduling Order, the deadline to amend pleadings is December 15, 2011 [D.E. 68].

17 9. Attached hereto as Exhibit A is a true and correct copy of a red-lined version of Plaintiff
18 Emblaze's [Proposed] First Amended Complaint For Patent Infringement.

19 10. Attached hereto as Exhibit B is a true and correct copy of a non-red-lined version of Plaintiff
20 Emblaze's [Proposed] First Amended Complaint For Patent Infringement, with a copy of the
21 '473 Patent attached thereto.

22 11. Attached hereto as Exhibit C is a true and correct copy of the Scheduling Order entered by the
23 Court on September 21, 2011 [D.E. 68].

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25 Dated: December 15, 2011
26 New York, New York

/s/ Lisa A. Ferrari

Lisa A. Ferrari