

# **EXHIBIT A**

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17 **IN THE UNITED STATES DISTRICT COURT**  
18 **FOR THE SOUTHERN-NORTHERN DISTRICT OF CALIFORNIA NEW YORK**  
19 **OAKLAND DIVISION**

20 EMBLAZE LTD. )  
21 Plaintiff, ) Case No: 4:11-cv-01079-SBA  
22 vs. )  
23 ) [PROPOSED] FIRST AMENDED  
24 ) COMPLAINT FOR PATENT  
25 ) INFRINGEMENT  
26 ) (Trial by Jury Demanded)  
27 )  
28 )

29 [PROPOSED] FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

30 Plaintiff, Emblaze, Ltd. ("Emblaze"), formerly known as Geo Interactive Media Group, Ltd.,  
31 for its Complaint against Defendant, Apple Inc. ("Apple"), alleges as follows:

32 **I. PARTIES**

33 1. Emblaze is an ~~international~~ Israeli corporation doing business world wide in  
34 development and marketing of innovative high-tech technologies and products. Emblaze's main  
35 offices are situated at Emblaze House, 22 Zarhin Street, Ra'anana, Israel 43662.

36 2. Emblaze is a publicly held company with shares registered and traded on the main  
37 London stock exchange continuously since 1996.

1           3.       Upon information and belief, Apple is a California corporation, doing business  
2 worldwide, with its principal offices situated in this district, at One Infinite Loop, Cupertino,  
3 California 95014.

4           ~~4.       Emblaze maintains several regular and established places of business, and this district~~  
5 ~~has served as its center for North American activities for development of the technologies that are~~  
6 ~~the subject matter of this claim.~~

7           ~~5.       Upon information and belief, Apple maintains several regular and established places~~  
8 ~~of business within this district, including at 767 Fifth Avenue, New York, New York 10153.~~

9       **II.     JURISDICTION AND VENUE**

10          ~~6.4.~~     Subject matter jurisdiction is based on 28 U.S.C. §§ 1331 and 1338(a), in that this  
11 action arises under the patent laws of the United States (35 U.S.C. § 1, *et seq.*).

12          ~~7.5.~~     Venue lies in this Court pursuant to 28 U.S.C. §§ 1391(b)-(c) and 1400(b).

13       **III.    COUNT I — PATENT INFRINGEMENT**

14          ~~8.6.~~     Emblaze is the owner of several United States Patents, including U.S. Patent No.  
15 6,389,473 ("the '473 Patent"). A true and correct copy of the '473 Patent is attached hereto as Exhibit  
16 A.

17          ~~9.7.~~     The '473 patent claims methods for real-time broadcasting over a network, such as  
18 over the Internet.

19          ~~10.8.~~    Emblaze developed the technology described and claimed in the '473 patent and has  
20 used this technology in its products.

21          ~~11.9.~~    Emblaze first unveiled the technology described and claimed in the '473 patent in a  
22 live video streaming broadcast from the White House during Easter, 1998. Emblaze's live streaming  
23 technology allows transmission of live audio and video to multiple devices, saves on data traffic,  
24 does not require devoted streaming servers, and allows reliable streaming even through firewalls.

25          ~~12.10.~~   Upon information and belief, Apple has used and continues to use, sold and/or  
26 offered to sell in New York and elsewhere and/or imported into New York and elsewhere products  
27 incorporating "HTTP Live Streaming Standard technology" that have been and can be used for real-  
28 time broadcasting and that infringe ~~one or more of~~ at least claims 1, 2, 8, 9, 10, 11, 12, 13, 14, 18, 19

1 and 21, 23, 24, 25, 26, 27, 28, 29, 36, 37, 38, 40, and 41 of the '473 patent in violation of 35 U.S.C. §  
2 271.

3 13.11. Apple announced the introduction of its HTTP Live Streaming Standard technology  
4 into its products on or about mid-2009, and such technology is embedded into Apple's best selling  
5 products in this district and world wide (iPhone; iPod Touch; iPad; and Quick Time X which is part  
6 of Apple's Snow Leopard operating system installed in MAC notebooks and desktop  
7 computers).(e.g., all Apple devices including Apple Stream Segmenter software or Apple File  
8 Segmenter software (components of HTTP Live Streaming included with MAC OS X version 10.6  
9 and later, and available for download on the internet), including Macbook Air, Macbook, Macbook  
10 Pro, Mac mini, iMac and Mac Pro; all Apple devices including Apple's Safari browser version 5 and  
11 later for Mac OS, and available for download on the internet, included in Macbook Air, Macbook,  
12 Macbook Pro, Mac mini, iMac and Mac Pro; all Apple devices including Apple's Quicktime X and  
13 later, and available for download on the internet, included in Macbook Air, Macbook, Macbook Pro,  
14 Mac mini, iMac and Mac Pro; all Apple devices including Apple iOS 3.0 and later, included in iPod  
15 touch 3<sup>rd</sup> and 4<sup>th</sup> generations (1<sup>st</sup> and 2<sup>nd</sup> generations of iPod touch software upgradable to support  
16 HTTP Live Streaming), iPhone 3GS, 4 and 4S (iPhone and iPhone 3G software upgradable to  
17 support HTTP Live Streaming), iPad 1 and 2, and Apple TV 4.0, 4.3 and 4.4); all devices including  
18 iTunes 10.1 and later.

19 14.12. Upon information and belief, the acts of infringement by Apple are willful,  
20 intentional and in conscious disregard of Emblaze's rights under the '473 patent.

21 15.13. Shortly after Apple's CEO, Steve Jobs, announced Apple's adoption of the HTTP  
22 Live Streaming Standard technology into its products, Emblaze informed Apple that Apple's HTTP  
23 Live Streaming Standard technology infringes the '473 patent and offered Apple a license to practice  
24 under the '473 patent.

25 16.14. To date, Apple has declined to take a license under the '473 patent.

26 17.15. As a result of Apple's infringement of the claims of the '473 patent, Apple has made  
27 and will continue to make unlawful gains and profits, and Emblaze has been and will continue to be  
28 deprived of revenue that it would otherwise have generated but for such infringement.

1           ~~18.16.~~ Emblaze has been and will continue to be irreparably harmed by Apple's infringement  
2 of the '473 patent.

3           ~~19.17.~~ The extent of Emblaze's damages cannot be determined except by an accounting.

4 **IV. JURY DEMAND**

5 Pursuant to Fed. R. Civ. P. 38(b), Emblaze requests a trial by jury.

6 **V. PRAYER FOR RELIEF**

7 Wherefore, Emblaze prays for relief as follows:

8           A. A judgment that Apple has infringed the '473 Patent in violation of 35 U.S.C.  
9 §§§ 271(a)-(c);

10           B. An order enjoining and restraining Apple, its officers, directors, agents,  
11 servants, employees, affiliates, attorneys and all others in active concert or participation with Apple,  
12 from infringing the '473 Patent, pursuant to 35 U.S.C. § 283;

13           C. A judgment awarding Emblaze its damages, but not less than a reasonable  
14 royalty, resulting from Apple's infringement, pursuant to 35 U.S.C. § 284;

15           D. An accounting of Apple's revenue from the sale, licensing or other distribution  
16 of Apple's infringing products;

17           E. A judgment that Apple's acts of infringement have been in willful, knowing,  
18 and deliberate disregard of Emblaze's patent rights, and awarding Emblaze enhanced damages  
19 pursuant to 35 U.S.C. § 284;

20           F. A judgment awarding Emblaze its costs, disbursements, and attorneys' fees  
21 incurred in prosecuting this action pursuant to 35 U.S.C. §§ 284 and/or 285;

22           G. A judgment awarding Emblaze pre- and post-judgment interest on any  
23 monetary award; and

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26           H. Such other relief as the Court may deem just, equitable, and proper.

27 ~~COHEN PONTANI LIEBERMAN & PAVANE, LLP~~

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Date: July 28, 2010 By: \_\_\_\_\_  
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DATED: December , 2011 DAVIS WRIGHT TREMAINE LLP

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