

DOUGLAS E. OLSON (CSB# 38649)
dougolson@sandiegoiplaw.com
JAMES V. FAZIO, III (CSB# 183353)
jamesfazio@sandiegoiplaw.com
TREVOR Q. CODDINGTON, PH.D. (CSB# 243042)
trevorcoddington@sandiegoiplaw.com
SAN DIEGO IP LAW GROUP LLP
12526 High Bluff Drive, Suite 300
San Diego, CA 92130
Telephone: (858) 792-3446
Facsimile: (858) 792-3447

Attorneys for Plaintiff
STREETSPACE, INC.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

STREETSPACE, INC., a Delaware
corporation,

Plaintiff,

vs.

GOOGLE INC., a Delaware corporation;
ADMOB, INC., a Delaware corporation;
APPLE INC., a California corporation;
QUATTRO WIRELESS, INC., a Delaware
corporation; NOKIA CORPORATION, a
foreign corporation; NOKIA INC., a
Delaware corporation; NAVTEQ
CORPORATION, a Delaware corporation;
MILLENNIAL MEDIA, INC., a Delaware
corporation; JUMPTAP, INC., a Delaware
corporation; and DOES 1 through 20,
inclusive,

Defendants.

CASE NO. 10-CV-1757-LAB-MDD

**DECLARATION OF TREVOR Q.
CODDINGTON IN SUPPORT OF
STREETSPACE, INC.'S OPPOSITION
TO DEFENDANTS' SECOND RULE
12(B)(6) MOTION TO DISMISS**

Date: May 9, 2011
Time: 11:15 a.m.
Judge: Hon. Larry A. Burns
Ctrm.: 9

1 I, Trevor Q. Coddington, declare as follows:

2 1. I am an attorney licensed to practice in California and this District and am a
3 Partner with the law firm San Diego IP Law Group LLP, counsel of record for Plaintiff
4 Streetspace, Inc. (“Streetspace”) in the above-captioned matter.

5 2. Attached hereto as Exhibit A is a true and correct copy of Defendant Apple, Inc.’s
6 Second Amended Answer, Affirmative Defenses, and Counterclaims to Elan Microelectronics
7 Corporation’s Complaint for Patent Infringement (“Apple’s Second Amended Answer”) filed on
8 October 5, 2009, in *Elan Microelectronics Corporation v. Apple, Inc.*, Case No. C-09-01531 RS
9 (N.D. Cal.).

10 3. For the Court’s convenience, the following table compares Apple’s indirect patent
11 infringement allegations (in its third counterclaim) against Elan as set forth in Apple’s Second
12 Amended Answer vis-à-vis Streetspace’s indirect patent infringement allegations against
13 Millennial Media (exemplary of the indirect infringement allegations levied against all
14 Defendants) as set forth in Streetspace’s First Amended Complaint.

15 **Apple’s Second Amended Answer**

16 58. Elan has had actual knowledge of
17 the ‘218 patent since at least July 1, 2009.¹

18 59. Upon information and belief, Elan
19 has been and is currently indirectly infringing,
20 in violation of 35 U.S.C. § 271, the ‘218 patent.
21 Upon information and belief, the ‘218 patent is
22 directly infringed by, without limitation,
23 manufacturers and others in the distribution
24 channel of laptop computers, using, selling,
25 offering for sale and/or importing in the United
26 States, Elan’s touch-sensitive input devices or
27 touchpads employing the methods and
apparatuses claimed in the ‘218 patent through
their processing of gestures, including but not
limited to the Smart-Pad product. Upon
information and belief, Elan induces that
infringement through its intentional marketing,
sale and/or support, including technical
support, of such devices in the United States,
including through EITG, and through the

Streetspace’s First Amended Complaint

180. Streetspace is informed and
believes and based thereon alleges that
Millennial Media is infringing indirectly by
intentionally inducing a direct infringer to
infringe one or more claims of the ‘969 patent.

181. Millennial Media has had actual
knowledge of the ‘969 patent since at least
August 23, 2010.

182. Streetspace is informed and
believes and based thereon alleges that the ‘969
patent has been and currently is directly
infringed in the United States and abroad by,
without limitation, (1) consumers receiving
targeted advertisements from Millennial Media,
(2) advertisers employing Millennial Media’s
systems and methodologies for delivering and
displaying targeted advertisements, and (3) web
site or app developers utilizing Millennial
Media’s targeted advertisements. Millennial
Media has knowledge of and induces that

28 ¹ Elan initiated its Complaint against Apple on April 7, 2009. Apple filed an Answer to Elan’s Complaint on May 12, 2009. Apple then filed a First Amended Answer to Elan’s Complaint on July 1, 2009.

1 intentional design, marketing, manufacture,
2 sale and/or support, including technical
3 support, of such devices abroad to induce direct
4 infringement in the United States. Upon
5 information and belief, Elan's inducement
6 includes, without limitation, active
7 encouragement of the use, sale, offer for sale
8 and/or importation in the United States, of such
9 devices to enable gestures that infringe the '218
10 patent on such devices, including through the
11 promotion and provision of software drivers
12 and marketing literature that induces direct
13 infringement. Upon information and belief,
14 Elan has known or should have known that
15 these actions would cause direct infringement
16 of the '218 patent and did so with specific
17 intent to encourage direct infringement.

infringement by intentionally encouraging
and/or aiding consumers, advertisers, and app
developers to use terminals, Millennial Media's
databases comprising consumer data, and
Millennial Media's software (i.e., programs)
for the display of targeted advertisements.
Millennial Media intentionally designs,
manufactures, markets, promotes, sells,
services, supports, provides software developer
kits and online help, and educates consumers,
advertisers, and app developers on its software,
and systems and methodologies for delivering
and displaying targeted advertisements.
Millennial Media has known or should have
known that these actions would cause direct
infringement of the '969 patent and did so with
specific intent to encourage and aid direct
infringement.

183. Streetspace is informed and
believes and based thereon alleges that
consumers, advertisers, and app developers put
Millennial Media's system for delivering and
displaying targeted advertisements into service,
i.e., control the system as a whole and obtain
benefit from it.

4. I declare under penalty of perjury under the laws of the United States that the
foregoing is true and correct. Executed on April 25, 2011, at San Diego, California.

/TREVOR Q. CODDINGTON/
TREVOR Q. CODDINGTON