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8 Attorneys for Plaintiff,
 ADAPTIX. INC.

9 **UNITED STATES DISTRICT COURT**
 10 **NORTHERN DISTRICT OF CALIFORNIA**
 11

12
 13 ADAPTIX, INC.

14 Plaintiff,

15 v.

16 APPLE, INC., and AT&T MOBILITY
 17 LLC

18 Defendants.

Case No. _____

**COMPLAINT FOR PATENT
 INFRINGEMENT**

JURY TRIAL DEMANDED

19 **ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT**
 20

21 This is an action for patent infringement in which plaintiff, ADAPTIX, Inc. (“ADAPTIX”),
 22 complains against defendants, Apple, Inc. (“Apple”) and AT&T Mobility LLC (“AT&T”)
 23 (collectively “the Defendants”), as follows:

THE PARTIES

24
 25 1. ADAPTIX is a Delaware corporation with its principal place of business at 4100
 26 Midway Road, Suite 2010, Carrollton, Texas 75007.

27 2. On information and belief, Apple is a California corporation with a principal place of
 28 business at 1 Infinite Loop, Cupertino, California 95014.

1 11. The second-filed case alleged infringement by those defendants of the Suit Patents, the
2 same two patents alleged against APPLE and AT&T in this Complaint, as set forth in detail *infra.*;

3 12. On information and belief, APPLE and AT&T were again made aware of each of the
4 Suit Patents at least as early as the January 4, 2013 filing date of the second-filed case.

5 13. On or about March 28, 2013, motions to transfer the first- and second-filed cases to this
6 District filed by APPLE and AT&T were granted. Eventually, the cases ended up in this Division and
7 were given Case Nos. 5:13-cv-1774 PSG and 5:13-cv-2023 PSG, respectfully, and assigned to the
8 Honorable Paul S. Grewal.

9 14. On or about September 20, 2013, an in-person and telephone hearing was held before
10 Judge Grewal in a case related to the first- and second-filed cases, i.e., Case No. 5:13-cv-1774,
11 concerning an ADAPTIX request for leave to supplement its Infringement Contentions in the
12 aforesaid -1774 Case (the “September 20th Hearing”).

13 15. On information and belief, counsel-of-record for APPLE and AT&T, among others,
14 were either present at the September 20th Hearing or on the telephone during the Hearing.

15 16. Towards the end of the September 20th Hearing, ADAPTIX’s counsel stated to the
16 Court, in words or effect, that ADAPTIX is in the process of supplementing its Infringement
17 Contentions in at least both the first- and second-filed cases to add as accused products APPLE’s just-
18 newly-publicly-released-that-day products known as the Apple iPhone 5s and Apple iPhone 5c. At
19 the time of the filing of this Complaint, ADAPTIX had not yet received its September 25th electronic
20 Transcript Order request for the September 20th Hearing.

21 17. On September 26, 2013, ADAPTIX sent separate emails to APPLE and AT&T counsel
22 that stated the following: “As a follow-up to our concerns made apparent by our verbal comments
23 during last Friday’s (September 20, 2013) hearing in front of Judge Grewal, Adaptix is in the process
24 of supplementing its Infringement Contentions to add the Apple iPhone 5s and Apple iPhone 5c. We
25 understand that these products were publicly released ... on or about September 20, 2013. Please
26 advise whether you will oppose Adaptix’s supplementation, and if so, please provide a time you will
27 be available to meet and confer regarding the supplementation.”

1 18. On information and belief, APPLE and AT&T were aware at least as early as
2 September 20, 2013 that ADAPTIX had formed a belief that the Apple iPhone 5s and Apple iPhone 5c
3 devices infringed one or more claims of the Suit Patents, and that ADAPTIX was seeking to
4 supplement its Infringement Contentions in at least both the first- and second-filed cases to add as
5 accused products APPLE's just-newly-publicly-released-that-day products known as the Apple iPhone
6 5s and Apple iPhone 5c.

7 **COUNT I**
8 **(INFRINGEMENT OF U.S. PATENT NO. 7,454,212)**

9 19. ADAPTIX is the owner by assignment of United States patent number 7,454,212,
10 entitled "OFDMA WITH ADAPTIVE SUBCARRIER-CLUSTER CONFIGURATION AND
11 SELECTIVE LOADING" ("the '212 Patent") with ownership of all substantial rights in the '212
12 Patent, including the right to exclude others and to sue and recover damages for the past and future
13 infringement thereof. A true and correct copy of the '212 Patent is attached as Exhibit A.

14 20. On information and belief, Apple is directly and/or indirectly infringing at least one or
15 more claims of the '212 Patent in this judicial district and elsewhere in California and the United
16 States by, among other things, making, using, offering for sale, selling and/or importing computerized
17 devices, including without limitation the iPhone 5s and iPhone 5c, which, at a minimum, directly
18 infringe the '212 Patent. Apple is thereby liable for infringement of the '212 Patent pursuant to 35
19 U.S.C. § 271. Apple's infringement has caused damage to ADAPTIX, which infringement by the
20 Defendants and damage to ADAPTIX will continue unless and until Apple is enjoined.

21 21. On information and belief, AT&T is directly and/or indirectly infringing at least one or
22 more claims of the '212 Patent in this judicial district and elsewhere in California and the United
23 States by, among other things, making, using, offering for sale, selling and/or importing computerized
24 devices, including without limitation the iPhone 5s and iPhone 5c which, at a minimum, directly
25 infringe the '212 Patent. AT&T is thereby liable for infringement of the '212 Patent pursuant to 35
26 U.S.C. § 271. AT&T's infringement has caused damage to ADAPTIX, which infringement and
27 damage will continue unless and until AT&T is enjoined.

1 U.S.C. § 271. AT&T's infringement has caused damage to ADAPTIX, which infringement and
2 damage will continue unless and until AT&T is enjoined.

3 27. Defendants directly contribute to and induce infringement through supplying infringing
4 systems and components to customers. Defendants' customers who purchase systems and components
5 thereof and operate such systems and components thereof in accordance with Defendants' instructions
6 directly infringe one or more claims of the '748 patent in violation of 35 U.S.C. § 271.

7 28. The infringement by each defendant identified in this Count has caused irreparable
8 injury to ADAPTIX for which remedies at law are inadequate. Considering the balance of the
9 hardships between the parties, a remedy in equity, such as a permanent injunction is warranted and
10 such a remedy would be in the public interest.

11 **PRAYER FOR RELIEF**

12 Wherefore, ADAPTIX respectfully requests that this Court enter:

13 A. Judgment in favor of ADAPTIX that each defendant has infringed the '212 and '748
14 patents as aforesaid;

15 B. A permanent injunction enjoining each defendant, its officers, directors, agents,
16 servants, affiliates, employees, divisions, branches, subsidiaries, parents and all others acting in active
17 concert or privity therewith from direct, indirect and/or joint infringement of the '212 and '748 patents
18 pursuant to 35 U.S.C. § 283;

19 C. Judgment and order requiring each defendant to pay ADAPTIX its damages with pre-
20 and post-judgment interest thereon pursuant to 35 U.S.C. § 284; and

21 D. Any and all further relief to which the Court may deem ADAPTIX entitled.
22

23 **DEMAND FOR JURY TRIAL**

24 ADAPTIX requests a trial by jury on all issues so triable by right pursuant to Fed. R. Civ. P.
25 38.

1 Date: September 26, 2013

ADAPTIX, INC.

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23 **ATTORNEYS FOR THE PLAINTIFF**

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